

IN THE SENATE

SENATE BILL NO. 1027

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO JUDGES; AMENDING SECTION 1-2005, IDAHO CODE, TO REVISE A PROVI-
2 SION RELATING TO THE ELIGIBILITY OF A SENIOR JUDGE; AND AMENDING SECTION
3 1-2221, IDAHO CODE, TO REVISE A PROVISION RELATING TO THE ELIGIBILITY OF
4 A SENIOR JUDGE.
5

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

7 SECTION 1. That Section 1-2005, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 1-2005. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPEN-
10 SATION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A justice or judge
11 who leaves office or retires from the supreme court, court of appeals or a
12 district court, except a justice or judge retired under the provisions of
13 section 1-2001(4), Idaho Code, may be designated a senior judge of the state
14 of Idaho by the supreme court.

15 (2) Upon filing with the secretary of state an oath of office as a se-
16 nior judge as prescribed in subsection (7) of this section, a senior judge
17 is eligible for temporary assignment by the supreme court to a state court as
18 provided in this subsection, whenever the supreme court determines that the
19 assignment is reasonably necessary and will promote the more efficient ad-
20 ministration of justice. A senior judge may sit as a district or magistrate
21 judge of the district court of any county or may sit with the supreme court or
22 court of appeals or may perform such other duties pertaining to the judicial
23 department of government as may be requested.

24 (3) The assignment of a senior judge shall be made by an order which
25 shall designate the court or duties to which the judge is assigned and the du-
26 ration of the assignment. Promptly after assignment of a senior judge under
27 this section, the supreme court shall cause a certified copy of the order to
28 be sent to the senior judge and another certified copy to the court to which
29 the judge is assigned.

30 (4) Each senior judge assigned as provided in this section has all the
31 judicial powers and duties, while serving under the assignment, of a regu-
32 larly qualified judge of the court to which the senior judge is assigned.

33 (5) A senior judge assigned as provided in this section, other than one
34 performing services required by section 1-2001(2) (b), Idaho Code, shall re-
35 ceive as compensation for each day the senior judge is actually engaged in
36 the performance of duties under the assignment an amount equal to eighty-
37 five percent (85%) of the daily salary of the highest office in which the se-
38 nior judge served. However, a retired judge shall not receive for services
39 as a senior judge during any fiscal year a sum of money which when added to the
40 amount of any judicial retirement pay received by the senior judge for the
41 year exceeds the current annual salary of the highest office in which the se-
42 nior judge served; except that this limitation shall not apply if the chief

1 justice of the supreme court determines that extended service by one (1) or
 2 more senior judges is required because of extraordinary circumstances, such
 3 as a natural disaster or a judge's absence from service due to military ser-
 4 vice or medical disability. Services by a senior judge under an assignment
 5 and receipt of compensation for services shall not reduce or otherwise af-
 6 fect the amount of any retirement pay to which the senior judge otherwise
 7 would be entitled. Such additional compensation above the retirement com-
 8 pensation benefits accruing to such senior judge shall be paid from the gen-
 9 eral fund in accordance with appropriations provided by the legislature.

10 (6) A senior judge assigned to a court located outside the county in
 11 which the senior judge regularly resides shall receive, in addition to any
 12 daily compensation, reimbursement for traveling and subsistence expenses
 13 necessarily incurred in the performance of duties under the assignment. The
 14 expenses shall be paid upon presentation of an itemized statement of the ex-
 15 penses, certified by the senior judge to be correct.

16 (7) To be eligible for assignment, a senior judge must: maintain a res-
 17 idence within the state; ~~not engage in the practice of law other than as a me-~~
 18 ~~diator or arbitrator or similar alternate dispute resolution function; not~~
 19 ~~accept a position in another branch of state government or any political sub-~~
 20 ~~division; not accept a position in the government of the United States or of~~
 21 ~~another state or nation~~ comply with all applicable provisions of the Idaho
 22 code of judicial conduct; and take, subscribe and file with the secretary of
 23 state, the following oath or affirmation:

24 "I,, do solemnly swear (or affirm, as the case may
 25 be) that as a senior judge of the state of Idaho, I will support the
 26 Constitution of the United States and the Constitution of the State
 27 of Idaho, and that upon hereafter accepting any assignment to serve
 28 as a judge of a court of this state I will faithfully discharge the
 29 duties thereof to the best of my ability."

30 (8) Except as provided in section 1-2001(2) (b), Idaho Code, any period
 31 of service rendered by a senior judge shall not in any way be computed for ad-
 32 ditional retirement benefits, and the state controller shall not receive or
 33 deduct any sum for transfer to the judges' retirement fund or to the public
 34 employee retirement system of Idaho.

35 SECTION 2. That Section 1-2221, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 1-2221. SENIOR JUDGE -- ASSIGNMENT -- DUTIES AND POWERS -- COMPENSA-
 38 TION AND EXPENSES -- QUALIFICATIONS AND OATH. (1) A magistrate judge who
 39 leaves office or retires from the magistrates division of a district court,
 40 except a magistrate judge retired under the provisions of section 59-1352,
 41 Idaho Code, may be designated a senior judge of the state of Idaho by the
 42 supreme court.

43 (2) Upon filing with the secretary of state an oath of office as a se-
 44 nior judge as prescribed in subsection (7) of this section, a senior judge is
 45 eligible for temporary assignment, with the consent of the senior judge, by
 46 the supreme court to a state court as provided in this subsection, whenever
 47 the supreme court determines that the assignment is reasonably necessary and
 48 will promote the more efficient administration of justice. A senior judge
 49 may sit as a judge of the district court of any county or may sit with the

1 supreme court or court of appeals or may perform such other duties pertaining
2 to the judicial department of government as may be requested.

3 (3) The assignment of a senior judge shall be made by an order which
4 shall designate the court or duties to which the senior judge is assigned and
5 the duration of the assignment. Promptly after assignment of a senior judge
6 under this section, the supreme court shall cause a certified copy of the or-
7 der to be sent to the senior judge and another certified copy to the court to
8 which the senior judge is assigned.

9 (4) Each senior judge assigned as provided in this section has all the
10 judicial powers and duties, while serving under the assignment, of a regu-
11 larly qualified judge of the court to which the senior judge is assigned.

12 (5) A senior judge assigned as provided in this section shall receive
13 as compensation for each day the senior judge is actually engaged in the per-
14 formance of duties under the assignment an amount equal to eighty-five per-
15 cent (85%) of the daily salary of an active magistrate judge. However, a re-
16 tired magistrate judge shall not receive for services as a senior judge dur-
17 ing any fiscal year a sum of money which when added to the amount of any ju-
18 dicial retirement pay received by the senior judge for the year exceeds the
19 current annual salary of an active magistrate judge; except that this limi-
20 tation shall not apply if the chief justice of the supreme court determines
21 that extended service by one (1) or more senior judges is required because
22 of extraordinary circumstances, such as a natural disaster or a judge's ab-
23 sence from service due to military service or medical disability. Services
24 by a senior judge under an assignment and receipt of compensation for ser-
25 vices shall not reduce or otherwise affect the amount of any retirement pay
26 to which the senior judge otherwise would be entitled. Such additional com-
27 pensation above the retirement compensation benefits accruing to such se-
28 nior judge shall be paid from the general fund in accordance with appropria-
29 tions provided by the legislature.

30 (6) A senior judge assigned to a court located outside the county in
31 which the senior judge regularly resides shall receive, in addition to any
32 daily compensation, reimbursement for traveling and subsistence expenses
33 necessarily incurred in the performance of duties under the assignment. The
34 expenses shall be paid upon presentation of an itemized statement of the ex-
35 penses, certified by the senior judge to be correct.

36 (7) To be eligible for assignment, a senior judge must: maintain a res-
37 idence within the state; ~~not engage in the practice of law other than as a me-~~
38 ~~diator or arbitrator or similar alternate dispute resolution function; not~~
39 ~~accept a position in another branch of state government or any political sub-~~
40 ~~division; not accept a position in the government of the United States or of~~
41 ~~another state or nation~~ comply with all applicable provisions of the Idaho
42 code of judicial conduct; and take, subscribe and file with the secretary of
43 state, the following oath or affirmation:

44 "I,, do solemnly swear (or affirm, as the case may
45 be) that as a senior judge of the state of Idaho, I will support the
46 Constitution of the United States and the Constitution of the State
47 of Idaho, and that upon hereafter accepting any assignment to serve
48 as a senior judge of a court of this state I will faithfully dis-
49 charge the duties thereof to the best of my ability."

1 (8) Any period of service rendered by a senior judge shall not in any
2 way be computed for additional retirement benefits, and the state controller
3 shall not receive or deduct any sum for transfer to the public employee re-
4 tirement system of Idaho.