

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 15
POLICEMAN'S RETIREMENT FUND

50-1501. PURPOSE STATED. Retirement, with continuance of pay for themselves, provision for dependents and pay during temporary disability, and the encouragement of long tenure in police service of paid policemen becoming aged or disabled in the service of the state or any of its cities, is hereby declared to be a public purpose of joint concern to the state and each of its cities in the protection of lives and conservation of property and essential to the maintenance of competent and efficient personnel in police service.

[50-1501, added 1967, ch. 429, sec. 253, p. 1249.]

50-1502. DEFINITIONS. The following are definitions of terms used in sections [50-1501](#) through [50-1524](#), Idaho Code:

(a) "Paid policeman" means any individual who is on the payroll of any city in the state of Idaho and who devotes his or her principal time of employment to the care, operation or maintenance of a regularly constituted police department of such city;

(b) "Industrial accident board" means the board as authorized and created under the provisions of [chapter 5, title 72](#), Idaho Code, or as the same may be hereafter amended;

(c) "Workers' Compensation Law" means the Workers' Compensation Law as authorized and created under [title 72](#), Idaho Code, or as the same may hereafter be amended;

(d) "Twenty-five years active service" -- an individual whose principal means of livelihood for the period of twenty-five (25) years has been through employment by a city in a regularly constituted police department, and has actually been carried on the payroll for twenty-five (25) years;

(e) "Five years continuous service, ten years continuous service, fifteen years continuous service" -- an individual who has been employed by a regularly constituted police department for a period of five (5) years, ten (10) years, or fifteen (15) years continuously, without having engaged in any other gainful occupation;

(f) "Leave of absence" means a period of time which a paid policeman shall have been out of the service of said police department of the city of which he was a member, and who, for that like period of time was off the payrolls thereof;

(g) "Mandatory retirement at age sixty-five" -- retirement to become mandatory when age of sixty-five (65) years has been reached;

(h) The meaning of the term "incapacitated in a degree which prohibits efficient service" means that degree of mental or physical disability which prohibits the efficient performance of the duties of a paid policeman during any occasion when his said services as a policeman shall be necessary;

(i) "Twenty-five years of accumulated service" -- an individual who has been employed by a regularly constituted police department without having engaged in any other gainful occupation and has had twenty-five (25) years of accumulated service with the same police department and has been carried on the payrolls of such department for that period of accumulated time.

[50-1502, added 1967, ch. 429, sec. 254, p. 1249; am. 1993, ch. 350, sec. 1, p. 1295.]

50-1503. ESTABLISHMENT OF RETIREMENT FUND. The city council of any city in the state of Idaho may, in accordance with sections [50-1501](#) through [50-1524](#), [Idaho Code,] establish a "policeman's retirement fund" providing, that when such fund shall have been established, as hereinafter provided, it shall continue to function except that the legislature of the state of Idaho may abolish it.

[50-1503, added 1967, ch. 429, sec. 255, p. 1249.]

50-1504. BOARD OF POLICE RETIREMENT FUND COMMISSIONERS -- ELECTION -- TERM OF OFFICE -- DUTIES. The city council of any city, having elected to establish a policeman's retirement fund, together with three (3) members of the police department, shall constitute the board of the police retirement fund commissioners. Each police department member, to be eligible for board membership, must be (a) a participating member of the fund; and (b) either on active duty or retired from the department and drawing benefits from the fund. For the purposes of this section "participating member" means any active member of the police department who contributes to the fund, or any retired member of the police department who receives benefits from the fund. The three (3) members from the police department shall be elected at an election held every two (2) years after the adoption of the provisions of sections [50-1501](#) through [50-1524](#), Idaho Code, and in the manner herein provided. In the event that the number of participating members eligible for board membership is limited to two (2) or fewer, a member may hold more than one (1) position on the board simultaneously.

Not more than thirty (30) nor less than fifteen (15) days preceding the date fixed by law for general city elections, written notice of the nomination of any participating member of said police department for membership on said board may be filed with the secretary thereof. Each petition of nomination shall be signed by not less than three (3) participating members of said police department, and nothing herein contained shall prevent any participating member of a police department from signing more than three (3) petitions of nomination. Said election shall be held on a date fixed by the secretary of the board, and shall not be less than five (5) days nor more than ten (10) days before the date fixed by law for the election as aforesaid. Notices of the dates upon which said petitions may be filed and of the date fixed for the election of members to said board shall be given by the secretary by posting written notices thereof in a prominent place in the police headquarters of said city and by mailing written notices to each participating fund member. For the purpose of said election, the secretary shall prepare and furnish by mail printed or typewritten ballots in the usual form, containing the names of all persons regularly nominated for membership. Each participating member of said police department shall be entitled to vote in person or by mail for three (3) persons as members of said board. The chief of police of the department shall appoint two (2) members of the department, one (1) of which may be the secretary of the fund, to act as clerks at the election, which shall open at 8 o'clock A.M., and remain open so long thereafter, not exceeding twelve (12) hours, as will afford an opportunity for each person entitled to vote. The three (3) nominees receiving the highest number of votes in ballots cast in person and by mail in said election shall be declared

elected and their terms shall commence on the same date as that of the mayor of said city.

Said board shall provide for the disbursement of such retirement fund and shall designate the beneficiaries thereof as provided in sections [50-1501](#) through [50-1524](#), Idaho Code.

[50-1504, added 1967, ch. 429, sec. 256, p. 1249; am. 1987, ch. 73, sec. 1, p. 144.]

50-1505. POLICEMAN'S RETIREMENT FUND. There is hereby created a special fund in the treasury of the city to be designated and known as the policeman's retirement fund for the purpose of providing retirement pay and other benefits for paid policemen, as defined herein, becoming aged or disabled while in the public police service of said city and also providing for their dependents. Such fund shall consist of all moneys accruing under the provisions hereof, all appropriations thereto, all contributions to said fund, donations, properties, and securities acquired by investment or otherwise, and interest earned, shall, commencing with the effective date of such fund, become a part thereof.

[50-1505, added 1967, ch. 429, sec. 257, p. 1249.]

50-1506. APPROPRIATION OF FUND. All moneys coming into the said fund shall be continuously appropriated for the objects, uses and purposes provided herein by sections [50-1501](#) through [50-1524](#) and to pay all or any costs and expenses of administration thereof by the said board of police retirement fund commissioners.

[50-1506, added 1967, ch. 429, sec. 258, p. 1249.]

50-1507. ADMINISTRATION OF FUND. The policeman's retirement fund shall be administered by the chairman of the board of police retirement fund commissioners.

[50-1507, added 1967, ch. 429, sec. 259, p. 1249.]

50-1508. ACTIONS BY AND AGAINST BOARD. The said board of police retirement fund commissioners shall have the power to sue or be sued in all courts of the state in all matters arising out of the administration, management and enforcement of the provisions of sections [50-1501](#) through [50-1524](#) [, Idaho Code].

[50-1508, added 1967, ch. 429, sec. 260, p. 1249.]

50-1509. EMPLOYEES OF BOARD. The said board of police retirement fund commissioners shall have power to engage assistants, experts, accountants, clerks and other employees which may be found necessary to carry out the provisions of sections [50-1501](#) through [50-1524](#), [Idaho Code,] the same to be paid out of said retirement fund.

[50-1509, added 1967, ch. 429, sec. 261, p. 1249.]

50-1510. PERSONAL LIABILITY OF BOARD MEMBERS OR THEIR EMPLOYEES. The board of police retirement fund commissioners shall not, nor shall any person employed by any commissioners, be personally liable in his private ca-

capacity for or on account of any act performed or entered into in an official capacity in good faith and without intent to defraud, in connection with the administration of said retirement fund.

[50-1510, added 1967, ch. 429, sec. 262, p. 1249.]

50-1511. AUDIT OF CLAIMS. All claims against said fund shall be examined, audited and allowed in the manner now provided or hereafter provided for by law for claims against any city.

[50-1511, added 1967, ch. 429, sec. 263, p. 1249.]

50-1512. TAX LEVY -- SALARY DEDUCTIONS. Any city having established a policeman's retirement fund may levy a tax of not to exceed eight hundredths per cent (.08%) of market value for assessment purposes of property within the corporate limits of the city, except where pursuant to section [50-1525](#), Idaho Code, it is found that the levy is not sufficient to meet the fund's future liability, in which case the levy may be increased to provide for the actuarial soundness of the fund. Said taxes shall be placed by the city treasurer in a fund to be known as the "policeman's retirement fund." Sums certain, as determined by the governing body, not to exceed eight per cent (8%) per month, may be deducted from the salary of each police officer and placed in said "policeman's retirement fund" by the treasurer. When all claims against the fund have been satisfied, the authority to levy according to this section shall terminate.

[50-1512, added 1967, ch. 429, sec. 264, p. 1249; am. 1971, ch. 26, sec. 6, p. 68; am. 1985, ch. 223, sec. 1, p. 536; am. 1996, ch. 208, sec. 12, p. 670; am. 1996, ch. 322, sec. 53, p. 1080.]

50-1513. CHAIRMAN OF BOARD -- SECRETARIES -- REPORTS. The mayor of the city shall be ex-officio chairman of the board of police retirement fund commissioners and the members of the board shall elect the other necessary officers. The secretary of the board shall make a semiannual report to the city council as to the condition of the said "policeman's retirement fund:" their receipts and disbursements in the accounts of same, a complete list of the beneficiaries of the said fund and a list of the amount paid to each of said persons. The city treasurer shall, from the records of his office, furnish the secretary with any pertinent or necessary information which may be needful or necessary to compile such report or to furnish the board with the proper information: all reports to be written, signed and dated by the secretary.

[50-1513, added 1967, ch. 429, sec. 265, p. 1249.]

50-1514. RETIREMENT OF POLICEMEN -- RETIREMENT BENEFITS -- LEAVE OF ABSENCE. (a) Whenever any person shall have been duly appointed, selected and sworn in as a member in any capacity or rank whatsoever of a regularly constituted police department of the city which may hereafter be subject to the provisions of this chapter, and shall have reached the age of sixty (60) years, shall be retired upon his written application to the board of retirement fund commissioners, and every other member of such a police department who reaches the age of sixty-five (65), or any member who, after reaching the age of sixty (60) years, continues in a regular capacity with that police

department and thereafter becomes physically or mentally incapacitated to a degree which prevents efficient service, shall by the order and direction of the board be retired from further service with that city police department. When any person shall have served not less than twenty-five (25) years accumulatively with the same city police department, he may should he so desire have the right to retire at that time, provided he has not reached the age of sixty-five (65) years, and provided further, that whenever that person eligible to retire upon completion of twenty-five (25) years of accumulated service so elects, he may, upon application to the board of police retirement fund commissioners, remain in active service as long as his physical condition permits, or until reaching the age of sixty-five (65) years. When the board issues an order of retirement, the order shall terminate and end the services of a person in the police department, except in cases of extreme emergency as determined by the board of police retirement fund commissioners in cooperation with the chief of police of that city, and the person to be retired shall thereafter during his lifetime be paid from the retirement fund a yearly sum, equal to one-half (1/2) of the average annual salary received by the person during the five (5) highest salary years of his last ten (10) years of service next preceding the date of retirement; provided, however, in cases where the retirement plan was approved by ordinance prior to April 1, 1947, a yearly retirement sum shall be paid which is equal to one-half (1/2) of the amount of salary attached to the rank which he held in the police department of the city for a period of one (1) year next preceding the date of retirement, both of which retirement sums shall be adjusted in proportion to any cost-of-living adjustments made to the salaries of active employees. Provided further, that where a retirement plan was approved by ordinance prior to April 1, 1947, upon completion of twenty (20) years of accumulated service a person subject to this chapter may apply to the board of police retirement fund commissioners for a reduced yearly retirement sum equal to the percentage of full benefits arrived at by dividing the number of years served by twenty-five (25). This percentage reduction in benefits shall be consistent throughout the person's retirement period.

(b) The period of time during which any paid policeman who is entitled to retire under the provisions of this chapter, is out of the service with the constituted police department of that city, while on authorized leave of absence, other than leave of absence granted a policeman by reason of injury or illness, and during which period of time the policeman is not carried on the payroll of the police department of the city, shall not be counted as applying to accumulative service under provisions of this chapter, except that this shall not apply to leave of absence granted to any policeman of any city for the purpose of service in the armed forces of the United States. The period of time prior to granting a leave of absence, other than those granted due to injury or illness, or for the purpose of serving in the armed forces of the United States, when the policeman was actually on the payroll of the police department of the city, and period of time the policeman is actually on the payroll of the police department after his return from leave of absence, shall be computed to establish length of accumulated service. Also, providing that any paid policeman coming under the provisions of this chapter, who shall leave the service of the police department and has been repaid any part or all of the moneys paid by him through payroll deductions to the retirement fund, shall, if and when returning to service of that police department, repay the amount of money he was reimbursed, under the provisions

of this chapter to the policeman's retirement fund before becoming eligible to receive retirement pay under the provisions of this chapter.

[50-1514, added 1967, ch. 429, sec. 266, p. 1249; am. 1970, ch. 157, sec. 1, p. 481; am. 1974, ch. 103, sec. 1, p. 1208; am. 1981, ch. 4, sec. 1, p. 9.]

50-1515. RESIGNATION OF POLICEMEN -- REFUND OF DEDUCTIONS. A policeman who has been employed by a regularly constituted police department for a period of less than five (5) continuous years shall, upon termination of such employment, and upon application to the board of police retirement fund commissioners, be refunded one fourth (1/4) of the moneys deducted from his salary and placed in the police retirement fund. The amount to be refunded upon the application of a policeman who has been employed by said police department for a period of not less than five (5) years continuously shall be one third (1/3) of the moneys deducted from his salary and placed in the police retirement fund; for not less than ten (10) years continuous employment with said police department, one half (1/2) of the moneys deducted from his salary and placed in the police retirement fund shall, upon application, be refunded; and after having completed fifteen (15) years of continuous service with said police department, all moneys deducted from his salary and placed in the police retirement fund shall be refunded upon application of such policeman upon termination.

[50-1515, added 1967, ch. 429, sec. 267, p. 1249.]

50-1516. RETIREMENT FOR DISABILITY -- DEATH BENEFITS -- FUNERAL BENEFITS. No person shall be retired as provided in the above sections unless the member shall comply with the qualifications set out and provided by this chapter:

(a) Any paid police member incapacitated by injury or by illness as a result of the performance of the member's official duties as a paid member of a police department shall be retired so long as the disability shall continue in a degree which prevents efficient service and during the disability shall be paid from the retirement fund a disability benefit as follows:

(1) For disability attributable wholly to service as a paid police member, a monthly sum equal to one twenty-fourth (1/24) of the amount of the annual salary attached to the rank which the member held in the police department for a period of one (1) year next preceding the date of retirement; provided, however, that the benefits may be reduced by the board of police retirement fund commissioners commensurate to the extent of the disability and the person's income earning capacity;

(2) For disability attributable only in part to service as a paid police member, a monthly disability benefit in an amount to be fixed by the board of police retirement fund commissioners, but commensurate with the extent of proportion the service-connected disability relates to that person's preexisting injury or infirmity, the board may increase or decrease such monthly benefits whenever the impairment in the person's earning capacity warrants an increase or decrease, but in no event shall a monthly benefit paid to the person exceed the benefit provided under subparagraph (1) above;

(3) Provided, however, that if any paid police member is entitled to receive compensation under the Workmen's Compensation Law of the state of Idaho as it now exists, or shall hereafter be amended, the amount

payable under this act shall be reduced by the amount to which the paid police member is entitled under the Workmen's Compensation Law;

(4) The board of police retirement fund commissioners shall require medical examinations of all applicants for retirement by reason of disability, and shall, at their discretion, require periodic medical examinations of persons receiving a disability retirement allowance. The board shall prescribe general rules for medical examination required hereunder, and may provide for the discontinuance of any disability retirement allowance and forfeiture of all rights under this act for any person who refuses to submit to such an examination;

(5) The decision of the board as to eligibility allowances or benefits shall be final;

(6) When a disability beneficiary is determined by the board to be not incapacitated in a degree which prevents efficient service, the member's disability retirement allowance shall be canceled forthwith;

(7) Such a person, who for any reason is not reinstated in the service of the member's department, shall receive separation benefits according to the member's entitlement, as provided under section [50-1515](#), Idaho Code.

(b) In event a paid police member is killed or sustains injury, from which death results, while in the performance of the member's duty or from causes disconnected with the member's official duties but during the period of the member's service, and leaves surviving the member a spouse or a minor child or minor children, or, in the event the member's spouse has predeceased the member, the member's minor child or children, shall be paid from the retirement fund a yearly sum equal to one-half (1/2) of the amount of the salary attached to the rank the member held in the police department of the city for a period of one (1) year next preceding the date of injury or death. In event a surviving spouse of a police member so killed, or whose death so results, shall thereafter die and there shall be at the time of death, a minor child or minor children of the deceased police member under the age of eighteen (18) years, the payments aforesaid shall be paid, for the sole benefit of the minor child or children under and until reaching the age of eighteen (18) years; provided, however, that any sums payable to any surviving spouse or minor child or children of any police member under this act shall be reduced by any sum to which the surviving spouse or minor child or children may be entitled under the provisions of the Workmen's Compensation Law of the state of Idaho.

(c) In event a paid police member, retired on retirement pay, shall die and leave surviving the member a surviving spouse, who was the member's spouse for over five (5) years immediately prior to the member's death, but no minor children, the spouse shall receive an amount equal to three-fourths (3/4) of the retirement or benefit pay of the member prior to the member's death, adjusted in proportion to any cost-of-living adjustments made to the salaries of active employees, but only during the spouse's lifetime.

(d) In event a paid police member, retired on retirement pay, shall die and leave surviving the member a spouse who was the member's spouse for over five (5) years immediately prior to the member's death or a minor child or minor children, the surviving spouse, or, in the event the member's spouse has predeceased the member, the member's minor child or children, shall be paid the retirement pay to which the deceased police member was eligible, and if the member's surviving spouse thereafter dies the full retirement pay shall

be paid to the child or children until they reach the age of eighteen (18) years.

(e) In the event any paid police member shall die within three (3) months, from and as a result of injuries received in performance of duty or from causes disconnected with the member's official duties but during the period of the member's service and shall at the time of the member's death be unmarried but shall leave surviving the member a dependent father or mother, the retirement or benefit pay to which the member would have been entitled thereunder shall be paid fifty per cent (50%) to each of the surviving parents during the continuance of his or her natural life.

(f) In addition to the foregoing, at the death of any paid police member from whatever cause, the fund shall pay the sum of one hundred dollars (\$100) as funeral expenses.

(g) Any police member, father, mother, surviving spouse, child or children of a police member entitled to compensation under the Workmen's Compensation Law shall draw benefits under provisions of this chapter only to the extent that the benefits under this chapter exceed those to which the member shall be entitled under the Workmen's Compensation Law of the state of Idaho.

(h) When a police member has been disabled and when the period of the member's disability combined with the member's prior service as a police member makes the member eligible for retirement under the provisions of this chapter, the member may upon application to the board be retired at one-half (1/2) the rate of pay applicable for the job classification at the time of disability, or its equivalent, which the member held at the time of disability which pay shall be adjusted in proportion to any cost-of-living adjustments made to the pay of active employees.

[50-1516, added 1967, ch. 429, sec. 268, p. 1249; am. 1970, ch. 157, sec. 2, p. 481; am. 1976, ch. 287, sec. 1, p. 990; am. 1981, ch. 4, sec. 2, p. 10; am. 1992, ch. 41, sec. 1, p. 140.]

50-1517. BENEFITS EXEMPT FROM LEGAL PROCESS. No benefits or payments payable under the provisions of sections [50-1501](#) through [50-1524](#) shall be subject to execution, nor assignable, nor shall be hypothecated or in any manner encumbered.

[50-1517, added 1967, ch. 429, sec. 269, p. 1249.]

50-1518. CONSTRUCTION OF STATUTE. The provisions of this chapter shall be liberally construed, with the object of promotion of justice and the welfare of the persons subject to its provisions.

[50-1518, added 1967, ch. 429, sec. 270, p. 1249.]

50-1519. ROTARY EXPENSE FUND. The provisions of sections [67-2018](#), [67-2019](#), [67-2020](#) and [67-2021](#), Idaho Code, are hereby expressly declared applicable to the provisions of sections [50-1501](#) through [50-1524](#).

[50-1519, added 1967, ch. 429, sec. 271, p. 1249.]

50-1520. INSURANCE OF RISKS. In event the board of police retirement fund commissioners shall determine that there are risks arising under the terms of sections [50-1501](#) through [50-1524](#) which may be made the subject of insurance against loss to the fund created herein, said commission is hereby

authorized at its discretion, to insure such risks. In event of such insurance, the premiums therefor shall be paid from the fund created hereby as other claims are paid; provided, that such insurance shall not in any event be insurance of any individual but exclusively insurance of the fund itself against loss.

[50-1520, added 1967, ch. 429, sec. 272, p. 1249.]

50-1521. APPLICATION OF STATUTE. No paid policeman shall be retired under section [50-1514](#) prior to January 1, 1950, unless he shall be discharged from service because of his incapacity in a degree which prohibits efficient service as defined in subdivision (h) of section [50-1502](#). The provisions of sections [50-1501](#) through [50-1524](#) shall apply only to persons now employed or hereafter to be employed as paid policemen.

[50-1521, added 1967, ch. 429, sec. 273, p. 1249.]

50-1522. SEPARABILITY. If any clause, section or provision of sections [50-1501](#) through [50-1524](#) be found to be unconstitutional, the remainder of sections [50-1501](#) through [50-1524](#) shall remain in full force and effect, notwithstanding such invalidity.

[50-1522, added 1967, ch. 429, sec. 274, p. 1249.]

50-1523. FALSE CLAIMS -- PENALTY. Any person making a false claim for allowance of benefits or payment of money under sections [50-1501](#) through [50-1524](#), knowing the same to be false, shall be deemed guilty of presentation of a false claim against the state and shall be punished as provided by law.

[50-1523, added 1967, ch. 429, sec. 275, p. 1249.]

50-1524. AUTHORITY TO CREATE POLICEMAN'S RETIREMENT FUND TERMINATED. From and after the effective date of this act, no city shall establish a policeman's retirement fund: provided, however, that any policeman's retirement fund, established under the provisions of sections [50-1501](#) through [50-1524](#) and which is now in effect, shall not be invalidated. Provided, further, except as in this section hereinafter otherwise provided, that no person, who shall be hereafter employed as a paid policeman in a city which has a policeman's retirement fund at the effective date of this act, shall participate in the policeman's retirement fund. Any person hereafter employed by a police department shall be eligible to participate in the public employee's retirement system except as in this section hereinafter otherwise provided. Any city having an existing policeman's retirement fund may require, by ordinance, that all of its paid policemen shall participate in its policeman's retirement fund. No paid policeman employed in a city which has elected by ordinance to require all its paid policemen to participate in its policeman's retirement fund shall be eligible to participate in the public employee's retirement system.

[50-1524, added 1967, ch. 429, sec. 276, p. 1249; am. 1969, ch. 307, sec. 1, p. 944; am. 1970, ch. 24, sec. 1, p. 51.]

50-1525. MANDATORY ACTUARIAL STUDY. Any city establishing and maintaining a policeman's retirement fund pursuant to the provisions of this

chapter shall, at its own expense, conduct an actuarial study for the purpose of determining the actuarial soundness of such fund. Commencing January 1, 1991, actuarial studies required hereunder shall be conducted within four (4) years of the last actuarial study and each four (4) years thereafter. Copies of such studies shall be submitted to the secretary of state for the state of Idaho and to the secretary of the local police retirement fund board.

[50-1525, as added by 1971, ch. 26, sec. 7, p. 68; am. 1990, ch. 128, sec. 1, p. 298.]

50-1526. MAKING A FALSE CLAIM -- MISDEMEANOR. Any person making a false claim for allowance of benefits or payment of money under the provisions of this chapter, knowing the same to be false, shall be guilty of a misdemeanor, and shall be punished pursuant to the provisions of section [18-113](#), Idaho Code.

[50-1526, added 1993, ch. 349, sec. 1, p. 1294.]