

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 713

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO JUDGES; AMENDING SECTION 1-2001, IDAHO CODE, TO PROVIDE THAT A
2 JUDICIAL VACANCY SHALL REMAIN VACANT UNTIL THE NEXT JUDICIAL ELECTION
3 IN CERTAIN INSTANCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-
4 TION 59-502, IDAHO CODE, TO REVISE A PROVISION REGARDING THE SALARY OF
5 THE JUSTICES OF THE SUPREME COURT AND TO MAKE A TECHNICAL CORRECTION;
6 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

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

9 SECTION 1. That Section 1-2001, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT
12 JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT.

13 (1) (a) Every person who served as a justice of the supreme court or
14 judge of the court of appeals or district judge of the district court and
15 who was receiving benefits from the judges' retirement fund before July
16 1, 2000, for such service, shall be entitled to benefits from the fund
17 according to the formula for calculating such benefits as provided in
18 ~~section 1-2001(2)(a), Idaho Code~~ subsection (2)(a) of this section.

19 (b) The term "retirement board" as used in this chapter shall mean the
20 retirement board created by section 59-1304, Idaho Code.

21 (2) Any person who is now serving or who shall hereafter serve as a jus-
22 tice of the supreme court, a judge of the court of appeals, or a district
23 judge of a district court of this state shall prior to retirement elect in
24 writing to retire under either paragraph (a) or (b) of this subsection, pro-
25 vided that a person who has first assumed office as a supreme court justice,
26 judge of the court of appeals or district judge on or after July 1, 2012, and
27 who is eligible to receive an annual retirement compensation only under the
28 criteria set forth in subsection (3)(c) of this section, may retire only un-
29 der paragraph (a) of this subsection. Any person who fails to make the elec-
30 tion provided for in this subsection prior to retirement shall receive re-
31 tirement compensation under the provisions of paragraph (a) of this subsec-
32 tion.

33 (a) (i) On or after July 1, 2000, any person who has served or who
34 is now serving or who shall hereafter serve as a justice of the
35 supreme court, a judge of the court of appeals, or a district judge
36 of a district court of this state may leave office or retire and
37 be entitled to receive, and to have paid from the date of his re-
38 tirement until death, an annual retirement compensation payable
39 in monthly installments on the first day of each month.

40 (ii) A person who assumed office as a supreme court justice, judge
41 of the court of appeals or district judge prior to July 1, 2012,
42 shall receive an annual retirement compensation based upon a per-

1 centage of the current annual compensation of the highest office
2 in which such person served, unless such person makes an irrevoca-
3 ble election no later than August 1, 2012, to receive upon retire-
4 ment an annual retirement compensation based upon the provisions
5 in this paragraph applicable to justices or judges who first as-
6 sumed such office on or after July 1, 2012.

7 (iii) A person who first assumed office as a supreme court justice,
8 judge of the court of appeals or district judge on or after July 1,
9 2012, shall receive an annual retirement compensation based upon
10 a percentage of the annual compensation at the time of such per-
11 son's retirement or resignation from the highest office in which
12 such person served, and such compensation shall be adjusted annu-
13 ally by the postretirement allowance adjustment established pur-
14 suant to section 59-1355, Idaho Code.

15 (iv) The percentage applicable to all retiring justices and
16 judges shall be equal to five percent (5%) multiplied by the number
17 of years served as either justice or judge, or both, for the first
18 ten (10) years of service plus two and one-half percent (2 1/2%)
19 multiplied by the remaining number of years served as either jus-
20 tice or judge, or both, but in any event the total percentage shall
21 not be greater than seventy-five percent (75%).

22 (b) (i) On or after July 1, 2000, any person who is now serving
23 or who shall hereafter serve as a justice of the supreme court, a
24 judge of the court of appeals, or a district judge of a district
25 court of this state may retire from office and be entitled to
26 receive, and to have paid from the date of his retirement until
27 death, an annual retirement compensation payable in monthly in-
28 stallments on the first day of each month.

29 (ii) A person who assumed office as a supreme court justice, judge
30 of the court of appeals or district judge prior to July 1, 2012,
31 shall receive an annual retirement compensation based upon a per-
32 centage of the current annual compensation of the highest office
33 in which such person served, unless such person makes an irrevoca-
34 ble election no later than August 1, 2012, to receive upon retire-
35 ment an annual retirement compensation based upon the provisions
36 ~~in~~ of this paragraph applicable to justices or judges who first as-
37 sumed such office on or after July 1, 2012.

38 (iii) A person who first assumed office as a supreme court justice,
39 judge of the court of appeals or district judge on or after July 1,
40 2012, shall receive an annual retirement compensation based upon a
41 percentage of the annual compensation at the time of such person's
42 retirement or resignation of the highest office in which such per-
43 son served, and such compensation shall be adjusted annually by
44 the postretirement allowance adjustment established pursuant to
45 section 59-1355, Idaho Code.

46 (iv) The percentage applicable to all retiring justices and
47 judges shall be equal to five percent (5%) multiplied by the num-
48 ber of years served as either justice or judge, or both, for the
49 first ten (10) years of service plus two and one-half percent (2
50 1/2%) multiplied by the remaining number of years served as either

1 justice or judge, or both, plus two and one-half percent (2 1/2%)
2 multiplied by five (5) years senior judge service, but in any event
3 the total percentage shall not be greater than seventy-five per-
4 cent (75%).

5 (c) (i) A justice or judge electing to retire under paragraph (b)
6 of this subsection and who assumed office as a supreme court jus-
7 tice, judge of the court of appeals or district judge prior to July
8 1, 2012, shall serve as a senior judge, without compensation other
9 than annual health benefits, for thirty-five (35) days per year
10 for a period of five (5) years.

11 (ii) A justice or judge electing to retire under paragraph (b) of
12 this subsection who first assumed office as a supreme court jus-
13 tice, judge of the court of appeals or district judge on or after
14 July 1, 2012, shall serve as a senior judge, without compensation
15 other than annual health benefits, for sixty (60) days per year for
16 a period of five (5) years.

17 (iii) A justice or judge who serves more than the required number
18 of days per year may carry over the additional days to fulfill the
19 senior judge service obligation in future years. The terms and
20 conditions of such senior judge service shall be as provided under
21 section 1-2005, Idaho Code.

22 (iv) If a supreme court justice, judge of the court of appeals,
23 or district judge of the district court elects to retire under
24 paragraph (b) of this subsection and does so at a time other than
25 at the conclusion of his term of office, the judicial vacancy cre-
26 ated shall remain vacant until a qualified candidate as a supreme
27 court justice, judge of the court of appeals, or district judge
28 is successfully elected during the next available judicial elec-
29 tion. If a qualified candidate as a supreme court justice, judge
30 of the court of appeals, or district judge is not elected in the
31 next available judicial election, the vacant judicial position
32 may then be filled by the appointment of the governor pursuant to
33 section 1-2102, Idaho Code. Nothing in this subparagraph shall
34 be interpreted to prohibit senior judges from covering the docket
35 of the retiring judge until the position can be filled through the
36 next available judicial election.

37 (d) Upon certification from the chief justice that any justice or judge
38 who retired under paragraph (b) of this subsection has failed to perform
39 the senior judge services required under paragraph (c) of this subsec-
40 tion, and has not been relieved of the obligations to perform those ser-
41 vices in the manner provided by this subsection, the judges' retirement
42 fund shall recalculate the retirement compensation benefits of the non-
43 complying justice or judge under paragraph (a) of this subsection, and
44 the noncomplying justice or judge shall thereafter receive only the re-
45 calculated amount.

46 (e) A justice or judge may be relieved of the senior judge service obli-
47 gation imposed by this subsection if he fails for good cause to complete
48 the obligation. A retired justice or judge who is relieved of the obli-
49 gation to serve as a senior judge shall continue to receive the retire-
50 ment allowance provided under paragraph (b) of this subsection.

- 1 (f) "Good cause" includes, but is not limited to:
 2 (i) Physical or mental incapacitation of a justice or judge that
 3 prevents the justice or judge from discharging the duties of judi-
 4 cial office;
 5 (ii) Failure of the supreme court to assign a senior judge to the
 6 requisite amount of senior judge service, whether because of in-
 7 sufficient need for senior judges, a determination by the supreme
 8 court that the skills of a senior judge do not match the needs of
 9 the courts, clerical mistake or otherwise; or
 10 (iii) Death of a senior judge.
- 11 (g) "Good cause" does not include:
 12 (i) A senior judge's refusal, without good cause, to accept se-
 13 nior judge assignments sufficient to meet the required amount; or
 14 (ii) A senior judge's affirmative voluntary act that makes him un-
 15 qualified to serve as a judge of this state including, but not lim-
 16 ited to, failure to maintain a residence within the state, com-
 17 mencing the practice of law other than as a mediator, arbitrator
 18 or similar alternative dispute resolution function, acceptance of
 19 a position in another branch of state government or political sub-
 20 division, or the acceptance of a position in the government of the
 21 United States or of another state or nation.
- 22 (h) The supreme court may make rules for the implementation of this sub-
 23 section.
- 24 (3) On or after July 1, 2000, each person who has served but is not re-
 25 ceiving benefits or who is now serving or who shall hereafter serve who shall
 26 leave office or retire as justice of the supreme court, judge of the court of
 27 appeals, or district judge of a district court in this state shall be eligi-
 28 ble to receive an annual retirement compensation when such person shall meet
 29 one (1) of the following eligibility criteria:
 30 (a) Attaining the age of sixty-five (65) years and having a minimum ser-
 31 vice of four (4) years;
 32 (b) Attaining the age of sixty (60) years and having a minimum service
 33 of ten (10) years;
 34 (c) Attaining the age of fifty-five (55) years and having a minimum ser-
 35 vice of fifteen (15) years; or
 36 (d) At any age after twenty (20) years of service.
- 37 (4) (a) On or after July 1, 2000, each justice or judge who is now serv-
 38 ing or who shall hereafter be appointed or elected and who shall retire
 39 by reason of disability preventing him from further performance of the
 40 duties of his office, after a service in any or all of said courts of four
 41 (4) years or more, shall, upon retirement, be entitled to receive and to
 42 have paid to him until death an annual retirement compensation payable
 43 in monthly installments on the first day of each month.
- 44 (b) A person who assumed office as a supreme court justice, judge of
 45 the court of appeals or district judge prior to July 1, 2012, shall re-
 46 ceive an annual retirement compensation based upon a percentage of the
 47 current annual compensation of the highest office in which such person
 48 served, unless such person makes an irrevocable election no later than
 49 August 1, 2012, to receive upon retirement an annual retirement compen-

1 sation based upon the provisions in this subsection applicable to jus-
2 tices or judges who first assumed such office on or after July 1, 2012.

3 (c) A person who first assumed office as a supreme court justice, judge
4 of the court of appeals or district judge on or after July 1, 2012,
5 shall receive an annual retirement compensation based upon a percentage
6 of the annual compensation at the time of such person's retirement or
7 resignation from the highest office in which such person has served,
8 and such compensation shall be adjusted annually by the postretirement
9 allowance adjustment established pursuant to section 59-1355, Idaho
10 Code.

11 (d) The percentage applicable to all justices and judges who retire by
12 reason of disability shall be equal to five percent (5%) multiplied by
13 the number of years served as either justice or judge, or both, for the
14 first ten (10) years of service, plus two and one-half percent (2 1/2%)
15 multiplied by the remaining number of years served as either justice or
16 judge, or both, but such percentage shall not exceed seventy-five per-
17 cent (75%).

18 (5) All retirement compensation shall be paid out of the judges' re-
19 tirement fund, provided however, that a justice or judge who has served less
20 than four (4) years shall be entitled to have refunded to him all contribu-
21 tions made by him to the judges' retirement fund, with six and one-half per-
22 cent (6 1/2%) interest computed annually but shall not be entitled to any
23 other compensation from the fund.

24 (6) A person who has retired from the office of supreme court justice,
25 judge of the court of appeals or district judge prior to July 1, 2012, or
26 any other person receiving benefits as of July 1, 2012, may make an irrev-
27 ocable election no later than August 1, 2012, to thereafter receive an an-
28 nual retirement compensation or allowance equal to the amount of the annual
29 retirement compensation or allowance such person was receiving as of July
30 1, 2012, and to have such compensation or allowance thereafter adjusted an-
31 nually by the postretirement allowance adjustment established pursuant to
32 section 59-1355, Idaho Code.

33 (7) Notwithstanding any other provision of this section, any person
34 who makes an election to remain in the public employee retirement system of
35 Idaho as provided in section 1-2011, Idaho Code, shall not participate in
36 the judges' retirement fund established in this chapter, but shall continue
37 to participate in the public employee retirement system of Idaho and be
38 governed under the provisions of that system, except as provided in section
39 1-2005, Idaho Code.

40 SECTION 2. That Section 59-502, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 59-502. SALARIES OF JUDGES. (1) Commencing on July 1, ~~2023~~ 2024, the
43 salary of the justices of the supreme court shall be ~~one hundred sixty-five~~
44 ~~thousand two hundred twelve dollars (\$165,212)~~ one hundred sixty-nine thou-
45 sand five hundred eight dollars (\$169,508) per annum.

46 (2) Commencing on July 1, 2023, judges of the court of appeals shall re-
47 ceive an annual salary in an amount of eight thousand dollars (\$8,000) less
48 than the annual salary of a supreme court justice.

1 (3) Commencing on July 1, 2017, district judges shall receive an an-
2 nual salary in an amount of six thousand dollars (\$6,000) less than the an-
3 nual salary of a judge of the court of appeals.

4 (4) Commencing on July 1, 2023, magistrate judges shall receive an an-
5 nual salary in an amount of eight thousand dollars (\$8,000) less than the an-
6 nual salary of a district judge.

7 (5) Salaries shall be paid on regular pay periods not less frequently
8 than monthly as determined by order of the supreme court as due out of the
9 state treasury, but no justice of the supreme court or judge of the district
10 court or magistrate shall be paid his salary, or any part thereof, unless he
11 shall first take and subscribe an oath that there is not in his hands any mat-
12 ter in controversy not decided by him, ~~which~~ that has been finally submitted
13 for his consideration and determination thirty (30) days prior to his taking
14 and subscribing said oath.

15 SECTION 3. An emergency existing therefor, which emergency is hereby
16 declared to exist, this act shall be in full force and effect on and after
17 July 1, 2024.