

IN THE SENATE

SENATE BILL NO. 1203

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO
2 CODE, TO REVISE THE DEFINITIONS OF THE TERMS "HOLIDAY" AND "OVERTIME
3 WORK," TO ADD A DEFINITION OF "NONEXEMPT EMPLOYEE" AND TO MAKE TECHNICAL
4 CORRECTIONS.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 67-5302. DEFINITIONS. As used in this chapter, and other applicable
10 sections of the Idaho Code, each of the terms defined in this section shall
11 have the meaning given in this section unless a different meaning is clearly
12 required by the context. Such terms and their definitions are:

13 (1) "Administrative employee" means any person, nonclassified or clas-
14 sified, appointed to a position which meets the criteria set forth in the
15 federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final des-
16 ignation of a classified position as "administrative" within this defini-
17 tion shall be made by the administrator of the division of human resources.
18 Exceptions to this designation which do not violate the federal fair labor
19 standards act, 29 U.S.C. ~~section~~ 201, et seq., may be made by the administra-
20 tor.

21 (2) "Administrator" means the administrator of the division of human
22 resources in the governor's office.

23 (3) "Appointing authority" means the officer, board, commission, per-
24 son or group of persons authorized by statute or lawfully delegated author-
25 ity to make appointments to or employ personnel in any department.

26 (4) "Class" means a group of positions sufficiently similar as to the
27 duties performed, degree of supervision exercised or required, minimum
28 requirements of training, experience or skill, and other characteristics,
29 that the same title, the same tests of fitness and the same schedule of com-
30 pensation may be applied to each position in the group.

31 (5) "Classified officer or employee" means any person appointed to or
32 holding a position in any department of the state of Idaho, which position
33 is subject to the provisions of the merit examination, selection, retention,
34 promotion and dismissal requirements of chapter 53, title 67, Idaho Code.

35 (6) "Commission" means the Idaho personnel commission.

36 (7) "Compensatory time" means approved time off from duty provided in
37 compensation for overtime hours worked.

38 (8) "Computer worker" means any person, nonclassified or classified,
39 appointed to a position which meets the criteria set forth in the federal
40 fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final designation
41 of a classified position as "computer worker" within this definition shall
42 be made by the administrator of the division of human resources. Exceptions

1 to this designation which do not violate the federal fair labor standards
2 act, 29 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

3 (9) "Department" means any department, agency, institution or office
4 of the state of Idaho.

5 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

6 (11) "Eligible" means a person who has been determined to be qualified
7 for a classified position and whose name has been placed on the register of
8 eligibles.

9 (12) "Executive employee" means any person, nonclassified or classi-
10 fied, appointed to a position equivalent to a bureau chief or above as pro-
11 vided in section 67-2402, Idaho Code, or any employee meeting the following
12 criteria:

13 (a) An individual whose primary duty is management of a department, di-
14 vision or bureau; and

15 (b) Who customarily and regularly directs the work of at least two (2)
16 or more other employees therein; and

17 (c) Who has the authority to hire and fire, or to recommend hiring and
18 firing; or whose recommendation on these and other actions affecting
19 employees is given particular weight; and

20 (d) Who customarily and regularly exercises discretionary powers; and

21 (e) Who is classified to a position allocated to the pay grade equiva-
22 lent to two hundred sixty (260) points or higher pursuant to the rating
23 system established by rule.

24 (f) Final designation of a classified position as "executive" in this
25 definition shall be made by the administrator. Exceptions to this des-
26 ignation which do not violate the federal fair labor standards act, 29
27 U.S.C. ~~section~~ 201, et seq., may be made by the administrator.

28 (13) "Exempt employee" means any employee, classified or nonclassi-
29 fied, who is determined to be an executive, professional or administrative
30 employee as defined herein, or who qualifies for any other exemption from
31 cash compensation for overtime under applicable federal law. Final designa-
32 tion of a classified position as exempt shall be made by the administrator.

33 (14) "Full-time employee" means any employee working a forty (40) hour
34 ~~work week~~ workweek.

35 (15) "Holiday" means the following:

36 January 1 (New Year's Day);

37 Third Monday in January (Martin Luther King, Jr.-Idaho Human
38 Rights Day);

39 Third Monday in February (Washington's Birthday);

40 Last Monday in May (Memorial Day);

41 July 4 (Independence Day);

42 First Monday in September (Labor Day);

43 Second Monday in October (Columbus Day);

44 November 11 (Veterans Day);

45 Fourth Thursday in November (Thanksgiving);

46 December 25 (Christmas).

47 In addition, the term "holiday" shall mean any day so designated by the Pres-
48 ident of the United States or the governor of this state for a public fast,
49 thanksgiving or holiday.

1 ~~In the event that a holiday occurs on a Saturday, the preceding Friday~~
2 ~~shall be a holiday, and if the holiday falls on a Sunday, the following Monday~~
3 ~~shall be a holiday.~~

4 ~~A holiday is a day of exemption from work granted to nonexecutive em-~~
5 ~~ployees during which said employees shall be compensated as if they actually~~
6 ~~worked. Employees classified as executive exempt are entitled to ten (10)~~
7 ~~paid holidays per year. If such an employee works on one (1) of the official~~
8 ~~holidays listed in this subsection, then such employee may take an alterna-~~
9 ~~tive day off but shall not receive additional compensation wherein eligible~~
10 ~~employees shall receive paid holiday leave as set forth in this subsection.~~
11 ~~In the event that a holiday occurs on a Saturday, the preceding Friday shall~~
12 ~~be the designated holiday, and if the holiday falls on a Sunday, the follow-~~
13 ~~ing Monday shall be the designated holiday.~~

14 ~~Employees shall receive paid holiday leave for holidays if they con-~~
15 ~~tribute to the public employee retirement system pursuant to chapter 13,~~
16 ~~title 59, Idaho Code, or to the optional retirement program pursuant to chap-~~
17 ~~ter 1, title 33, Idaho Code, and receive wages, salary or paid leave during~~
18 ~~the pay period in which the holiday falls, as follows:~~

19 ~~(a) Agency-required work schedule. Such full-time employees shall~~
20 ~~receive eight (8) hours of paid holiday leave. However, the number of~~
21 ~~hours of paid holiday leave for such full-time employees who are re-~~
22 ~~quired by the appointing authority to regularly work more than eight (8)~~
23 ~~hours on a day on which a holiday occurs shall be equal to the number of~~
24 ~~hours that they would have been scheduled to work on that day.~~

25 ~~(b) Employee-requested work schedule. Such full-time employees who~~
26 ~~regularly work more than eight (8) hours on a day on which a holiday~~
27 ~~occurs pursuant to approved work schedules requested by such employees~~
28 ~~shall receive eight (8) hours of paid holiday leave. To complete the~~
29 ~~normal workweek of forty (40) hours, the appointing authority may re-~~
30 ~~quire such employees to work an alternate schedule during the workweek~~
31 ~~in which the holiday falls or allow them to use accrued vacation or com-~~
32 ~~pensatory time.~~

33 ~~(c) Part-time work schedule. Any such part-time employee shall receive~~
34 ~~paid holiday leave equal to twenty percent (20%) of the employee's bud-~~
35 ~~geted pay period hours divided by two (2). Such employees shall receive~~
36 ~~a minimum of four (4) hours, not to exceed eight (8) hours, of paid holi-~~
37 ~~day leave.~~

38 ~~Employees who are eligible for paid holiday leave and who work on a holiday~~
39 ~~shall receive both paid holiday leave and overtime compensation pursuant to~~
40 ~~sections 59-1607 and 67-5328, Idaho Code, in the form of compensatory time or~~
41 ~~cash compensation for holiday hours worked. The appointing authority shall~~
42 ~~provide compensatory time or cash compensation to employees who work on the~~
43 ~~actual holiday as well as those who work on the designated holiday; provided~~
44 ~~however, that an employee who is required to work both days shall only re-~~
45 ~~ceive holiday paid leave and overtime compensation for one (1) of the days.~~

46 ~~Executive employees. These employees are entitled to ten (10) paid hol-~~
47 ~~idays per year. If such an employee works on one (1) of the designated hol-~~
48 ~~idays listed in this subsection, then such employee may take an alternative~~
49 ~~day off but shall not receive additional compensation.~~

1 Employees who do not contribute to the public employee retirement sys-
 2 tem pursuant to chapter 13, title 59, Idaho Code, or to the optional retire-
 3 ment program pursuant to chapter 1, title 33, Idaho Code, shall be ineligible
 4 for paid holiday leave. Such nonexempt employees who work on a designated or
 5 actual holiday shall receive cash compensation or compensatory time at the
 6 rate of one and one-half (1 1/2) hours for each hour worked. An employee who
 7 is required to work both days shall only receive overtime compensation for
 8 one (1) of the days.

9 (16) "Hours worked" means those hours actually spent in the performance
 10 of the employee's job on any day including holidays, and shall not include
 11 vacation or sick leave or other approved leave of absence.

12 (17) "Nonclassified employee" means any person appointed to or holding
 13 a position in any department of the state of Idaho, which position is ex-
 14 empted from the provisions of chapter 53, title 67, Idaho Code, as provided
 15 for in section 67-5303, Idaho Code.

16 (18) "Nonexempt employee" means any employee, classified or nonclassi-
 17 fied, who is eligible for cash compensation or compensatory time for over-
 18 time at the rate of one and one-half (1 1/2) hours for each overtime hour
 19 worked, as provided in the federal fair labor standards act, 29 U.S.C. 201,
 20 et seq.

21 (19) "Normal ~~work week~~ workweek" means any forty (40) hours worked dur-
 22 ing a particular one hundred sixty-eight (168) hour period as previously es-
 23 tablished by the employee's appointing authority.

24 ~~(1920)~~ "Open competitive examination" means an examination which may be
 25 taken by qualified applicants to compete on an equal basis for listing on the
 26 register of eligibles.

27 ~~(201)~~ "Overtime work" means ~~time worked on holidays and time~~ worked in
 28 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-
 29 secutive hours, except that in the case of those employees engaged in law
 30 enforcement, correctional and fire protection activities characterized by
 31 irregular shift work schedules, time worked in excess of one hundred sixty
 32 (160) hours in a period of twenty-eight (28) consecutive days shall consti-
 33 tute overtime work within the meaning of this chapter. ~~Such e~~Employees may
 34 ~~also~~ be paid overtime for specific hours worked in addition to their normal
 35 schedules upon emergency declaration by the governor or with the approval
 36 of the appointing authority and the board of examiners. Overtime work also
 37 means time worked on holidays, with the exception of exempt employees who do
 38 not contribute to the public employee retirement system pursuant to chapter
 39 13, title 59, Idaho Code, or to the optional retirement program pursuant to
 40 chapter 1, title 33, Idaho Code; such exempt employees who work on a desig-
 41 ated or actual holiday shall receive cash compensation at the rate of one
 42 (1) hour for each hour worked.

43 ~~(212)~~ "Participating department" means any department of the state of
 44 Idaho which employs persons in classified positions subject to the merit ex-
 45 amination, selection, retention, promotion and dismissal requirements of
 46 this chapter.

47 (223) "Part-time employee" means any employee whose usually scheduled
 48 work is less than forty (40) hours in a period of one hundred sixty-eight
 49 (168) consecutive hours, and who shall not be entitled to sick leave accruals
 50 provided in section 67-5333, Idaho Code, vacation leave provided in section

1 67-5334, Idaho Code, nor holiday pay as defined in subsection (15) of this
2 section, unless contributions are being made to the public employee retire-
3 ment system in accordance with chapter 13, title 59, Idaho Code, and rules
4 promulgated by the public employee retirement system board.

5 (234) "Personnel system" means the procedure for administering employ-
6 ees in accordance with this chapter.

7 (245) "Political office" means a public office for which partisan poli-
8 tics is a basis for nomination, election or appointment.

9 (256) "Political organization" means a party which sponsors candidates
10 for election to political office.

11 (267) "Position" means a group of duties and responsibilities legally
12 assigned or delegated by one (1) or more appointing authorities and requir-
13 ing the employment of one (1) person.

14 (278) "Professional employee" means any person, nonclassified or clas-
15 sified, appointed to a position which meets the criteria set forth in the
16 federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et seq. Final des-
17 ignation of a classified position as "professional" within this definition
18 shall be made by the administrator. Exceptions to this designation which do
19 not violate the federal fair labor standards act, 29 U.S.C. ~~section~~ 201, et
20 seq., may be made by the administrator.

21 (289) "Provisional appointment" means appointment to a classified po-
22 sition pending the establishment of a register for such position and employ-
23 ment shall not be continued in this status longer than thirty (30) days after
24 establishment of a register.

25 (2930) "Qualifying examination" means an examination or evaluation
26 given to a selected person to determine eligibility for reclassification or
27 appointment to a position in a classification.

28 (301) "Register" means a list of names of persons who have been deter-
29 mined to be eligible for employment in a classified position as determined on
30 the basis of examination and merit factors as established by the administra-
31 tor.

32 (312) "Seasonal appointment" means an appointment to a position which
33 is permanent in nature, but which has intermittent work periods throughout
34 the year.

35 (323) "Service rating" means a recorded evaluation of work performance
36 and promotional potential of an employee by his supervisor.

37 (334) "Temporary appointment" means appointment to a position which is
38 not permanent in nature, and in which employment will not exceed one thousand
39 three hundred eighty-five (1,385) hours during any twelve (12) month period.
40 No person holding a temporary appointment may work in excess of one thousand
41 three hundred eighty-five (1,385) hours during a twelve (12) month period of
42 time for any one (1) department, except upon petition by the appointing au-
43 thority of the department of lands that demonstrates good cause, the admin-
44 istrator of the division of human resources may extend the one thousand three
45 hundred eighty-five (1,385) hour limit for employees of the department who
46 are required to perform fire suppression activities.

47 (345) "Vacation leave" means a period of exemption from work granted to
48 employees during which time said employees shall be compensated. The term
49 shall not include compensatory time for overtime work.

50 (356) "Veteran" is as defined in section 65-502, Idaho Code.