

IN THE SENATE

SENATE BILL NO. 1261

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION
2 59-1356, IDAHO CODE, TO REVISE A PROVISION REGARDING THE REEMPLOYMENT
3 OF RETIRED MEMBERS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-
4 TIVE DATE.
5

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

7 SECTION 1. That Section 59-1356, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 59-1356. REEMPLOYMENT OF RETIRED MEMBERS. (1) If an early retired mem-
10 ber, except as provided in subsection (6) of this section, is reemployed with
11 an employer participating in the public employee retirement system of Idaho
12 within ninety (90) days from retiring, or the early retired member is guaran-
13 teed reemployment with an employer participating in the public employee re-
14 tirement system of Idaho, the member shall be considered to have continued in
15 the status of an employee and not to have separated from service. Any retire-
16 ment allowance payments received by the retired member shall be repaid to the
17 system and the retirement shall be negated. The month of last contribution
18 prior to the negated retirement and the month of initial contribution upon
19 return to reemployment shall be considered consecutive months of contribu-
20 tions in the determination of an appropriate salary base period upon subse-
21 quent retirement. A retired member is not considered to have separated from
22 service if he continues performing services for an employer participating
23 in the public employee retirement system of Idaho in any capacity, includ-
24 ing but not limited to independent contractor, leased employee, or temporary
25 services.

26 (2) Except as provided in subsections (3), (4), (5), and (6) of this
27 section, when a retired member meets the definition of an employee as defined
28 in section 59-1302(14) (A) (a), Idaho Code, any benefit payable on behalf of
29 such member shall be suspended and any contributions payable by such member
30 under sections 59-1331 through 59-1334, Idaho Code, shall again commence.
31 The suspended benefit, as adjusted pursuant to section 59-1355, Idaho Code,
32 shall resume upon subsequent retirement, along with a separate allowance
33 computed with respect only to that salary and service credited during the
34 period of reemployment. Any death benefit that becomes payable under the
35 suspended benefit shall be payable under section 59-1361(2), Idaho Code.
36 Any death benefit that becomes payable with respect to salary and service
37 accrued during the period of reemployment shall be payable under section
38 59-1361(3), Idaho Code, if the member dies during the period of reemploy-
39 ment.

40 (3) If a retired member who is receiving a benefit that is not reduced
41 under section 59-1346, Idaho Code, and who has been retired for more than
42 six (6) months again becomes employed as defined in this section and section

1 59-1302(14) (A) (b), Idaho Code, as a result of being elected or appointed to a
2 an elective public office other than an office held prior to retirement, the
3 retired member may elect to continue receiving benefits and not accrue ad-
4 ditional service, in which event no contributions shall be made by the mem-
5 ber or employer during such reemployment and any benefit payable on behalf of
6 such member shall continue.

7 (4) If a retired school employee, as defined in section 59-1302(31A),
8 Idaho Code, who retired on or after age sixty (60) years or a retired pub-
9 lic safety officer returns to work as a school employee as defined in section
10 59-1302(31A), Idaho Code, and is receiving a benefit that is not reduced un-
11 der section 59-1346, Idaho Code, again becomes an employee as defined in this
12 section and section 59-1302(14), Idaho Code, as a result of returning to em-
13 ployment with a school district as provided in section 33-1004H, Idaho Code,
14 the retired member may elect to continue receiving benefits and not accrue
15 additional service, in which event no contributions shall be made by the mem-
16 ber during such reemployment and any benefit payable on behalf of such member
17 shall continue.

18 (5) If a retired member as defined in section 59-1302(27), Idaho Code,
19 who retired prior to January 1, 2022, and retired on or after age fifty-five
20 (55) years again becomes an employee as defined in this section and in sec-
21 tion 59-1302(14), Idaho Code, as a result of returning to employment with an
22 employer as defined in section 59-1302(15), Idaho Code, the retired member
23 may elect to continue receiving benefits and not to accrue additional ser-
24 vice. In such a situation, no contributions shall be made by the member dur-
25 ing the reemployment and any benefit payable on behalf of such member shall
26 continue. This subsection shall no longer be in force and effect after June
27 30, 2026, however, the other provisions of this section shall remain in full
28 force and effect and shall remain applicable to all employment.

29 (6) A retired member as defined in section 59-1302(27), Idaho Code,
30 with police officer status as defined in section 59-1303, Idaho Code, or
31 with firefighter member status as defined in section 59-1302(16), Idaho
32 Code, who retires on or after age fifty (50) years and who, within thirty
33 (30) days after retiring, again becomes an employee as defined in section
34 59-1302(14), Idaho Code, with an employer participating in PERSI, or who
35 is guaranteed reemployment with an employer participating in PERSI, shall
36 be considered to have continued in the status of an employee and not to have
37 separated from service. As a result of returning to employment with an em-
38 ployer as defined in section 59-1302(15), Idaho Code, the retired member may
39 elect to continue receiving benefits and not to accrue additional service.
40 In such a situation, contributions shall be made by the member and employer
41 during the reemployment at the rate established by PERSI for police officer
42 or firefighter members, as applicable, and any benefit payable on behalf of
43 such member shall continue. The provisions of this subsection shall be null,
44 void, and of no force and effect after June 30, 2027. However, the other
45 provisions of this section shall remain in full force and effect and shall
46 remain applicable to all employment.

47 (7) It is the responsibility of each employer to immediately report to
48 the retirement board the employment of any retired member so that benefit
49 payments can be suspended as provided in this section. If an employer fails
50 to properly report the employment of a retired member and it results in the

1 retirement board making benefit payments that should have been suspended,
2 the employer shall, in addition to paying delinquent employee and employer
3 contributions from the date of eligibility, also be responsible for repaying
4 to the retirement board the benefit payments made to the retired member that
5 should have been suspended, plus interest. The employer may then recoup such
6 payments from the retired member.

7 (8) (a) A retired member may provide services as a bona fide volunteer
8 for an employer as defined in section 59-1302, Idaho Code, after retire-
9 ment. Such service shall not be considered reemployment of a retired
10 member, and a retired member who is a bona fide volunteer will not be
11 considered to be an employee as defined in section 59-1302(14), Idaho
12 Code.

13 (b) A retired member shall not claim to be a bona fide volunteer un-
14 less such retired member qualifies as a bona fide volunteer pursuant to
15 this subsection. Any retirement allowance payments received by a re-
16 tired member who is not a bona fide volunteer shall be repaid to the sys-
17 tem, such retired member's retirement shall be negated, and the provi-
18 sions of subsection (1) of this section shall apply.

19 (c) For the purposes of this subsection, "bona fide volunteer" means
20 an individual who performs service without promise, expectation, or re-
21 ceipt of any type of compensation, who is not performing a kind of work
22 or service that would normally be compensated by an employer, and who
23 is not classifying employment conduct as volunteering in an effort to
24 avoid being considered an employee as defined in section 59-1302(14),
25 Idaho Code.

26 SECTION 2. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after
28 July 1, 2026.