

IN THE SENATE

SENATE BILL NO. 1343

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JUDGES; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 1-2001,
2 IDAHO CODE, TO PROVIDE THAT CERTAIN JUDGES SHALL NOT BE ELIGIBLE TO
3 SERVE AS A SENIOR JUDGE AND MAY NOT ELECT TO RECEIVE CERTAIN RETIREMENT
4 COMPENSATION, TO PROVIDE FOR WRITTEN ACKNOWLEDGMENT, AND TO PROVIDE AN
5 EXCEPTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
9 encourage the judges of Idaho to finish their terms in office. In 1890, it
10 was the intention of those who wrote the Constitution of the State of Idaho
11 that the people of Idaho would elect their judges. When judges finish their
12 terms in office, the people choose the replacement judge through the elec-
13 toral process. This legislation promotes the election of judges by the peo-
14 ple.

15 SECTION 2. That Section 1-2001, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 1-2001. SUPREME COURT JUSTICES, COURT OF APPEALS JUDGES AND DISTRICT
18 JUDGES -- AGE OF RETIREMENT -- COMPENSATION ON RETIREMENT.

19 (1) (a) Every person who served as a justice of the supreme court or
20 judge of the court of appeals or district judge of the district court and
21 who was receiving benefits from the judges' retirement fund before July
22 1, 2000, for such service, shall be entitled to benefits from the fund
23 according to the formula for calculating such benefits as provided in
24 subsection (2) (a) of this section.

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

27 (2) Any person who is now serving or who shall hereafter serve as a jus-
28 tice of the supreme court, a judge of the court of appeals, or a district
29 judge of a district court of this state shall prior to retirement elect in
30 writing to retire under either paragraph (a) or (b) of this subsection, pro-
31 vided that a person who has first assumed office as a supreme court justice,
32 judge of the court of appeals or district judge on or after July 1, 2012,
33 and who is eligible to receive an annual retirement compensation only un-
34 der the criteria set forth in subsection (3) (c) of this section, may retire
35 only under paragraph (a) of this subsection. Any person who fails to make
36 the election provided for in this subsection prior to retirement or who, pur-
37 suant to subsection (9) (a) of this section, is ineligible to elect and re-
38 ceive retirement compensation pursuant to the provisions of paragraph (b) of
39 this subsection shall receive retirement compensation under the provisions
40 of paragraph (a) of this subsection.

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

8 (ii) A person who assumed office as a supreme court justice, judge
9 of the court of appeals or district judge prior to July 1, 2012,
10 shall receive an annual retirement compensation based upon a per-
11 centage of the current annual compensation of the highest office
12 in which such person served, unless such person makes an irrevoca-
13 ble election no later than August 1, 2012, to receive upon retire-
14 ment an annual retirement compensation based upon the provisions
15 in this paragraph applicable to justices or judges who first as-
16 sumed such office on or after July 1, 2012.

17 (iii) A person who first assumed office as a supreme court justice,
18 judge of the court of appeals or district judge on or after July 1,
19 2012, shall receive an annual retirement compensation based upon
20 a percentage of the annual compensation at the time of such per-
21 son's retirement or resignation from the highest office in which
22 such person served, and such compensation shall be adjusted annu-
23 ally by the postretirement allowance adjustment established pur-
24 suant to section 59-1355, Idaho Code.

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

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

39 (ii) A person who assumed office as a supreme court justice, judge
40 of the court of appeals or district judge prior to July 1, 2012,
41 shall receive an annual retirement compensation based upon a per-
42 centage of the current annual compensation of the highest office
43 in which such person served, unless such person makes an irrevoca-
44 ble election no later than August 1, 2012, to receive upon retire-
45 ment an annual retirement compensation based upon the provisions
46 of this paragraph applicable to justices or judges who first as-
47 sumed such office on or after July 1, 2012.

48 (iii) A person who first assumed office as a supreme court justice,
49 judge of the court of appeals or district judge on or after July 1,
50 2012, shall receive an annual retirement compensation based upon a

1 percentage of the annual compensation at the time of such person's
2 retirement or resignation of the highest office in which such per-
3 son served, and such compensation shall be adjusted annually by
4 the postretirement allowance adjustment established pursuant to
5 section 59-1355, Idaho Code.

6 (iv) The percentage applicable to all retiring justices and
7 judges shall be equal to five percent (5%) multiplied by the num-
8 ber of years served as either justice or judge, or both, for the
9 first ten (10) years of service plus two and one-half percent (2
10 1/2%) multiplied by the remaining number of years served as either
11 justice or judge, or both, plus two and one-half percent (2 1/2%)
12 multiplied by five (5) years senior judge service, but in any event
13 the total percentage shall not be greater than seventy-five per-
14 cent (75%).

15 (c) (i) A justice or judge electing to retire under paragraph (b)
16 of this subsection and who assumed office as a supreme court jus-
17 tice, judge of the court of appeals or district judge prior to July
18 1, 2012, shall serve as a senior judge, without compensation other
19 than annual health benefits, for thirty-five (35) days per year
20 for a period of five (5) years.

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

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

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

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

46 (f) "Good cause" includes, but is not limited to:

47 (i) Physical or mental incapacitation of a justice or judge that
48 prevents the justice or judge from discharging the duties of judi-
49 cial office;

1 (ii) Failure of the supreme court to assign a senior judge to the
2 requisite amount of senior judge service, whether because of in-
3 sufficient need for senior judges, a determination by the supreme
4 court that the skills of a senior judge do not match the needs of
5 the courts, clerical mistake or otherwise; or

6 (iii) Death of a senior judge.

7 (g) "Good cause" does not include:

8 (i) A senior judge's refusal, without good cause, to accept se-
9 nior judge assignments sufficient to meet the required amount; or

10 (ii) A senior judge's affirmative voluntary act that makes him un-
11 qualified to serve as a judge of this state including, but not lim-
12 ited to, failure to maintain a residence within the state, com-
13 mencing the practice of law other than as a mediator, arbitrator
14 or similar alternative dispute resolution function, acceptance of
15 a position in another branch of state government or political sub-
16 division, or the acceptance of a position in the government of the
17 United States or of another state or nation.

18 (h) The supreme court may make rules for the implementation of this sub-
19 section.

20 (3) On or after July 1, 2000, each person who has served but is not re-
21 ceiving benefits or who is now serving or who shall hereafter serve who shall
22 leave office or retire as justice of the supreme court, judge of the court of
23 appeals, or district judge of a district court in this state shall be eligi-
24 ble to receive an annual retirement compensation when such person shall meet
25 one (1) of the following eligibility criteria:

26 (a) Attaining the age of sixty-five (65) years and having a minimum ser-
27 vice of four (4) years;

28 (b) Attaining the age of sixty (60) years and having a minimum service
29 of ten (10) years;

30 (c) Attaining the age of fifty-five (55) years and having a minimum ser-
31 vice of fifteen (15) years; or

32 (d) At any age after twenty (20) years of service.

33 (4) (a) On or after July 1, 2000, each justice or judge who is now serv-
34 ing or who shall hereafter be appointed or elected and who shall retire
35 by reason of disability preventing him from further performance of the
36 duties of his office, after a service in any or all of said courts of four
37 (4) years or more, shall, upon retirement, be entitled to receive and to
38 have paid to him until death an annual retirement compensation payable
39 in monthly installments on the first day of each month.

40 (b) A person who assumed office as a supreme court justice, judge of
41 the court of appeals or district judge prior to July 1, 2012, shall re-
42 ceive an annual retirement compensation based upon a percentage of the
43 current annual compensation of the highest office in which such person
44 served, unless such person makes an irrevocable election no later than
45 August 1, 2012, to receive upon retirement an annual retirement compen-
46 sation based upon the provisions in this subsection applicable to jus-
47 tices or judges who first assumed such office on or after July 1, 2012.

48 (c) A person who first assumed office as a supreme court justice, judge
49 of the court of appeals or district judge on or after July 1, 2012,
50 shall receive an annual retirement compensation based upon a percentage

1 of the annual compensation at the time of such person's retirement or
2 resignation from the highest office in which such person has served,
3 and such compensation shall be adjusted annually by the postretirement
4 allowance adjustment established pursuant to section 59-1355, Idaho
5 Code.

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

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

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

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

35 (8) (a) Effective July 1, 2024, a judge eligible to receive retirement
36 compensation under the judges' retirement fund and pursuant to the pro-
37 visions of this section shall be entitled to a retirement bonus after
38 retirement of twenty-five thousand dollars (\$25,000) if:

39 (i) The judge retires at the conclusion of the term of office to
40 which the judge was most recently elected or appointed;

41 (ii) The judge has given written notice to the supreme court,
42 which shall announce the upcoming retirement to the general public
43 and the legislature in the same manner that judicial vacancies are
44 customarily announced;

45 (iii) Such announcement is made not less than one (1) year in ad-
46 vance of the retirement; and

47 (iv) The retiring judge is replaced in office by a judge who is
48 elected, not appointed. This requirement shall not apply if no
49 candidate stands for election to replace the retiring judge.

1 (b) If the requirements in paragraph (a) of this subsection are not met,
2 then such retiring judge shall not be eligible to receive the retirement
3 bonus provided for in this subsection.

4 (9) (a) A supreme court justice, judge of the court of appeals, or dis-
5 trict judge of the district court who files a declaration of candidacy
6 after July 1, 2026, to run for another term of office and who retires
7 prior to the conclusion of the term of office to which the judge was most
8 recently elected or appointed shall not be eligible to serve as a senior
9 judge under this section and may not elect to receive retirement compen-
10 sation under subsection (2) (b) of this section.

11 (b) Each candidate for supreme court justice, judge of the court of ap-
12 peals, or district judge who stands for election shall acknowledge to
13 the supreme court in writing that the candidate is aware of the provi-
14 sions of paragraph (a) of this subsection.

15 (c) The provisions of paragraph (a) of this subsection shall not apply
16 to a justice of the supreme court, a judge of the court of appeals, or a
17 district judge of a district court who:

18 (i) Gave written notice of his retirement date and election to
19 receive retirement compensation under subsection (2) (b) of this
20 section prior to July 1, 2026; or

21 (ii) Retires prior to the conclusion of the term of office due to
22 illness or other incapacitation that prevents the justice or judge
23 from performing the duties of office.

24 SECTION 3. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2026.