

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 552

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION
2 59-1326, IDAHO CODE, TO PROVIDE FOR WITHDRAWAL PENALTIES AND TO REVISE A
3 PROVISION REGARDING PARTIAL WITHDRAWAL; AND DECLARING AN EMERGENCY AND
4 PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Section 59-1326, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 59-1326. PROCEDURE FOR COMPLETE OR PARTIAL WITHDRAWAL OF POLITICAL
10 SUBDIVISIONS FROM THE SYSTEM -- CALCULATION OF WITHDRAWAL ~~LIABILITY PENALTY~~
11 -- INDEMNIFICATION. (1) A political subdivision, through its governing
12 body, may by resolution adopted by two-thirds (2/3) of the members of the
13 governing body, declare its intent to withdraw completely from the system
14 and to submit the question of withdrawing from the system to the active mem-
15 bers of the political subdivision. The political subdivision shall notify
16 its employees and the retirement board, in writing, of its action, and shall
17 advise the active members of their right to vote for or against withdrawal,
18 as provided in subsection (2) of this section. A political subdivision shall
19 automatically be considered to have requested a complete withdrawal from the
20 system on the date the political subdivision permanently ceases to employ
21 active members. A withdrawing political subdivision shall be required to
22 make withdrawal ~~liability penalty~~ payments as provided in this section.

23 (2) All active members of the withdrawing political subdivision shall
24 be allowed to vote by secret ballot for or against allowing the political
25 subdivision to completely withdraw from the system. More than fifty per-
26 cent (50%) of the withdrawing political subdivision's active members must
27 approve the complete withdrawal at least thirty (30) days before the effec-
28 tive withdrawal date. All active members of the withdrawing political sub-
29 division who are on the political subdivision's payroll thirty (30) days be-
30 fore the effective withdrawal date shall be allowed to vote. If more than
31 fifty percent (50%) of the withdrawing political subdivision's active mem-
32 bers fail to vote for complete withdrawal, the political subdivision shall
33 not be allowed to withdraw. Fifteen (15) days before the effective with-
34 drawal date, the governing board of the withdrawing political subdivision
35 shall certify to the retirement board the results of the voting by the active
36 members.

37 (3) Partial withdrawal occurs for a political subdivision when its av-
38 erage membership declines ~~from one fiscal year to the next~~ for two (2) con-
39 secutive fiscal years either by more than twenty-five (25) members and or by
40 twenty-five percent (25%) of the average membership in the earlier year. For
41 purposes of this subsection, tThe effective date of partial withdrawal is
42 the first day after the end of the ~~later year~~ two (2) consecutive fiscal year

1 period. "Average membership" for a two (2) consecutive fiscal year period
 2 shall ~~equal~~ be calculated as ~~one-twelfth~~ twenty-fourth (1/24) of the sum of
 3 the number of active members employed during each month of ~~that year~~ such pe-
 4 riod.

5 (4) Complete withdrawal by a political subdivision shall be on the
 6 first day of the month following the date the political subdivision ceases to
 7 employ active members or the first day of the month following sixty (60) days
 8 from the date the board receives the political subdivision's written request
 9 to withdraw. However, the complete withdrawal date shall not occur before
 10 the withdrawal ~~liability~~ penalty is determined, as provided in subsection
 11 (7) of this section.

12 (5) After complete withdrawal, all employees of the withdrawing polit-
 13 ical subdivision shall be ineligible to accrue future benefits with the sys-
 14 tem due to employment with the withdrawing political subdivision. The with-
 15 drawing political subdivision shall be ineligible to request to be included
 16 in the system, as provided in section 59-1321, Idaho Code, for five (5) years
 17 after its complete withdrawal date.

18 (6) All active or inactive members of the political subdivision shall
 19 be eligible for benefits accrued with the system up to the complete with-
 20 drawal date. However, no retirement allowance or separation benefit shall
 21 be paid until the member actually separates from service with the withdraw-
 22 ing political subdivision, and there is no guarantee of right to ~~re-employ-~~
 23 ment reemployment made by the withdrawing political subdivision. If the
 24 person returns to employment with the same withdrawing political subdivi-
 25 sion within ninety (90) days, any separation benefit or retirement allowance
 26 paid to the person shall be repaid to the system.

27 (7) On the date of complete withdrawal, the withdrawal ~~liability~~ of
 28 penalty for an employer is (a) multiplied by the ratio of (b) to (c) as fol-
 29 lows:

30 (a) The excess of the actuarial present value of the vested accrued
 31 benefits of the system's members over the fair value of its assets, both
 32 as of the date of the last actuarial valuation adopted by the board prior
 33 to the complete withdrawal date based on the assumption that thirty
 34 percent (30%) of all terminating employees will eventually return to
 35 employment covered by the system and that future cost-of-living al-
 36 lowances as provided in section 59-1355, Idaho Code, will be at a rate of
 37 two percent (2%) per year;

38 (b) The total present value of accrued benefits of all active members
 39 of the withdrawing political subdivision as of the last actuarial valu-
 40 ation adopted by the board prior to the complete withdrawal date;

41 (c) The total present value of accrued benefits of all active members of
 42 the system as of the last actuarial valuation adopted by the board prior
 43 to the complete withdrawal date.

44 The actuarial costs to determine the amount described in ~~subsection (7)~~
 45 paragraph (b) of this subsection shall be paid by the withdrawing political
 46 subdivision.

47 (8) On the date of partial withdrawal, the withdrawal ~~liability~~ of
 48 penalty for an employer is the same as if complete withdrawal had occurred,
 49 multiplied by one (1) minus the ratio of (a) to (b) as follows:

1 (a) The average membership of the employer estimated by the board for
2 the year commencing on such date;

3 (b) The average membership of the employer during the second complete
4 fiscal year prior to such date.

5 (9) The withdrawing political subdivision shall enter into a contract
6 with the system ~~which that~~ establishes terms for the political subdivi-
7 sion's payment of its withdrawal ~~liability penalty~~. The contract shall use
8 an interest rate equal to the interest rate used in the actuarial valuation
9 adopted by the board prior to the withdrawal date, net of actuarially as-
10 sumed investment expenses. The contract shall not extend the duration of the
11 withdrawal ~~liability penalty~~ payments beyond ten (10) years or the end of
12 the current amortization period, whichever is less. The contract shall be
13 a financial obligation of the withdrawing political subdivision and any of
14 its successors and assigns. "Current amortization period" means the period
15 over which the amortization payment rate times the actuarial present value
16 of the projected salaries is equivalent to the unfunded actuarial ~~liability~~
17 ~~penalty~~, all determined by the current valuation last adopted by the board
18 prior to the complete withdrawal date.

19 (10) Upon the complete withdrawal of the political subdivision, the
20 system shall have no further legal obligation to the political subdivision
21 or its employees, ~~nor shall~~ and the system shall not be held accountable for
22 the continued future accrual of any retirement benefit rights to which such
23 employees may be entitled beyond the complete withdrawal date. Any liti-
24 gation regarding the forfeiture of any benefits because of the political
25 subdivision's complete withdrawal from the system shall be the sole legal
26 responsibility of the withdrawing political subdivision, and the withdraw-
27 ing political subdivision shall indemnify and hold harmless the system, its
28 board, its employees, and the state of Idaho, from any claims, losses, costs,
29 damages, expenses, and liabilities, including without limitation, court
30 costs and reasonable attorney's fees, asserted by any person or entity as a
31 result of the political subdivision's withdrawal from the system.

32 SECTION 2. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 July 1, 2022.