

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 746

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO JUDICIAL COMPENSATION; AMENDING SECTION 1-2001, IDAHO CODE, TO
2 PROVIDE FOR PAYMENT OF A BONUS TO CERTAIN PERSONS UPON RETIREMENT AND
3 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2224, IDAHO CODE,
4 TO PROVIDE FOR PAYMENT OF A BONUS TO CERTAIN PERSONS UPON RETIREMENT;
5 AMENDING SECTION 59-502, IDAHO CODE, TO REVISE A PROVISION REGARDING
6 THE SALARY OF THE JUSTICES OF THE SUPREME COURT AND TO MAKE A TECHNICAL
7 CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
8

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

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

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

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

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

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

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

41 (ii) A person who assumed office as a supreme court justice, judge
42 of the court of appeals or district judge prior to July 1, 2012,

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

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

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

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

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

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

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

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

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

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

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

23 (d) Upon certification from the chief justice that any justice or judge
24 who retired under paragraph (b) of this subsection has failed to perform
25 the senior judge services required under paragraph (c) of this subsec-
26 tion, and has not been relieved of the obligations to perform those ser-
27 vices in the manner provided by this subsection, the judges' retirement
28 fund shall recalculate the retirement compensation benefits of the non-
29 complying justice or judge under paragraph (a) of this subsection, and
30 the noncomplying justice or judge shall thereafter receive only the re-
31 calculated amount.

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

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

38 (i) Physical or mental incapacitation of a justice or judge that
39 prevents the justice or judge from discharging the duties of judi-
40 cial office;

41 (ii) Failure of the supreme court to assign a senior judge to the
42 requisite amount of senior judge service, whether because of in-
43 sufficient need for senior judges, a determination by the supreme
44 court that the skills of a senior judge do not match the needs of
45 the courts, clerical mistake or otherwise; or

46 (iii) Death of a senior judge.

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

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

1 (ii) A senior judge's affirmative voluntary act that makes him un-
2 qualified to serve as a judge of this state including, but not lim-
3 ited to, failure to maintain a residence within the state, com-
4 mencing the practice of law other than as a mediator, arbitrator
5 or similar alternative dispute resolution function, acceptance of
6 a position in another branch of state government or political sub-
7 division, or the acceptance of a position in the government of the
8 United States or of another state or nation.

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

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

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

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

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

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

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

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

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

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

1 multiplied by the remaining number of years served as either justice or
2 judge, or both, but such percentage shall not exceed seventy-five per-
3 cent (75%).

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

10 (6) A person who has retired from the office of supreme court justice,
11 judge of the court of appeals or district judge prior to July 1, 2012, or
12 any other person receiving benefits as of July 1, 2012, may make an irrev-
13 ocable election no later than August 1, 2012, to thereafter receive an an-
14 nual retirement compensation or allowance equal to the amount of the annual
15 retirement compensation or allowance such person was receiving as of July
16 1, 2012, and to have such compensation or allowance thereafter adjusted an-
17 nually by the postretirement allowance adjustment established pursuant to
18 section 59-1355, Idaho Code.

19 (7) Notwithstanding any other provision of this section, any person
20 who makes an election to remain in the public employee retirement system of
21 Idaho as provided in section 1-2011, Idaho Code, shall not participate in
22 the judges' retirement fund established in this chapter, but shall continue
23 to participate in the public employee retirement system of Idaho and be
24 governed under the provisions of that system, except as provided in section
25 1-2005, Idaho Code.

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

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

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

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

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

41 (b) If the requirements in paragraph (a) of this subsection are not
42 met, then such retiring judge shall not be eligible to receive the re-
43 tirement bonus provided for in this subsection.

44 SECTION 2. That Section 1-2224, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 1-2224. SENIOR MAGISTRATE JUDGES FUND. (1) There is hereby created
47 in the office of the state treasurer, separate and apart from other funds
48 of the state, a dedicated fund to be known as the senior magistrate judges
49 fund. Moneys deposited into the fund pursuant to section 31-3201A, Idaho

1 Code, shall, subject to appropriation, be used by the Idaho supreme court to
 2 purchase up to a maximum of forty-eight (48) months of membership service
 3 in the public employee retirement system of Idaho under section 59-1363,
 4 Idaho Code, for retiring magistrate judges of the district court who hold
 5 office under the provisions of chapter 22, title 1, Idaho Code, at the time
 6 of their retirement. The supreme court's purchase of membership service in
 7 the public employee retirement system of Idaho under this section shall also
 8 be restricted by any applicable limits and requirements established by the
 9 public employee retirement system of Idaho and by the United States internal
 10 revenue service.

11 (2) The actual number of months of membership service the supreme court
 12 may purchase on behalf of a person shall be based upon the period of full-time
 13 service provided to the judicial department by that person prior to retire-
 14 ment and the person's willingness to perform service as a senior judge if he
 15 or she is designated a senior judge by the supreme court pursuant to section
 16 1-2005 or 1-2221, Idaho Code.

17 (3) The supreme court may adopt rules for the application and implemen-
 18 tation of subsections (1) and (2) of this section including, but not limited
 19 to, establishing eligibility requirements and a formula, criteria and proce-
 20 dures for determining the number of months of membership service the court
 21 will purchase on behalf of a person.

22 (4) (a) In addition to the potential purchase of up to forty-eight (48)
 23 months of membership service in the public employee retirement system
 24 of Idaho, as set forth in this section, and without regard to whether a
 25 magistrate judge serves in the capacity of a senior magistrate, effec-
 26 tive July 1, 2024, a magistrate judge that is retiring and is eligible to
 27 receive retirement compensation under the public employee retirement
 28 system of Idaho shall be entitled to a retirement bonus after retirement
 29 of twenty-five thousand dollars (\$25,000) if:

30 (i) The magistrate judge retires at the conclusion of the term of
 31 office to which the magistrate judge was most recently elected or
 32 appointed;

33 (ii) The magistrate judge has given written notice to the supreme
 34 court, which shall announce the upcoming retirement to the general
 35 public and the legislature in the same manner that judicial vacan-
 36 cies are customarily announced; and

37 (iii) Such announcement is made not less than one (1) year in ad-
 38 advance of the retirement.

39 (b) If the requirements in paragraph (a) of this subsection are not
 40 met, then such retiring magistrate judge shall not be eligible to re-
 41 ceive the retirement bonus provided for in this subsection.

42 ~~(4)~~ (5) Moneys deposited into the fund may be allowed to accumulate from
 43 year to year for the purposes set forth in this section, and all interest
 44 earned on the investment of idle moneys in the fund by the state treasurer
 45 shall be returned to the fund.

46 SECTION 3. That Section 59-502, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 59-502. SALARIES OF JUDGES. (1) Commencing on July 1, 2023 2024, the
 49 salary of the justices of the supreme court shall be ~~one hundred sixty-five~~

1 ~~thousand two hundred twelve dollars (\$165,212)~~ one hundred sixty-nine thou-
2 sand five hundred eight dollars (\$169,508) per annum.

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

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

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

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

20 SECTION 4. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after
22 July 1, 2024.