

Compensation Committee Presentation (June 1, 2016)

I am Jim Haddock and this is my brother, Tom Haddock. I am a mathematician and taught for more than forty years and Tom is a certified public accountant, worked as a Legislative Auditor for twenty-three years and was the Controller/Administration Manager of the State Insurance Fund for eight years.

We are here to request a change in the wording regarding retirement benefits in the Committee's Compensation Letter (the Letter).¹ Instead of "retirement benefits as provided for other state employees", we are requesting the wording be changed to "retirement benefits as provided for other part time elected and appointed officials." We will then request that the Legislature and Committee initiate legislation to amend the current law and remove the exemption for members of the Legislature. Finally, in accordance with the Attorney General's Opinion for 2015 House Bill 100, to ensure all constitutional issues are resolved, we will request the Committee specifically approve this new law.

The Idaho Constitution states "the legislature shall have no authority" to determine its compensation. Instead, the Constitution requires the compensation be determined by a six member citizens' committee. Furthermore, the Constitution requires the Committee members be appointed by the executive and judicial branches of government thereby preventing any involvement from the legislative branch.

In accordance with the Constitution, the Committee has set legislative compensation, including retirement compensation. Unfortunately, the Legislature passed a law (1990 Senate Bill 1603) to specifically exempt itself from laws governing retirement benefits for other part time elected and appointed officials. This new law increased retirement benefits significantly for those legislators who are appointed directors of state agencies later in their careers (from about \$17,000 per year to about \$65,000 per year). The minutes of the Committee showed no indication that this action was at the direction of the Committee or approved by the Committee; therefore, the passage of this law was not in accordance with the Constitution.

The impropriety of such legislative retirement benefits has been discussed in the past and though there has been recent legislative action to fix it, legislative leadership does not promote such action. House Bill 100, passed by the House in 2015, would have removed the exemption for members of the legislature thereby requiring that retirement benefits for legislators be calculated as for all other part time elected or appointed officials. Senate leadership did not promote it from committee and therefore it never became law.

We know that this is "short notice" and may, to a certain extent, cause the Committee some political discomfort. Therefore, we are suggesting that the Committee talk with members of the Legislature and legislative staff before drafting the Letter.

The new law should be retroactively effective to December 1, 2016, to coincide with the beginning of the Committee's two-year legislative compensation cycle. The new law should state that all future retirees with part time legislative service will be treated as all other part time

¹ The Letter is the letter the Citizens' Committee for Legislative Compensation submits each even numbered year to the State Controller and the Secretary of State. This letter provides legislative compensation for the two-year period beginning December 1st of each even numbered year.

elected and appointed officials. This means that these payouts, differing from those of other part-time elected and appointed officials, will not continue for the next fifty or sixty years.

Page 1 of the attached documentation explains the increased retirement benefits with the passage of 1990 Senate Bill 1603. The retirement benefits for a part time legislator who becomes a director of a state agency would be about \$65,000 a year. The retirement benefits for a part time county commissioner who becomes a director of a state agency would only be about \$17,000 a year.

Page 2 of the attached documentation is a 2015 Attorney General's Opinion regarding House Bill 100. The Attorney General's Opinion states that retirement benefits are legislative compensation and that "The Citizens' Committee has discretion with regards to benefits paid to Legislators." This Opinion also infers that the Committee approved all laws affecting legislative retirement compensation by simply submitting its Letter. However, the Opinion ***did recommend***, to ensure all Constitutional issues are resolved, that the Committee specifically approve 2015 House Bill 100.

Page 3 is a 1985 Attorney General's Opinion. Though this opinion did not specifically address the constitutionality of the Legislature setting compensation instead of the Committee, it did state that retirement benefits are compensation. The Opinion also stated, "Such part-time employees have no reasonable expectation of receiving benefits pursuant to the existing formula for full-time employees."

Page 4 is 2015 House Bill 100. The bill passed the House, but Senate leadership killed it.

WHAT WE PLAN TO DO:

We plan to:

- 1) Send e-mails to House members who did not support House Bill 100 and ask them to explain why.
- 2) Contact Senate members and ask if they would have supported House Bill 100. If they would not have supported House Bill 100, why?
- 3) Contact a national award winning blogger, David Frazier and solicit his advice and assistance. Mr. Frazier operates the Boise Guardian and has been a government watch dog for many years.
- 4) Contact political associations, retirement associations, employee associations, professional associations, religious organizations, cultural groups, civic groups, friends, family, classmates, co-workers and any other acquaintances we have known throughout Idaho the past fifty/sixty years.
- 5) Request permission to make presentations to government high school classes.
- 6) Solicit the assistance of computer-savvy people to develop a web-site and promote this issue through all possible social media avenues.
- 7) Complete other avenues, if deemed necessary, such as writing letters to newspapers, writing public notices, organizing public events, etc.
- 8) Attend meetings and monitor this issue until a reasonable resolution is complete.

Pension spiking

Under present retirement rules, appointed or elected officials fitting the job/hour description as legislators would be treated differently, as in the following scenario.

A county commissioner makes \$17,000/year for 26 years, and is then appointed to a \$106,000 state position for five years. His retirement would be split, and at full retirement age he would receive \$8,800/year for his county service, and \$10,600/year for state service, a total of \$19,440/year.

A legislator at \$17,000/year for 26 years is appointed to a \$106,000/year state position for five years. He is treated as if all 31 years are at the state position, receiving a total of \$65,720/year.

The difference over a normal retirement would be over \$1.1 million. The purpose of the split calculation is to prevent "pension spiking," but the Legislature (and only the Legislature) is exempt from the rule.

This is abhorrent. However, efforts to correct it have seldom gotten out of committee, and been voted down when they have. For a group that prides itself on doing "right," even in cases adversely affecting the health of Idahoans, to allow this exemption is grossly hypocritical.

My message to the Legislature: Make it right.

-Jim Haddock, Meridian

Idaho Statesman Letter to the editor (Friday, February 12, 2016)

This letter explains the issue. The legislature exempted itself from certain PERSI laws, thereby spiking retirement compensation for its members. The legislature did this by amending a law (Idaho Code 59-1342, section 5) and adding the words "except as a member of the Idaho legislature".



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

March 2, 2015

Statehouse
VIA HAND DELIVERY

Re: H. 100 – Our File No. 15-50730

De

House Bill 100 ("H. 100") would amend Idaho Code §§ 59-1342 and 59-1346, which address the computation of retirement benefits. It would amend those sections to remove the legislative exemption (for legislators leaving the Legislature on or after July 1, 2015) from the "split calculation" that applies to other elected and appointed (sometimes referred to as "E/A") officials in the computation of a PERSI retirement benefit when the elected or appointed official was in the office on average less than 20 hours per week (called "part-time service" for the rest of this letter).¹ You have asked whether H.100 might raise constitutional issues in light of art. III, Sec. 23 of the Idaho Constitution.²

As we understand your inquiry, it asks whether the H. 100 runs afoul of the restriction contained in art. III, sec. 23 against legislators setting their own compensation (except to lower their compensation from that otherwise established by the Citizens' Committee by a concurrent resolution enacted by the twenty-fifth legislative day). In previous analyses, this office has superficially addressed these issues, but has not undertaken a comprehensive analysis of this question. This analysis will supersede any prior analysis of this issue.

This question actually raises two questions:

1. Are retirement benefits considered a part of "rate of compensation of the Legislature" for art. III, sec. 23 purposes; and

¹ The legislative exemption from the split calculation was enacted in 1990 with an emergency clause and a retroactive date of July 1, 1985. See 1990 Session Laws ch. 238, p. 738.

² Art. III, sec. 23, as it currently reads, was amended as proposed by H.J. R. No. 6 (S.L. 1976, p. 1217) and ratified at the general election on November 2, 1976.

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2. Would legislative alteration of retirement benefits require the approval of the Citizens' Committee under art. III, sec. 23?

"Rate of Compensation" includes both salary and benefits.

Art. III, sec. 23 of the Idaho Constitution addresses the compensation of the Legislature. It provides that the Legislature does not have the authority to establish "the rate of its compensation and expense" and provides that the Citizens' Committee on Legislative Compensation ("Citizens' Committee") shall establish the rate of compensation and expenses for legislators (subject to rejection by concurrent resolution). Neither compensation, nor rate of compensation with regard to a legislative rate of compensation, is defined by the constitutional provision or by the statute. Compensation is generally defined as being composed of salary plus benefits and any other perks having monetary value offered by an employer. A benefit is anything that is offered that can be assigned a monetary value. This means that any analysis should determine whether a monetary value can be assigned to a benefit. Considering compensation to include more than just salary and expenses is consistent with the approach taken by the Citizens' Committee on Legislation Report, which is attached to this response for your review.

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OPINION

The Citizens' Committee Has Discretion With Regard to Benefits Paid to Legislators.

Art. III, sec. 23 provides:

The legislature shall have no authority to establish the rate of its compensation and expense by law. There is hereby authorized the creation of the citizens committee on legislative compensation, which shall consist of six members, three to be appointed by the governor and three to be appointed by the supreme court, whose terms of office and qualifications shall be as provided by law. Members of the committee shall be citizens of the state of Idaho other than public officials holding an office to which compensation is attached. The committee shall, on or before the last day of November of each even-numbered year, establish the rate of compensation and expenses for services to be rendered by members of the legislature during the two-year period commencing on the first day of December of such year. The compensation and expenses so established shall, on or before such date, be filed with the secretary of state and the state controller. The rates thus established shall be the rates applicable for the two-year period specified unless prior to the twenty-fifth legislative day of the next regular session, by concurrent resolution, the senate and house of representatives shall reject or reduce such rates of compensation and expenses. In the event of rejection, the rates prevailing at the time of the previous session, shall remain in effect. ... (Emphasis added).

One means of interpreting H. 100 is that the amendment to Idaho Code §§ 59-1342 and 59-1346 will address the *computation* of a retirement benefit, not "the rate of compensation" for legislative service "during the two-year period commencing on the first day of December of [even numbered years]." Idaho Code § 59-1342 governs service retirement and Idaho

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Code § 59-1346 governs early retirement. As such, these sections provide the applicable multiplier, provide for a minimum benefit, and mandate the method of computation in particular instances, including when an elected or appointed official has both elected or appointed "part-time" service and non-elected or appointed service and the majority of that service is elected or appointed. In such cases, two calculations are required (called a "split calculation"). The retirement benefit from the part-time E/A service is calculated, and a separate calculation is done for the non-E/A service. Idaho Code § 59-1342(5) and § 59-1346(2). Under the current versions of these subsections, members of the Legislature who would otherwise be subject to a split calculation are exempt and only one calculation is done, which in effect treats part-time service as full-time service.³ As a result of the exemption, a legislator may receive a larger monthly retirement benefit than he would receive if he were subject to the split calculation.

THE ISSUE !!!

The term used, repeatedly, in art. III, sec. 23 is "rate of compensation." Further, under the terms of sec. 23, the "rate of compensation" is "for services to be rendered by members of the legislature during the two-year period commencing on the first day of December of such year." The language used and the entirety of the process set up by art. III, sec. 23 reflects that the "rate of compensation" refers to compensation for the immediately following two year period, that is, current compensation. See also *Beitelspacher v. Risch*, 105 Idaho 605, 617 (1983) concurring and dissenting (Bistline) (setting out, verbatim, provisions from The Statement of Meaning and Purpose of the Proposed Constitutional Amendment Offered by House Joint Resolution Number 6, which provisions state, inter alia, that "[t]he provisions of this amendment would remove the initial salary review from legislative hands and return them to the people").⁴

PURPOSE OF CONSTITUTION

An argument can be advanced that H. 100 would constitute a change in the benefits received by a legislator, and, therefore, H. 100 would require approval by the Citizens' Committee. There are most likely three ways in which this change could apply to legislators:

SPECIFIC APPROVAL

³ Subsection (5) in Idaho Code §59-1342 now provides:

(5) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer twenty (20) hours per week or more during the term of office, that member's initial service retirement allowance shall be the sum of:

- (a) That amount computed under subsection (1) and/or (2) of this section for only those months of service as an elected or an appointed official that are in excess of the months of other credited service, without consideration of any other credited service; and
- (b) That accrued service retirement allowance that is computed from an average monthly salary for salary received during the member's total months of credited service excluding those excess months referenced in subsection (5)(a) of this section.

The initial service retirement allowance of members of the Idaho legislature will be computed under subsection (1) and/or (2) of this section, on the basis of their total months of credited service.

Subsection (2) in Idaho Code § 59-1346, with some minor variation because it applies to early retirement, requires the same calculation.

⁴ Considering the preference that the Citizens' Committee have the initial review of legislative rate of compensation, H. 100 may be more appropriately discussed with the Committee to determine if the Committee recommends that the Legislature make a change as contemplated by H. 100.

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1. Legislators that prior to their election had accrued full-service time through employment or office holding in another state capacity. Examples of this would be a former school teacher or county clerk who is then elected to office.
2. Legislators who have been in office for a number of years and anticipate transitioning to a full-time position either as an employee or as an elected official.
3. Legislators who have only recently begun service and have no prior service time, or significant legislative service time.

H. 100 could affect the amount of retirement allowance paid to a legislator after he stops work upon retirement if that legislator fits into the "majority of [part-time] service" condition. It would do so by changing the method of computation of a retirement benefit to be paid after the cessation of legislative service. However, it does not affect the rate of compensation paid to a legislator for legislative services rendered during the period December 1, 2014 through November 30, 2016. It makes no change to the salary (or unvouchered expense allowances) as most recently established in May of 2014 by the Citizens' Committee. Since this change would not result in direct compensation through a change in salary or expenses, the question then becomes whether the exemption from the split in service calculation has any monetary value.

A change in the calculation of service time has a financial value, particularly to legislators who have accrued service time over the course of several years.⁵ Recognizing that the value of the service time changes based upon its calculation, it seems likely that a present value could be assigned to that calculation. In looking at the three scenarios above, there may potentially be three outcomes:

1. A legislator with prior (to being a legislator) service time currently accruing service time would likely be able to show a definitive monetary value based on the change in calculation.
2. A legislator with significant time accrued at the current rate may be able to demonstrate a predicted or hypothetical monetary value based on intended actions. It is unknown whether this predicted injury would be sufficient to establish standing and is beyond the scope of this analysis. This office would likely defend the statute and PERSI in such a circumstance.
3. A legislator without significant time in service would likely be unable to demonstrate a monetary value sufficient to raise a claim.

This means that it is factually specific as to whether a legislator could bring an action claiming that H. 100 violates art. III, sec. 23. Such a claim would require a showing that the change in benefit calculation was one having a monetary value and therefore the conditions of art. III, sec. 23 have not been met—namely, the Citizens' Committee has not had the

⁵ In this regard, consideration may want to be made of a more equitable statutory resolution of this matter in essence treating the first ten years of legislative service as part time, but each year after ten is accrued as currently in the code. This would recognize those legislators who have devoted a substantial part of their careers to the public service of the State of Idaho. This decision is within the discretion of the Legislature and could involve an amendment to H. 100 or a new piece of legislation.

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opportunity to review and approve the change in rates, and the Legislature would also have an opportunity to review and reject or reduce such rates by the 25th day.⁶

If art. III, sec. 23 of the Idaho Constitution were read to preclude the change made in H. 100 based on an interpretation of "rate of compensation" to include a potential retirement benefit, then it would seem that the Legislature would have no authority to legislate in any area that would affect the pension amount of a retired legislator. However, since 1976, there have been a number of legislative changes to the PERSI statutes, which could have increased retirement benefits for retiring legislators, including for example, the split calculation legislative exemption made in 1990 (retroactive to 1985); several increases in the multiplier (including increases effective October 1, 1993, October 1, 1994 and June 30, 2000), and enactment of more favorable early retirement factors (effective July 1, 1980). We are not aware of any argument having been made that these changes were precluded under art. III, sec. 23. Any arguments to the contrary have been removed by the Citizens' Committee's adoption of the benefit and rates as provided for by art. III, sec. 23. In sum the Legislature has the authority to adopt legislation in this area, but application of those provisions to itself is likely contingent on approval of the Citizens' Committee.

PASSIVE APPROVAL?

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NOT IN MINUTES

As reflected by their minutes and report, the Citizens' Committee discusses two areas in addition to compensation and expenses. Those are requirements for payment and additional benefits. In 2014, the Committee reviewed the Legislature's additional benefits including retirement, medical, dental, and life insurance provisions and by verbal assent agreed to make no changes to section V.⁷ Based upon the changes suggested by H. 100, there is a legitimate question as to whether those changes would also need to be approved by the Citizens' Committee. This office would recommend that the Citizens' Committee approval be requested to avoid any confusion as to the legal effect. This approval is consistent with the conclusion that art. III, sec. 23, by its terms, applies to the amounts to be paid to legislators for, and related to services providing during, the immediately following 2 year period. See http://legislature.idaho.gov/sessioninfo/2014/interim/140506_comp1030AM-Minutes.pdf.

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DID NOT
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APPROVAL
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FOR 1990
LAW

This approval also raises a question with regard to the effective date of H. 100. Based on the above, if the assumption is that the change in calculation of service accrual has a monetary value, the earliest effective date for this legislation would probably be December 1, 2016, assuming approval of the change by the Committee. But this also raises the possibility of alternative scenarios. For example if the Legislature makes this change, but the Committee rejects it, then the rate would likely not go into effect. Or if the Legislature were to adopt H. 100, the Committee approves it, and then the 2017 Legislature, which

AGREE

⁶ No legal argument likely could be raised if H. 100 were adopted and signed into law prior to the 25th day of the session, and then the benefit rates were reduced as set forth by H. 100 by concurrent resolution as provided for in art. III, sec. 23 by the 25th day of the session. As of the drafting of this analysis, it is the 47th legislative day, well beyond the 25th day for such adjustments.

⁷ It is unknown why the Committee changed from its prior practice of having a motion to approve and instead simply adopted by verbal assent the continuation of benefits. In 2012, the Committee moved the adoption of maintaining the same additional benefits after a brief discussion of them. See Minutes, Citizens' Committee On Legislative Compensation, June 25, 2102, p. 5. This office recommends that the Committee approve all recommendations for rate of compensation and expenses by motion in the future.

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could contain new legislators, were to reject the Committee's recommendation in its entirety in order to preserve the current service calculation with regard to retirement benefits.

It is important to note that it is difficult to opine in this area with any level of certainty. Based upon the above, the most conservative legal counsel that can be offered is that the Legislature possesses the authority to adopt H. 100. But that legislation will likely require approval (which could be as simple as "maintaining the benefits as provided by statute") by the Citizens' Committee and subsequent acceptance by the 2017 Legislature. Equally however, a court may review H. 100 and determine that service accrual has no monetary value, the Citizens' Committee has no oversight and the effective date is July 1, 2015. Two competing approaches are available here, and it is within the Legislature's ambit to determine which has more merit as it weighs adoption of H. 100.

PASSIVE APPROVAL

I am happy to discuss the content of this letter more fully if necessary.

Sincerely,



BRIAN KANE
Assistant Chief Deputy

BK/tjn

enclosure



Public Employee Retirement System of Idaho

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STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

March 4, 1985

The Honorable Walter E. Little
State Representative

The Honorable Jack C. Kenneville
State Representative

STATEHOUSE MAIL

RE: S. B. 1182 -- Grandfather Rights

Dear Representatives Little and Kenneville:

This is in response to your questions as to the effect of S. B. 1182 upon persons currently working in excess of 20 hours per week who previously earned credited service in positions normally requiring work of less than 20 hours per week. For ease of discussion, I will refer to positions of less than 20 hours per week as part-time positions and those of more than 20 hours per week as full-time positions.

S. B. 1182 would amend the retirement benefit formula in a manner which would substantially reduce retirement benefits for persons previously working part-time who become employed full-time. The question is whether the bill would apply to persons already working full-time or only to those who, in the future, change positions from a part-time position to a full-time position.

Re: Computation of min. benefit combined with full service allowance after 7-1-85

WE AGREE RETIREMENT BENEFITS ARE CONSIDERED "COMPENSATION" SAME WORDING AS CONSTITUTION

THIS AG OPINION DOES NOT ADDRESS THE ISSUE OF THE LEGISLATURE CHANGING ITS COMPENSATION AND NOT THE COMMITTEE AS REQUIRED BY THE CONSTITUTION.

Page 32

The Honorable Walter E. Little
The Honorable Jack C. Kennebeck
State Representatives
Page 2
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It is clear from the Idaho Supreme Court decision in Nash v. Boise City Fire Department, 104 Idaho 803, 663 P.2d 1105 (1983), that the bill would not apply to persons who previously earned retirement service credit in part-time positions and currently work in full-time positions. It would only apply to persons making such a change after the effective date of the act.

In Nash, supra, the Idaho Supreme Court held that the legislature could not constitutionally reduce the statutory cost-of-living adjustment upon firemen's retirement pensions as to firemen retiring after the effective date of the amendment who earned retirement benefits by virtue of service prior to that date.

The court noted that such benefits could not be reduced as to currently employed firemen unless their retirement rights had not yet vested, the system was insolvent, or the state provided new benefits substantially equal in value to the benefits taken away. Vesting occurs in the Public Employee Retirement System upon receiving 60 months of credited state service.

The rationale for the decision appears to be that retirement plans are compensatory in nature, and once retirement benefits have vested, an employee has a reasonable expectation that the employer will honor benefits previously agreed to without substantial reduction.

RETIREMENT BENEFITS ARE CONSIDERED COMPENSATORY

Based upon this rationale, it would appear that S. B. 1182 would be interpreted as follows: Employees who are currently holding full-time positions who previously earned credited service for part-time positions will not be affected by the bill.

Employees who become full-time from part-time
forward
Refer I.C. 54-1(5)

Employees who are currently receiving credited service for part-time positions who become full-time employees after the effective date of the act will have their retirement benefits computed according to the terms of S. B. 1182. This would be the case whether or not benefits have vested in the part-time position. Such part-time employees have no reasonable expectation of receiving benefits pursuant to the existing formula for full-time employees.

It should also be noted that unlike the situation considered in Nash, supra, there is nothing in S. B. 1182 which

EXCEPT OF COURSE THE IDAHO LEGISLATURE

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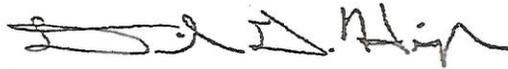
The Honorable Walter E. Little
The Honorable Jack C. Kennevik
State Representatives
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indicates an intention to reduce retirement benefits provided for current full-time employees. Accordingly, the S. B. 1182 would be interpreted consistently with Idaho Code § 59-1335, which provides:

As the amount, terms and conditions of benefits may be revised from time to time, the application of such revisions shall be prospective only and not retrospective or retroactive unless otherwise provided by statute.

If you have any questions regarding this letter, please let me know.

Sincerely,



David G. High
Deputy Attorney General
Business Affairs and
State Finance Division

DGH/jas

bcc: Bob Venn

Out of Commerce And Human Resources
do-PASS UNANIMOUS.

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H0100

House Bill Page
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1 member or firefighter shall equal two and seventy-five thousandths percent
2 (2.075%) of the member's average monthly salary; effective October 1, 1993,
3 the annual amount of accrued retirement allowance shall equal two and fif-
4 teen hundredths percent (2.15%) of the member's average monthly salary;
5 effective October 1, 1994, the annual amount of accrued retirement allowance
6 shall equal two and two hundred twenty-five thousandths percent (2.225%);
7 and effective June 30, 2000, the annual amount of accrued retirement al-
8 lowance shall equal two and three-tenths percent (2.3%) of the member's
9 average monthly salary. Entitlement to an annual amount of accrued retire-
10 ment allowance shall not vest until the effective date of that annual amount
11 of accrued retirement allowance. The retirement benefits shall be calcu-
12 lated on the amounts, terms and conditions in effect on the date of the final
13 contribution by the member. The annual amount of initial service retirement
14 allowance of such a member shall equal (a) or (b), whichever is greater:

15 (a) The member's accrued retirement allowance; or

16 (b) Six dollars (\$6.00) multiplied by the number of months of credited
17 service and by the bridging factor, as provided in section 59-1355,
18 Idaho Code, between July 1, 1974, and the first of the month following
19 the member's final contribution.

20 (3) Provisions of this section shall be applicable to members and con-
21 tingent annuitants of the retirement system and to members, annuitants and
22 beneficiaries of the teachers and city systems. In any recomputation of an
23 initial retirement allowance for a person not making a final contribution
24 subsequent to 1974, the bridging factor referred to in subsections (1) and
25 (2) shall be 1.000. Any recomputed retirement allowance shall be payable
26 only prospectively from July 1, 1974.

27 (4) Benefits payable to a person who became a member prior to July 1,
28 1974, or to the member's beneficiaries shall never be less than they would
29 have received under this chapter as in effect on June 30, 1974; provided,
30 however, that the member shall have accrued the amount of accumulated con-
31 tributions required thereby prior to payment of an initial retirement al-
32 lowance.

33 (5) If the majority of a member's credited service is as an elected of-
34 ficial or as an appointed official, except as a member of the Idaho legisla-
35 ture who left the Idaho legislature before July 1, 2015, and subsequently be-
36 came an employee, as defined in section 59-1302(14) (A), Idaho Code, outside
37 of the Idaho legislature, and that official was normally in the administra-
38 tive offices of the employer less than twenty (20) hours per week during the
39 term of office, or was normally not required to be present at any particular
40 work station for the employer twenty (20) hours per week or more during the
41 term of office, that member's initial service retirement allowance shall be
42 the sum of:

43 (a) That amount computed under subsection (1) and/or (2) of this sec-
44 tion for only those months of service as an elected or an appointed offi-
45 cial that are in excess of the months of other credited service, without
46 consideration of any other credited service; and

47 (b) That accrued service retirement allowance that is computed from an
48 average monthly salary for salary received during the member's total
49 months of credited service excluding those excess months referenced in
50 subsection (5) (a) of this section.

new!
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new

1 The initial service retirement allowance of members of the Idaho legislature
 2 who left the Idaho legislature before July 1, 2015, and subsequently became
 3 employees, as defined in section 59-1302(14) (A), Idaho Code, outside of the
 4 Idaho legislature, will be computed under subsection (1) and/or (2) of this
 5 section, on the basis of their total months of credited service. The initial
 6 service retirement allowance of all other members of the Idaho legislature
 7 on and after July 1, 2015, will be computed in the same manner as the computa-
 8 tion for nonlegislative elected or appointed officials including the provi-
 9 sions of this subsection if applicable.

10 (6) In no case, however, will a member's initial service retirement
 11 benefit be equal to more than the member's accrued benefit as of May 1, 1990,
 12 or one hundred percent (100%) of the member's average compensation for the
 13 three (3) consecutive years of employment which produce the greatest aggre-
 14 gate compensation, whichever is greater. If the benefit is calculated to
 15 exceed one hundred percent (100%) of the member's average compensation, the
 16 member shall be eligible for and may choose either:

- 17 (a) An annual service retirement allowance equal to the member's aver-
- 18 age annual compensation for the three (3) consecutive years of employ-
- 19 ment which produced the greatest aggregate compensation; or
- 20 (b) A separation benefit.

21 (7) The annual amount of initial service retirement allowance of a mem-
 22 ber who is over age seventy (70) on the effective date of the member's re-
 23 tirement shall be a percentage of the member's initial service retirement
 24 allowance. Such percentage shall be one hundred percent (100%) increased as
 25 determined by the board to compensate for each month that the member's re-
 26 tirement is deferred beyond age seventy (70).

27 (8) A member's accrued retirement allowance, as otherwise provided in
 28 subsections (1), (2), (3), (4) and (5) of this section, shall not be less than
 29 the minimum accrued retirement allowance provided in this subsection. The
 30 determination of the initial service retirement allowance provided in sub-
 31 sections (1) and (2) of this section, and the application of the provisions
 32 in subsections (6) and (7) of this section, will be made after the determi-
 33 nation of the minimum accrued retirement allowance provided in this subsec-
 34 tion.

35 This subsection shall apply to members who have at least two (2) sep-
 36 arate periods of employment covered under this chapter where each separate
 37 period of employment would otherwise be eligible for a separation benefit
 38 described in section 59-1359, Idaho Code. For purposes of this subsection,
 39 if a separation of employment occurs that does not exceed sixty (60) consec-
 40 utive calendar months then the member's period of employment shall be con-
 41 sidered a continuous period of employment. For purposes of this subsection,
 42 date of last contribution is the date of final contribution for each period
 43 or periods of employment.

44 For each separate period of employment considered under this subsec-
 45 tion, the member must not have received a separation benefit for that period,
 46 or if he has received such a separation benefit under section 59-1359, Idaho
 47 Code, he must have completed reinstatement of all previous credited service
 48 associated with all separation benefits for all periods of employment as
 49 permitted under section 59-1360, Idaho Code.

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1	If a member's service retirement	Then the sum of the member's credited
2	ratio as defined by section 59-1341,	service and age must be equal to
3	Idaho Code, is:	or greater than:
4	0.151 to 0.250	88
5	0.251 to 0.350	87
6	0.351 to 0.450	86
7	0.451 to 0.550	85
8	0.551 to 0.650	84
9	0.651 to 0.750	83
10	0.751 to 0.850	82
11	0.851 to 0.950	81
12	0.951 to 1.000	80

NO

(2) If the majority of a member's credited service is as an elected official or as an appointed official, except as a member of the Idaho legislature who left the Idaho legislature before July 1, 2015, and subsequently became an employee, as defined in section 59-1302(14) (A), Idaho Code, outside of the Idaho legislature, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer twenty (20) hours per week or more during the term of office, that member's accrued retirement allowance shall be the sum of:

- (a) That amount computed from an average monthly salary for salary received only for those months of service as an elected or as an appointed official that are in excess of the months of other credited service without consideration of any other credited service; and
- (b) That accrued retirement allowance that is computed from an average monthly salary for salary received during the member's total months of credited service excluding those excess months referenced in subsection (2) (a) of this section.

NO

The initial service retirement allowance of members of the Idaho legislature who left the Idaho legislature before July 1, 2015, and subsequently became an employee, as defined in section 59-1302(14) (A), Idaho Code, outside of the Idaho legislature, will be computed under the provisions of this section, on the basis of their total months of credited service. The initial service retirement allowance of all other members of the Idaho legislature on and after July 1, 2015, will be computed in the same manner as the computation for nonlegislative elected or appointed officials including the provisions of this subsection if applicable.