

**2016 Idaho Association of Commissioners and Clerks
Resolution 2016-01**

Instructions: All fields below are required for your resolution to be considered by the Idaho Association of Counties. If you are unsure of what to enter in a certain field, enter your best estimate, and also feel free to request the assistance of IAC staff.

TITLE: Open meeting notification requirements

SPONSOR: Bonner County Clerk/Commissioner?

STATUTES AFFECTED: Idaho Code 31-710

COUNTY OFFICE(S) AFFECTED: Commissioners, Clerks.

COUNTIES AFFECTED: All counties.

ISSUE/PROBLEM: The notice of special meetings requirement in Idaho Code 31-710 conflicts with Idaho Code 74-204.

BACKGROUND & DATA: I.C. 74-204 provides that “No special meeting shall be held without at least 24-hour meeting and agenda notice”. Contrariwise, I.C. 31-710 provides that “The clerk of the board must give five (5) days’ public notice of all special [...] meetings”. All county advisory boards e.g., airport advisory boards and planning commissions and most political subdivisions operate under 24-hour special meeting notice requirements. Consequently, it is in the best interest of the public interacting with political subdivisions to expect one uniform special-meeting notice standard.

PROPOSED POLICY: I recommend that the legislature adopt the Open Meeting Acts (OMAs) 24-hour notice standard to effectuate a uniform standard across political subdivisions and within county government for noticing special meetings.

ARGUMENTS & ENTITIES IN SUPPORT: This issue is seldom discussed but every county commission that practices 24-hour meeting notice needs this matter clarified because the matter goes to the legal validity of every commission act that should be decided on a shorter timeline than the regular business meeting.

ARGUMENTS & ENTITIES AGAINST: No entities would likely oppose. An argument against this proposal is that 5-days is more than 1-day and thus the public gets more notice under a 5-day regime. Most counties have regular weekly business meetings as provided by ordinance and thus a 5-day notice period for special meetings would terminate the usefulness of special meetings. Frequently, Idaho counties, face important (non-emergency) timeliness matters that should be addressed in under 5-days. The original 74-204 was written in a technological period that didn’t readily admit of expedited meetings.

FISCAL IMPACT: No fiscal impact.

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature First Regular Session - 2017

IN THE HOUSE

HOUSE BILL NO. _____

BY _____ COMMITTEE

AN ACT

RELATING TO OPEN MEETING NOTIFICATION; AMENDING 31-710, IDAHO
CODE TO CLARIFY THAT TITLE 74, IDAHO CODE, CONTROLS
NOTIFICATION REQUIREMENTS.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the
Legislature to clarify which meeting notification requirements
apply to boards of county commissioners. Section 31-710, Idaho
Code, requires a county to provide five days notice for special
meetings. Section 74-204, Idaho Code, on the other hand, requires
only a 24-hour notice for special meetings. In determining which
notice requirement applied to these special meetings, the Idaho
Supreme Court in *Nelson v. Boundary County*, 109 Idaho 205, 208
(Ct.App. 1985) held that the 24-hour provision applied because
that notice provision was enacted later in time. By enacting this
legislation, the Legislature intends to remove any confusion and
to clarify that the notice requirements of Chapter 2, Title 74,
Idaho Code apply to county commissioners.

SECTION 2. That Section 31-710, Idaho Code, be, and the same
is hereby amended to read as follows:

31-710. MEETINGS. (1) The regular meetings of the boards of
commissioners must be held at their respective county seats on
the second Monday of each month of the year, or if the board
determines that county affairs require regular meetings more
often, then at such times as may be provided for in advance by
ordinance, and must continue from time to time until all the
business before them has been addressed. Such other meetings must
be held, to canvass election returns, equalize taxation, and for

1 other purposes as are prescribed by law or provided for by the
2 board.

3 (2) Adjourned meetings may be provided for, fixed and held
4 for the transaction of business, by an order duly entered of
5 record, in which must be specified the character of business to
6 be transacted at such meetings, and none other than that
7 specified must be transacted.

8 ~~(3) If at any time after the adjournment of a regular~~
9 ~~meeting the business of the county requires a meeting of the~~
10 ~~board, a special meeting may be ordered by a majority of the~~
11 ~~board. The order must be entered of record, and five (5) days'~~
12 ~~notice thereof must, by the clerk, be given to each member not~~
13 ~~joining in the order. The order must specify the business to be~~
14 ~~transacted, and none other than that specified must be transacted~~
15 ~~at such special meeting. Notifications of meetings of the board~~
16 ~~shall be in accordance with Chapter 2, Title 74, Idaho Code.~~

17 (4) All meetings of the board must be public, and the
18 books, records, and accounts must be kept at the office of the
19 clerk, open at all times for public inspection, free of charge.
20 ~~The clerk of the board must give five (5) days' public notice of~~
21 ~~all special or adjourned meetings, stating the business to be~~
22 ~~transacted, by posting three (3) notices in conspicuous places,~~
23 ~~one (1) of which shall be at the courthouse door.~~

24

**2016 Idaho Association of Commissioners and Clerks
Resolution 2016-02**

Instructions: All fields below are required for your resolution to be considered by the Idaho Association of Counties. If you are unsure of what to enter in a certain field, enter your best estimate, and also feel free to request the assistance of IAC staff.

TITLE: PERSI rule of 80 retirement for officers in POST-certified positions in juvenile probation, juvenile detention, and misdemeanor probation.

SPONSOR: TBD

STATUTES AFFECTED: Idaho Code 59-1303

COUNTY OFFICE(S) AFFECTED: Juvenile probation, juvenile detention, misdemeanor probation.

COUNTIES AFFECTED: All counties.

ISSUE/PROBLEM: Misdemeanor probation officers, juvenile probation officers, and juvenile detention officers serve in dangerous and stressful work environments, and are often tasked with supervising the same individuals who are supervised by probation and parole officers (“P&P officers”) from the Idaho Department of Corrections as well as deputy sheriffs in county jails. Misdemeanor probation officers, juvenile probation officers, and juvenile detention officers, however, reach retirement under PERSI through the rule of 90, and not the rule of 80, as P&P officers and county jail deputies do.

BACKGROUND & DATA: The total number of employees in these three office types that work 20 hours or more and whose positions require POST certification is approximately 700 statewide. The approximate breakdown is as follows:

- Idaho Department of Juvenile Corrections (IDJC): 230
- Juvenile detention (other than IDJC): 133
- County juvenile probation: 170
- County misdemeanor: 68
- Joint offices: 97

PROPOSED POLICY: Include misdemeanor probation officers, juvenile probation officers, and juvenile detention officers in PERSI’s rule of 80.

ARGUMENTS & ENTITIES IN SUPPORT:

Idaho Department of Juvenile Corrections
Idaho Board of Juvenile Corrections
Idaho Association of County Juvenile Justice Administrators
Idaho Association of County Misdemeanor Probation Administrators
Idaho Department of Correction (TBD)
Idaho Criminal Justice Commission (TBD)

Because of the relatively low pay and high stress of these positions, the turnover rate is high, thus causing the counties and the state to have to incur costs for training new employees. Being able to offer the Rule of 80 may attract and retain more employees, thus reducing costs from turnover.

ARGUMENTS & ENTITIES AGAINST:

FISCAL IMPACT: According to estimates provided by PERSI, if all these officers move to the Rule of 80, the fiscal impact is estimated to be as follows:

Party	Increase in incurred costs
IDJC (employer)	\$29,515.40
IDJC employees	\$136,291.70
Non-IDJC juvenile detention employers	\$19,253.31
Non-IDJC juvenile detention employees	\$88,905.00
Juvenile probation employers	\$28,389.90
Juvenile probation employees	\$131,094.52
Misdemeanor probation employers	\$10,538.82
Misdemeanor probation employees	\$48,710.71
Joint office employers	\$13,927.71
Joint office employees	\$64,313.24
<i>Total to employers</i>	\$101,635.13
<i>Total to employees</i>	\$469,315.17

IN THE HOUSE

HOUSE BILL NO. _____

BY _____ COMMITTEE

AN ACT

1
2
3 RELATING TO RULE OF 80; AMENDING 59-1302, IDAHO CODE, TO DEFINE
4 MISDEMEANOR PROBATION OFFICER, JUVENILE PROBATION OFFICER,
5 AND JUVENILE DETENTION OFFICERS; CREATING 59-1303A, IDAHO
6 CODE, TO ALLOW OFFICERS UNDER THE RULE OF 80 FOR CERTAIN
7 POSITIONS THAT DO NOT REQUIRE POST CERTIFICATION; AMENDING
8 59-1334, IDAHO CODE, TO INCLUDE MISDEMEANOR PROBATION
9 OFFICERS, JUVENILE PROBATION OFFICERS, AND JUVENILE DETENTION
10 OFFICERS THE RULE OF 80.

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

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

14
15 59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS.

16 (1) As used in this chapter, each of the terms defined in this
17 section shall have the meaning given in this section unless a
18 different meaning is clearly required by the context.

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

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

25 (a) (i) The director and deputy director of the Idaho
26 state police.

27 (ii) Commissioned personnel of the Idaho state police
28 holding positions which involve active law enforcement
29 services, for which current POST certification is
30 required to continue in employment in the position, POST
31 training coordinators, and Idaho state police training
32 coordinators.

33 (iii) Brand inspectors and brand inspector supervisors.

34 (iv) Employees of the Idaho state police serving in
35 positions of personnel management, accounting, data

1 processing, clerical services and in like general
2 classifications found in departments throughout state
3 government and not within the scope of active law
4 enforcement service are not eligible for police officer
5 member status.

6 (b) (i) County sheriffs;

7 (ii) Deputy county sheriffs holding positions for which
8 current POST certification is necessary to continue in
9 employment in the position, and the principal duties of
10 which are active law enforcement service, accountability
11 for the safety and safekeeping of persons confined in a
12 county confinement facility, or active participation in
13 county law enforcement activities pertaining to crime
14 prevention or reduction. Deputy sheriffs, even though
15 POST certified or required to be POST certified, holding
16 positions whose principal full-time duties are those of
17 a telephone operator, dispatcher, clerk, stenographer,
18 animal control officer, records specialist, or duties
19 not within the scope of active law enforcement service
20 are not eligible for police officer member status.
21 Deputy sheriffs that hold a current peace officer or
22 detention officer certificate from the POST council that
23 are promoted or hired to act in a supervisory capacity
24 within a sheriff's office, that are not disqualified
25 through disability from acting as peace officers or
26 detention officers when called upon, shall not lose
27 their police officer status as defined in this section.

28 (c) (i) City police chiefs;

29 (ii) City police officers holding positions for which
30 current POST certification is necessary to continue in
31 employment in the position, and the principal duties of
32 which are active law enforcement service or active
33 participation in city law enforcement activities
34 pertaining to crime prevention or reduction. Police
35 officers, even though POST certified or required to be
36 POST certified, holding positions whose principal full-
37 time duties are those of a telephone operator,
38 dispatcher, clerk, stenographer, animal control officer,
39 records specialist, or duties not within the scope of
40 active law enforcement service are not eligible for
41 police officer member status. City police officers that
42 hold a current peace officer or detention officer
43 certificate from the POST council that are promoted or
44 hired to act in a supervisory capacity within a city
45 police department, that are not disqualified through
46 disability from acting as peace officers or detention

1 officers when called upon, shall not lose their police
2 officer status as defined in this section.

3 (d) Employees of the department of fish and game serving in
4 a conservation officer position for which current POST
5 certification is necessary to continue in employment in that
6 position and which position has as its primary accountability
7 the enforcement of wildlife protection laws and regulations.

8 (e) (i) The director of the department of correction,
9 the deputy director for probation and parole, and wardens of
10 institutions;

11 (ii) Employees of the department of correction
12 accountable for the custody, safety, safekeeping or
13 supervision of persons confined in a department
14 confinement facility and whose work station is located
15 within the confinement facility;

16 (iii) Probation and parole supervisors, probation and
17 parole investigators, and probation and parole officers;

18 (iv) Correctional peace officer training instructors;

19 (v) Employees of the department of correction serving
20 in positions of personnel management, accounting, data
21 processing, clerical services and in like general
22 classifications found in departments throughout state
23 government and not within the scope of active law
24 enforcement service are not eligible for police officer
25 member status.

26 (f) Employees of the adjutant general and military division
27 of the state where military membership is a condition of
28 employment.

29 (g) Magistrates of the district court; justices of the
30 supreme court, judges of the court of appeals, and district
31 judges who have made an election under section 1-2011, Idaho
32 Code; and court employees designated by court order to have
33 primary responsibility for court security or transportation
34 of prisoners.

35 (h) Employees whose primary function requires that they are
36 certified by the Idaho department of health and welfare as an
37 emergency medical technician-basic, an advanced emergency
38 medical technician-ambulance, an emergency medical
39 technician-intermediate, or an emergency medical technician-
40 paramedic.

41 (i) Criminal investigators of the attorney general's office,
42 and criminal investigators of a prosecuting attorney's
43 office.

44 (j) The director of security and the criminal investigators
45 of the Idaho state lottery.

1 (k) Employees holding a position in a juvenile detention
2 facility who are accountable for the custody, safety,
3 safekeeping or supervision of persons confined in a
4 confinement facility, whose work station is located within
5 the confinement facility, and whose positions requires
6 current POST certification to continue in employment in the
7 position. Employees that hold a current juvenile detention
8 officer certificate from the POST council who are promoted or
9 hired to act in a supervisory capacity within a juvenile
10 detention facility, who are not disqualified through
11 disability from acting as detention officers when called
12 upon, shall not lose their police officer status as defined
13 in this section.

14 (l) Employees holding a position in a juvenile probation or
15 misdemeanor probation office for which current POST
16 certification is necessary to continue in employment in the
17 position. Employees who hold a current probation officer
18 certificate from the POST council who are promoted or hired
19 to act in a supervisory capacity within a juvenile probation
20 or misdemeanor probation office, who are not disqualified
21 through disability from acting as probation officers when
22 called upon, shall not lose their police officer status as
23 defined in this section.

24 (m) Employees holding a position with the department of
25 juvenile corrections for which current POST certification is
26 necessary to continue in employment in the position and which
27 position has as its primary accountability the custody,
28 safety, safekeeping or supervision of persons confined in a
29 juvenile correctional center. Employees that hold a current
30 direct care staff certificate from the POST council who are
31 promoted or hired to act in a supervisory capacity within a
32 juvenile correctional facility, who are not disqualified
33 through disability from acting as direct care staff when
34 called upon, shall not lose their police officer status as
35 defined in this section.

36 (4) A member may be designated by the retirement board as a
37 police officer member for retirement purposes if the position held
38 is one in which the principal duties involve hazardous law
39 enforcement duties.

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

42 (i) Will reasonably expect to increase the probability
43 of early superannuation;

44 (ii) Are associated with life-threatening risk or
45 present a position of peril either to the member or to

1 others, or which can place the public safety in jeopardy;
2 and

3 (iii) Either compel others to observe the law, pertain
4 to crime prevention, or pertain to crime reduction,
5 including police, courts, prosecution, correction, or
6 rehabilitation.

7 (b) If continued employment in a position is conditioned on
8 maintaining current POST certification, such condition shall
9 be evidence to be considered that the employee is a police
10 officer member for retirement purposes. After July 1, 1999,
11 a requirement for POST certification for classified state
12 employees may be made only by the administrator of the
13 division of human resources pursuant to chapter 53, title 67,
14 Idaho Code.

15 (c) Occasional assignments to hazardous law enforcement
16 duties do not create a condition for designation as a police
17 officer member for retirement purposes.

18 (5) Any employer or agency that believes that any employee,
19 not specifically designated as a police officer by law, is
20 incorrectly classified as a nonpolice officer member, may petition
21 the retirement board for inclusion of that employee's position as
22 one to be filled by a police officer member for retirement
23 purposes. The petition shall be in writing and shall explain in
24 detail the principal duties of the position and include written
25 evidence which establishes that the criteria of subsection (4) are
26 met. The board shall review the petition and evidence, together
27 with such information and evidence as may be presented by the staff
28 of the retirement system. The board may decide the matter based
29 upon the information supplied, may request additional information,
30 or may request an oral presentation before the board. The decision
31 of the board shall be final, but a similar petition may be
32 resubmitted after six (6) months.

33 (6) On and after July 1, 1985, no active member shall be
34 classified as a police officer for retirement purposes unless the
35 employer shall have certified to the board, on a form provided by
36 the board, that such member is an employee whose primary position
37 with the employer is one designated as such within the meaning of
38 this chapter, and the board shall have accepted such certification.
39 Acceptance by the board of an employer's certification shall in no
40 way limit the board's right to review and reclassify the position
41 for retirement purposes based upon an audit or other relevant
42 information presented to the board.

43 (7) An active member classified as a police officer for
44 retirement purposes whose position is reclassified to that of a
45 general member for retirement purposes as a result of a
46 determination that the position does not meet the requirements of

1 this chapter for police officer status for retirement purposes
2 shall become a general member but shall not lose retirement
3 benefits earned and accrued prior to the reclassification. If that
4 member continues to be employed in that same position until
5 retired, that member then will be deemed to be a police officer
6 member for the purposes of retirement eligibility.

7
8 SECTION 2. That Section 59-1334, Idaho Code, be, and the same
9 is hereby amended to read as follows:

10
11 59-1334. CONTRIBUTIONS -- FROM POLICEMEN AND FIREFIGHTERS.

12 (1) The contribution for a member who is classified as a police
13 officer or firefighter shall be seventy-two percent (72%) of the
14 employer contribution rate determined pursuant to section 59-1322,
15 Idaho Code, and rounded to the nearest one hundredth percent (.01%)
16 of salary; provided, however, that such member rate effective
17 October 1, 1985, shall remain at six and forty hundredths percent
18 (6.40%) of salary until the first time after October 1, 1985, that
19 the employer rate is changed from eight and eighty-nine hundredths
20 percent (8.89%) of salary. The board is specifically authorized to
21 certify to the state controller the necessary adjustments in the
22 rate of member contributions.

23 (2) Members who had not been previously classified as a police
24 officer or firefighter whose positions became classified as a
25 police officer or firefighter on or before July 1, 2017 may
26 exercise the option to remain under the contributions set forth in
27 59-1333, Idaho Code.

**2016 Idaho Association of Commissioners and Clerks
Resolution 2016-03**

TITLE: Industrial Hemp Cultivation

SPONSOR: Idaho County, Mark Frei

STATUTES AFFECTED: 37-2705, 37-2732, 37-2734A

COUNTY OFFICE(S) AFFECTED: Sheriff, Prosecuting Attorney

COUNTIES AFFECTED: Potentially every county that has tillable farm land

ISSUE/PROBLEM: By law, Idaho farmers cannot grow industrial hemp. Around 25,000 products can be made from industrial hemp, which is genetically distinct from marijuana. Industrial hemp is the non-psychoactive, low-THC, oilseed and fiber varieties of the *Cannabis sativa* plant. Hemp has absolutely no use as a recreational drug. Idaho agriculture would benefit from further diversification of possible commodities to grow, especially the dry land farming regions. Legalization of industrial hemp could bring new manufacturing to Idaho, and provide another commodity to be transported by the trucking industry.

BACKGROUND & DATA: On February 7, 2014, President Obama signed the Agriculture Act of 2014, the Farm Bill, into law. Section 7606 of the act, Legitimacy of Industrial Hemp Research, defines industrial hemp as distinct and authorizes institutions of higher education or state departments of agriculture in states where hemp is legal to grow hemp for research or agricultural pilot programs. Twenty-eight (28) states have defined industrial hemp as distinct and removed barriers to its production. These states will be able to take immediate advantage of the industrial hemp research and pilot program provision, Section 7606 of the Farm Bill: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New York, North Carolina, North Dakota, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia and Virginia. Six states (Hawaii, Kentucky, Indiana, Minnesota, North Dakota, Tennessee) in 2015 had hemp research crops in accordance with section 7606 of the Farm Bill and state law. Three states (Colorado, Oregon and Vermont) in 2015 licensed or registered farmers to grow hemp under state law. In the 114th Congress, the Industrial Hemp Farming Act of 2015 (Massie/H.R. 525; Wyden/S.134) is intended to facilitate the possible commercial cultivation of industrial hemp in the United States. The bill would amend Section 102 of the Controlled Substances Act (21 U.S.C. 802(16)) to exclude “industrial hemp” and specify that the term “marijuana” does not include industrial hemp, which the bill would define based on a determination of its THC content (not more than 0.3% THC), marijuana’s primary psychoactive chemical. Such a change could remove low-THC hemp from being covered by the CSA as a controlled substance and subject to DEA regulation, thus allowing for industrial hemp to be grown and processed under some state laws *See enclosed documents for research.*

PROPOSED POLICY: Legalize the growth of industrial hemp in Idaho (to the extent allowed by federal law), for research purposes within institutions of higher education or state

departments. All growth is subject to oversight and licensing by the Department of Ag. *See the law passed by North Dakota.*

ARGUMENTS & ENTITIES IN SUPPORT: Entities in support: National Farmers Union, North Dakota Farmers Union, Rocky Mountain Farmers Union, National Association of State Departments of Ag, National Conference of State Legislators, American Farm Bureau, Idaho Farm Bureau

ARGUMENTS & ENTITIES AGAINST: Law Enforcement Associations

FISCAL IMPACT: There should be some money provided to the Department of Ag and the land grant universities for research purposes.