



IDAHO

LEGAL ENVIRONMENT FOR PENSION POLICIES

As of August 2021



MAJOR POLICY SHIFTS

The Idaho legislature has not recently made any major pension system shifts.

The PERSI board has made the following notable administrative decisions related to cost-of-living adjustments (COLAs):

2015

The PERSI board used a -1.48% CPI (U.S. Dept. of Labor, Consumer Price Index) to calculate retirees' 2010 COLA. Combined with a retroactive COLA increase of 2.48% from prior years, this resulted in a net 1% COLA for that year.

2015

The PERSI board awarded a retroactive COLA for 2009, 2011, and 2012 resulting in additional increases of up to 2.3%, depending on a retiree's last contribution date.

2016

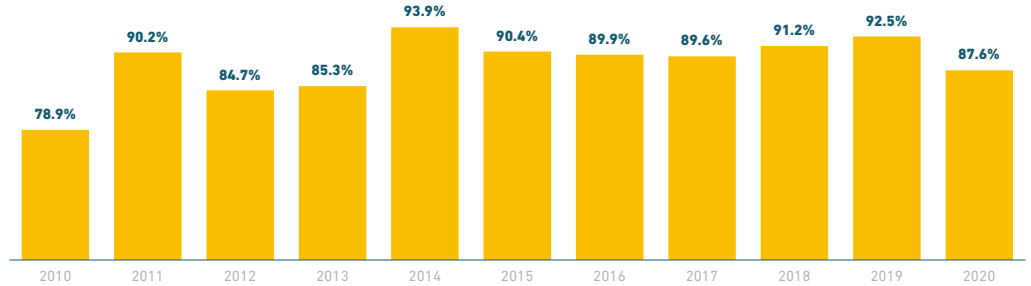
The PERSI board awarded a retroactive COLA for 2012 for a net 2012 increase of 1%.

2020

The PERSI board awarded retroactive increases to 2011, 2012, 2013, and 2018 COLAs totaling up to 4.8%, depending on a retiree's last contribution date.

FUNDED RATIO

The graphic below covers the following retirement system: Public Employee Retirement System of Idaho (PERSI).



LEGAL ENVIRONMENT FOR FUTURE POLICY EFFORTS

Legislative efforts confined to new hires are excluded from analysis because they rarely face significant legal challenges.

What are some policy options?	Were there relevant policy shifts for active employees or retirees?	Have there been legal challenges?	What are the legal prospects for future changes?*
INCREASE EMPLOYEE CONTRIBUTIONS	NO	NO	<ul style="list-style-type: none"> FAVORABLE as to active, non-vested employees UNDEVELOPED as to active, vested employees where necessary to address financial burdens of the plan without offsetting benefit N/A as to retirees
DECREASE OR ELIMINATE COST-OF-LIVING ADJUSTMENTS	<p>YES</p> <p>Idaho Code Section 72-1432B amendment provides 3% cap on COLA for firefighter retirement pension (1978)</p> <p>The PERSI board has also adjusted COLA for active employees (and retroactively increased COLA for retirees)</p>	<p>YES</p> <p>Did not survive legal challenge as applied to vested firefighter retiring after effective date of amendment in <i>Nash v. Boise City Fire Department</i> (1983)</p>	<ul style="list-style-type: none"> FAVORABLE as to active, non-vested employees and active, vested employees if there is an offsetting benefit UNDEVELOPED as to active, vested employees without offsetting benefit where necessary to address financial burdens of the plan UNFAVORABLE as to retirees
CHANGE VESTING PERIOD	NO	NO	<ul style="list-style-type: none"> FAVORABLE as to active, non-vested employees and active, vested employees if there is an offsetting benefit UNDEVELOPED as to active, vested employees without offsetting benefit where necessary to address financial burdens of the plan N/A as to retirees
CHANGE BENEFIT CALCULATION	NO	<p>YES</p> <p>Did not survive legal challenge in <i>Board of Trustees of Policemen's and Firemen's Retirement Fund of City of Gadsden v. Cary</i> (1979) for active employees who met</p>	<ul style="list-style-type: none"> FAVORABLE as to active, non-vested employees and active, vested employees if there is an offsetting benefit UNDEVELOPED as to active, vested employees without offsetting benefit where necessary to address financial burdens of the plan UNFAVORABLE as to retirees
CHANGE RETIREMENT AGE	<p>YES</p> <p>S.B. 388 (2012)</p>	NO	<ul style="list-style-type: none"> FAVORABLE as to active, non-vested employees and active, vested employees (five or more years) if there is an offsetting benefit UNDEVELOPED as to active, vested employees without offsetting benefit where necessary to address financial burdens of the plan N/A as to retirees

* FAVORABLE indicates that the issue survived litigation in the past and/or there is a permissive legal environment for the change.
 * UNFAVORABLE indicates that the issue did not survive litigation in the past and/or there is a non-permissive legal environment the change.
 * UNDEVELOPED indicates that the issue has not been litigated and/or the current legal environment is unclear as to what the outcome would be.

DISCLAIMER: Equable is not necessarily recommending any of the policy concepts listed above. Some of them may be good ideas, bad ideas, or involve trade-offs between various stakeholders. This document only provides information about the likely legal outcomes of pursuing different policy concepts by stakeholders. The document does not constitute legal advice or representation, and the authors are not liable for any actions taken relying on this information.

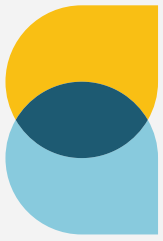




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IDAHO STATE LAW CONTEXT

State Provisions

IDAHO CONSTITUTION ARTICLE I, SECTION 16: “No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.”

Key Opinions

NASH V. BOISE CITY FIRE DEPARTMENT, 663 P.2D 1105 (IDAHO 1983)

A retired firefighter filed a claim with the Industrial Commission objecting to the application of a 1978 amendment to Idaho Code Section 72-1432B that provided a 3% COLA cap to his benefits, where the COLA had previously fluctuated based on a cost-of-living calculation. The Idaho Supreme Court held that the 3% COLA cap was not applicable to the retiree because he had met the plan’s service requirements prior to the statute’s effective date. Once the firefighter had met the service requirements, he had contractual rights in the terms of the benefits in effect at that time. The court noted that the fund was projected to be solvent and able to meet its financial obligations at least through the plaintiff’s life expectancy. *Nash v. Boise City Fire Department*, 663 P.2d at 1110. The court indicated that the employee’s rights to the deferred compensation were subject to “reasonable modification for the purpose of keeping the pension system flexible and maintaining its integrity.” *Id.* at 1108 (Idaho 1983) (affirming Idaho’s use of the “California rule” requiring that disadvantages to employees’ vested rights be offset by comparable new advantages).

The court explicitly reserved judgment on whether the government may (1) reduce benefits if the plan becomes financially burdensome; and (2) increase employee contribution requirements without a corresponding benefit in order to maintain the financial integrity of the system. It remains an open question as to how Idaho courts would apply the California rule in these situations. *Id.* at 1110.

JACKSON V. MINIDOKA IRRIGATION DISTRICT, 563 P.2D 54 (IDAHO 1977)

A discharged employee who had served for four years filed for wrongful discharge, claiming entitlement to recover PERSI retirement benefits lost due to her termination. The court held that she did not have contract rights in the benefits because she had not completed the five-year vesting period. *Jackson v. Minidoka Irrigation District*, 563 P.2d 54 at 59. An employee who has not participated in the program for five years does not have a claim to retirement benefits. The court held that “the contractual right is vested in the employee subject, however, to reasonable contingencies such as continued employment, which are necessary to keep the pension system flexible and maintain its integrity.” *Id.*

FOR MORE INFORMATION

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