

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 137

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE THAT CERTAIN DEPUTY SHERIFFS AND CITY POLICE OFFICERS WHO ACT IN A SUPERVISORY CAPACITY SHALL NOT LOSE THEIR PEACE OFFICER STATUS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

- (a) (i) The director and deputy director of the Idaho state police.
- (ii) Commissioned personnel of the Idaho state police holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment in the position, POST training coordinators, and Idaho state police training coordinators.
- (iii) Brand inspectors and brand inspector supervisors.
- (iv) Employees of the Idaho state police serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
- (b) (i) County sheriffs;
- (ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service, accountability for the safety and safekeeping of persons confined in a county confinement facility, or active participation in county law enforcement activities pertaining to crime prevention or reduction. Deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control offi-

cer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status. Deputy sheriffs that hold a current peace officer or detention officer certificate from the POST council that are promoted or hired to act in a supervisory capacity within a sheriff's office, that are not disqualified through disability from acting as peace officers or detention officers when called upon, shall not lose their peace officer status as defined in this section.

- (c) (i) City police chiefs;
- (ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service or active participation in city law enforcement activities pertaining to crime prevention or reduction. Police officers, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status. City police officers that hold a current peace officer or detention officer certificate from the POST council that are promoted or hired to act in a supervisory capacity within a city police department, that are not disqualified through disability from acting as peace officers or detention officers when called upon, shall not lose their peace officer status as defined in this section.
- (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
- (e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;
- (ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;
- (iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;
- (iv) Correctional peace officer training instructors;
- (v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
- (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
- (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an

1 election under section 1-2011, Idaho Code; and court employees design-  
2 nated by court order to have primary responsibility for court security  
3 or transportation of prisoners.

4 (h) Employees whose primary function requires that they are certified  
5 by the Idaho department of health and welfare as an emergency medical  
6 technician-basic, an advanced emergency medical technician-ambulance,  
7 an emergency medical technician-intermediate, or an emergency medical  
8 technician-paramedic.

9 (i) Criminal investigators of the attorney general's office, and crim-  
10 inal investigators of a prosecuting attorney's office.

11 (j) The director of security and the criminal investigators of the  
12 Idaho state lottery.

13 (4) A member may be designated by the retirement board as a police offi-  
14 cer member for retirement purposes if the position held is one in which the  
15 principal duties involve hazardous law enforcement duties.

16 (a) For purposes of this section, "hazardous law enforcement duties"  
17 means principal duties which:

18 (i) Will reasonably expect to increase the probability of early  
19 superannuation;

20 (ii) Are associated with life-threatening risk or present a posi-  
21 tion of peril either to the member or to others, or which can place  
22 the public safety in jeopardy; and

23 (iii) Either compel others to observe the law, pertain to crime  
24 prevention, or pertain to crime reduction, including police,  
25 courts, prosecution, correction, or rehabilitation.

26 (b) If continued employment in a position is conditioned on maintaining  
27 current POST certification, such condition shall be evidence to be con-  
28 sidered that the employee is a police officer member for retirement pur-  
29 poses.

30 ~~(i)~~ After July 1, 1999, a requirement for POST certification for  
31 classified state employees may be made only by the administrator  
32 of the division of human resources pursuant to chapter 53, title  
33 67, Idaho Code.

34 (c) Occasional assignments to hazardous law enforcement duties do not  
35 create a condition for designation as a police officer member for re-  
36 tirement purposes.

37 (5) Any employer or agency that believes that any employee, not specif-  
38 ically designated as a police officer by law, is incorrectly classified as  
39 a nonpolice officer member, may petition the retirement board for inclusion  
40 of that employee's position as one to be filled by a police officer member  
41 for retirement purposes. The petition shall be in writing and shall explain  
42 in detail the principal duties of the position and include written evidence  
43 which establishes that the criteria of subsection (4) are met. The board  
44 shall review the petition and evidence, together with such information and  
45 evidence as may be presented by the staff of the retirement system. The board  
46 may decide the matter based upon the information supplied, may request ad-  
47 ditional information, or may request an oral presentation before the board.  
48 The decision of the board shall be final, but a similar petition may be resub-  
49 mitted after six (6) months.

1           (6) On and after July 1, 1985, no active member shall be classified as  
2 a police officer for retirement purposes unless the employer shall have cer-  
3 tified to the board, on a form provided by the board, that such member is an  
4 employee whose primary position with the employer is one designated as such  
5 within the meaning of this chapter, and the board shall have accepted such  
6 certification. Acceptance by the board of an employer's certification shall  
7 in no way limit the board's right to review and reclassify the position for  
8 retirement purposes based upon an audit or other relevant information pre-  
9 sented to the board.

10           (7) An active member classified as a police officer for retirement pur-  
11 poses whose position is reclassified to that of a general member for retire-  
12 ment purposes as a result of a determination that the position does not meet  
13 the requirements of this chapter for police officer status for retirement  
14 purposes shall become a general member but shall not lose retirement bene-  
15 fits earned and accrued prior to the reclassification. If that member con-  
16 tinues to be employed in that same position until retired, that member then  
17 will be deemed to be a police officer member for the purposes of retirement  
18 eligibility.