

Dear Senators PATRICK, Guthrie, Ward-Engelking, and  
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
PERSI (Public Employee Retirement System of Idaho):

IDAPA 59.01.06 - PERSI Retirement Rules - Proposed Rule (Docket No. 51-0106-1802) [sic]  
**(Docket No. 59-0106-1802).**

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/29/2018. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/28/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee

**FROM:** Legislative Research Analyst - Matt Drake

**DATE:** October 10, 2018

**SUBJECT:** PERSI (Public Employee Retirement System of Idaho)

IDAPA 59.01.06 - PERSI Retirement Rules - Proposed Rule (Docket No. 51-0106-1802) [sic] (**Docket No. 59-0106-1802**)

#### Summary and Stated Reasons for the Rule

The Public Employee Retirement System of Idaho (PERSI) submits notice of proposed rulemaking at IDAPA 59.01.06 - PERSI Retirement Rules. Under existing rule, a PERSI employer who meets certain conditions and does not participate in any other statutorily created plan that offers a sick leave pool may elect to participate in the subdivision unused sick leave pool established by the state and set forth in Section 59-1365, Idaho Code ("the subdivision sick leave pool"). Under the proposed rule, a qualifying PERSI employer who wants to participate in the subdivision sick leave pool shall annually update and submit an application for participation. An employer who fails to meet the various qualifying conditions set forth in rule, including the new requirement to annually update and submit an application, shall be terminated from participation in the subdivision sick leave pool. The rule allows a participating employer to withdraw from the pool. The rule states that an employer who has been terminated from or withdraws from the subdivision sick leave pool shall not be allowed to rejoin.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted as the PERSI Board has exclusive fiduciary responsibility for plan operations pursuant to Idaho Code.

#### Statutory Authority

The proposed rule changes are within the statutory authority of the PERSI Board pursuant to section 59-1314, Idaho Code.

cc: PERSI (Public Employee Retirement System of Idaho)  
Don Drum

\*\*\* PLEASE NOTE \*\*\*

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

# **IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO**

## **59.01.06 – PERSI RETIREMENT RULES**

### **DOCKET NO. 59-0106-1802**

#### **NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 59-1314 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 59.01.06.576 would be amended to require an employer who not is eligible to participate in other statutorily created sick leave pools and wants to voluntarily participate in the unused sick leave pool established by the state (see Section 59-1365, Idaho Code) to annually update and submit an application for participation in the subdivision unused sick leave fund. A new section IDAPA 59.01.06.579 would be added to terminate employers failing to meet the participation or funding requirements. It also allows an employer to withdraw. Any terminated employer or withdrawn employer would not be allowed to rejoin.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because negotiated rulemaking is not feasible because it would be inconsistent with the PERSI Board's exclusive fiduciary responsibility for plan operations.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cheryl George, (208) 287-9231.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 21st day of August, 2018.

Don Drum  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th Street, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 287-9230 / Fax: 208-334-3408

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 59-0106-1802**  
**(Only Those Sections With Amendments Are Shown.)**

**576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL (RULE 576).**

Any PERSI employer meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: (3-30-01)

**01. No Current Plan.** The employer does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code. (3-29-10)

**02. All Inclusive Participation.** All of a participating employer's employees who are PERSI members and who accrue sick leave must be participants in the plan, except that employers may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials. (3-30-01)

**03. No Other Options for Unused Sick Leave.** No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave. (3-30-01)

**04. Fixed Annual Accrual of Sick Leave.** Employer must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted. (3-30-01)

**05. Medicare Eligible Retirees.** Employer's plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible. (3-29-10)

**06. Annual Application.** Employer must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL (RULE 579).**

Any employer failing to meet the requirements of participation provided by IDAPA 59.01.06.576 shall be terminated from participation in the Subdivision Pool. Any employer failing to meet the funding requirements provided by IDAPA 59.01.06.578 shall be terminated from participation in the Subdivision Pool, provided however, an employer may submit a detailed explanation for its failure to meet the funding requirements as required in IDAPA 59.01.06.578 and subject to PERSI approval. Employers that have withdrawn or have been terminated shall not be allowed to rejoin. ( )

~~579~~**80. -- 599. (RESERVED)**