
NEBRASKA PUBLIC RETIREMENT LAWS

2010

*One Hundred First Nebraska Legislature
Second Session*

NEBRASKA RETIREMENT SYSTEMS COMMITTEE

Committee Members

Senator Dave Pankonin, Chairperson
Senator Jeremy Nordquist, Vice Chairperson
Senator Lavon Heidemann
Senator Russ Karpisek
Senator LeRoy Louden
Senator Heath Mello

Committee Staff

Kate Allen, Committee Legal Counsel
Denise Leonard, Committee Clerk

This page left intentionally blank.

NEBRASKA PUBLIC RETIREMENT LAWS

2010

NEBRASKA LEGISLATURE *One Hundred First Legislature, Second Session*

TABLE OF CONTENTS

	Page
CONSTITUTION OF NEBRASKA	
ARTICLE III LEGISLATIVE POWER.....	1
ARTICLE V JUDICIAL.....	3
ARTICLE XV MISCELLANEOUS PROVISIONS.....	5
STATUTES OF NEBRASKA	
CHAPTER 2 AGRICULTURE.....	7
ARTICLE 16 COUNTY EXTENSION WORK.....	7
ARTICLE 32 NATURAL RESOURCES.....	7
CHAPTER 3 AERONAUTICS.....	11
ARTICLE 5 CITY AIRPORT AUTHORITY.....	11
ARTICLE 6 COUNTY AIRPORT AUTHORITY.....	11
CHAPTER 4 ALIENS.....	13
CHAPTER 13 CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS.....	15
ARTICLE 5 BUDGETS.....	15
ARTICLE 24 RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES.....	16
CHAPTER 14 CITIES OF THE METROPOLITAN CLASS.....	19
ARTICLE 5 FISCAL MANAGEMENT, REVENUE, FINANCES.....	19
ARTICLE 18 METROPOLITAN TRANSIT AUTHORITY.....	20
ARTICLE 21 PUBLIC UTILITIES.....	23
CHAPTER 15 CITIES OF THE PRIMARY CLASS.....	25
ARTICLE 10 PENSIONS.....	25
CHAPTER 16 CITIES OF THE FIRST CLASS.....	27
ARTICLE 10 RETIREMENT SYSTEMS.....	29
(a) POLICE OFFICERS.....	29
(b) FIREFIGHTERS.....	43

CHAPTER 18	CITIES AND VILLAGES; LAWS APPLICABLE TO ALL	59
	ARTICLE 12 MISCELLANEOUS TAXES.....	59
	ARTICLE 17 MISCELLANEOUS	59
CHAPTER 19	CITIES AND VILLAGES; PARTICULAR CLASSES	61
	ARTICLE 35 PENSION PLANS.....	61
CHAPTER 23	COUNTY GOVERNMENT AND OFFICERS	63
	ARTICLE 11 SALARIES OF COUNTY OFFICERS	64
	ARTICLE 23 COUNTY EMPLOYEES RETIREMENT	67
	ARTICLE 25 CIVIL SERVICE SYSTEM.....	95
	ARTICLE 35 MEDICAL AND MULTITUNIT FACILITIES	97
CHAPTER 24	COURTS	99
	ARTICLE 7 JUDGES, GENERAL PROVISIONS	99
	(a) JUDGES RETIREMENT	101
	(b) JUDICIAL DISCIPLINE	123
	(c) RETIRED JUDGES.....	125
CHAPTER 25	COURTS; CIVIL PROCEDURE.....	127
	ARTICLE 28 SMALL CLAIMS COURT.....	127
CHAPTER 30	DECEDENTS' ESTATES	129
	ARTICLE 32 FIDUCIARIES.....	129
CHAPTER 33	FEEES AND SALARIES	131
CHAPTER 35	FIRE COMPANIES AND FIREFIGHTERS.....	139
	ARTICLE 10 DEATH OR DISABILITY	139
CHAPTER 42	HUSBAND AND WIFE	141
	ARTICLE 11 SPOUSAL PENSION RIGHTS ACT.....	141
CHAPTER 48	LABOR.....	147
	ARTICLE 1 WORKERS COMPENSATION.....	147
	ARTICLE 6 EMPLOYMENT SECURITY	148
	ARTICLE 14 DEFERRED COMPENSATION	149
CHAPTER 50	LEGISLATURE	151
	ARTICLE 4 LEGISLATIVE COUNCIL.....	151
CHAPTER 55	MILITIA.....	155
	ARTICLE 1 MILITARY CODE	155
CHAPTER 60	MOTOR VEHICLES	157
	ARTICLE 13 WEIGHING STATIONS.....	157
CHAPTER 68	PUBLIC ASSISTANCE	159
	ARTICLE 6 SOCIAL SECURITY	159

CHAPTER 70	POWER DISTRICTS AND CORPORATIONS.....	169
	ARTICLE 11 RETAIL ELECTRIC SERVICE	169
CHAPTER 71	PUBLIC HEALTH AND WELFARE.....	171
	ARTICLE 16 LOCAL HEALTH SERVICES.....	171
CHAPTER 72	PUBLIC LANDS, BUILDINGS, AND FUNDS.....	175
	ARTICLE 12 INVESTMENT OF STATE FUNDS	175
CHAPTER 77	REVENUE AND TAXATION	179
	ARTICLE 7 DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION.....	179
	ARTICLE 13 ASSESSMENT OF PROPERTY	180
	ARTICLE 27 SALES AND INCOME TAX.....	181
CHAPTER 79	SCHOOLS	187
	ARTICLE 1 DEFINITIONS AND CLASSIFICATIONS	190
	ARTICLE 4 SCHOOL ORGANIZATION AND REORGANIZATION	191
	ARTICLE 8 TEACHERS AND ADMINISTRATORS.....	192
	ARTICLE 9 SCHOOL EMPLOYEES RETIREMENT SYSTEMS.....	199
	(a) EMPLOYEES OTHER THAN CLASS V DISTRICT.....	199
	(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS	241
	ARTICLE 10 SCHOOL TAXATION, FINANCE, AND FACILITIES.....	271
CHAPTER 81	STATE ADMINISTRATIVE DEPARTMENTS.....	283
	ARTICLE 9 STATE COOPERATION WITH FEDERAL GOVERNMENT.....	284
	ARTICLE 13 PERSONNEL.....	284
	ARTICLE 14 LAW ENFORCEMENT	285
	ARTICLE 20 NEBRASKA STATE PATROL RETIREMENT SYSTEM	287
CHAPTER 84	STATE OFFICERS.....	309
	ARTICLE 7 GENERAL PROVISIONS AS TO STATE OFFICERS.....	310
	ARTICLE 13 STATE EMPLOYEES RETIREMENT ACT.....	313
	ARTICLE 15 PUBLIC EMPLOYEES RETIREMENT BOARD.....	341
CHAPTER 85	UNIVERSITY, COLLEGES, AND POSTSECONDARY EDUCATION.	353
	ARTICLE 1 UNIVERSITY OF NEBRASKA.....	353
	ARTICLE 3 STATE COLLEGES	357
	ARTICLE 6 PUBLIC INSTITUTIONS OF HIGHER EDUCATION.....	357
	ARTICLE 14 COORDINATING COMMISSION FOR SECONDARY EDUCATION	358
	LIST OF PUBLIC RETIREMENT LAWS	361
	SUBJECT INDEX OF PUBLIC RETIREMENT LAWS	377

This page left intentionally blank.

NOTICE AND RECOGNITION

This booklet is intended to serve as a guide to the provisions of Nebraska law relating to the retirement of public employees within the State of Nebraska.

This booklet should not be considered an exhaustive source of every state law pertaining to the retirement of public employees, nor should this booklet be used in place of the official volumes of the Revised Statutes of Nebraska as published by the Revisor of Statutes.

The Nebraska Retirement Systems Committee appreciates the contribution of the Nebraska Revisor of Statutes' Office in the compilation of the Nebraska statutory laws contained herein.

This compilation is current as of the adjournment of the Nebraska Legislature, One Hundred First Legislature – Second Session, on April 14, 2010.

This page left intentionally blank.

CONSTITUTION OF NEBRASKA

ARTICLE III – LEGISLATIVE POWER

Sec. 19. Compensation; increase when; extra compensation to public officers and contractors prohibited; retirement benefits; adjustment.

ARTICLE V – JUDICIAL

Sec. 30. Judges; discipline; removal from office; grounds; procedure.

ARTICLE XV – MISCELLANEOUS PROVISIONS

Sec. 17. Retirement and pension funds; investment.

ARTICLE III

LEGISLATIVE POWER

Sec. 19. Compensation; increase when; extra compensation to public officers and contractors prohibited; retirement benefits; adjustment.

The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

The compensation of any public officer, including any officer whose compensation is fixed by the Legislature, shall not be increased or diminished during his or her term of office, except that when there are members elected or appointed to the Legislature or the judiciary, or officers elected or appointed to a board or commission having more than one member, and the terms of such members commence and end at different times, the compensation of all members of the Legislature, of the judiciary, or of such board or commission may be increased or diminished at the beginning of the full term of any member thereof.

Nothing in this section shall prevent local governing bodies from reviewing and adjusting vested pension benefits periodically as prescribed by ordinance.

The surviving spouse of any retired public officer, agent, or servant, who has retired under a pension plan or system, shall be considered as having pensionable status and shall be entitled to the same benefits which may, at any time, be provided for or available to spouses of other public officers, agents, or servants who have retired under such pension plan or system at a later date, and such benefits shall not be prohibited by the restrictions of this section or of Article XIII, section 3 of the Constitution of Nebraska.

Source: Neb. Const. art. III, sec. 16 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 10; Amended 1952, Laws 1951, c. 159, sec. 1, p. 634; Amended 1968, Laws 1967, c. 322, sec. 1, p. 856; Amended 1972, Laws 1972, LB 1414, sec. 1; Amended 1978, Laws 1978, LB 739, sec. 1; Amended 2000, Laws 2000, LR 291CA, sec. 1.

Annotations

1. Salary increase
2. Extra compensation
3. Miscellaneous

1. Salary increase

A resolution of a county board fixing the salaries of elected county officers at an amount plus an annual adjustment for changes in the cost of living as determined by an independent federal agency, does not violate this Article and section of the Nebraska Constitution. *Shepoka v. Knopik*, 201 Neb. 780, 272 N.W.2d 364 (1978).

Laws 1971, L.B. 743, was not effective as to compensation for county attorney whose term had started before it was adopted. *State ex rel. Nebraska State Bar Assn. v. Holscher*, 193 Neb. 729, 230 N.W.2d 75 (1975).

Act creating State Employees Retirement System did not violate this section. *Gossman v. State Employees Retirement System*, 177 Neb. 326, 129 N.W.2d 97 (1964).

Salary of executive officer could not be increased during term. *State ex rel. Laughlin v. Johnson*, 156 Neb. 671, 57 N.W.2d 531 (1953).

Increase or decrease in compensation resulting from a change in population is not prohibited by this section. *Hamilton v. Foster*, 155 Neb. 89, 50 N.W.2d 542 (1951).

Increase in salaries of county commissioners during their term of office was prohibited by this section. *Ramsey v. County of Gage*, 153 Neb. 24, 43 N.W.2d 593 (1950).

Legislature has authority to increase salary of officer during term whose compensation has not previously been fixed by legislative enactment. *State ex rel. Johnson v. Marsh*, 149 Neb. 1, 29 N.W.2d 799 (1947).

Statute providing for garnishment of officers and employees of state and its subdivisions does not violate provision prohibiting increase or diminution of compensation of public officers during term of office. *Department of Banking v. Foe*, 136 Neb. 422, 286 N.W. 264 (1939).

Action of a county board in determining population of a county as a basis for determining salaries of county officers, without notice and opportunity to such officers to be heard was void. *Shambaugh v. Buffalo County*, 133 Neb. 46, 274 N.W. 207 (1937).

Salary of any public officer, whether fixed by Constitution or statute, cannot be diminished during term. *State ex rel. Day v. Hall*, 129 Neb. 699, 262 N.W. 850 (1935); *State ex rel. Taylor v. Hall*, 129 Neb. 669, 262 N.W. 835 (1935).

Salary of officer created by Constitution could not be diminished during his term. *State ex rel. Randall v. Hall*, 125 Neb. 236, 249 N.W. 756 (1933).

2. Extra compensation

When the services for which compensation is granted are rendered prior to the date on which the terms of compensation are determined, the benefits awarded are not compensation but are a gratuity, and the payment of such benefits violates this provision. It follows that when the services for which compensation is paid are rendered after the date on which the terms of compensation are established, the benefits awarded are not a gratuity, and the payment of such benefits does not violate this provision. *City of Omaha v. City of Elkhorn*, 276 Neb. 70, 752 N.W.2d 137 (2008).

The prohibition contained in this section of the Nebraska Constitution is not applicable to the compensation paid to a jailer, even if the duties of jailer are performed by the sheriff. *State ex rel. Landanger v. Madison County*, 213 Neb. 33, 327 N.W.2d 93 (1982).

Law authorizing payment to county treasurer of 25 cent fee for each applicant for motor vehicle operator's license was not void as increasing salary. *Mehrens v. Bauman*, 120 Neb. 110, 231 N.W. 701 (1930).

Legislator can receive from state for services as member, or member of committee, only compensation provided by Constitution. In re Appeal of Wilkins, 116 Neb. 748, 219 N.W. 9 (1928).

Pension granted to firemen in municipality is not gratuity nor extra compensation within Constitution. State ex rel. Haberlan v. Love, 89 Neb. 149, 131 N.W. 196 (1911).

3. Miscellaneous

Prohibition against a gratuity of compensation after services rendered applies both to the state and all political subdivisions thereof. Retired City Gov. Emp. Club of Omaha v. City of Omaha Emp. Ret. Sys., 199 Neb. 507, 260 N.W.2d 472 (1977).

Judges of the district court of this state are members of a court within meaning of this section. Garrotto v. McManus, 185 Neb. 644, 177 N.W.2d 570 (1970).

Deduction from salary for retirement pay during existing term of judge was violation of this section. Wilson v. Marsh, 162 Neb. 237, 75 N.W.2d 723 (1956).

Office of police judge is constitutional office within this section, and period of an officer holding over, together with regular term, constitutes one term. State ex rel. Gordon v. Moores, 61 Neb. 9, 84 N.W. 399 (1900).

Before 1920 amendment this section applied alone to those officers whose offices were created by the Constitution and did not apply to office of county commissioner. Douglas County v. Timme, 32 Neb. 272, 49 N.W. 266 (1891).

ARTICLE V

JUDICIAL

Sec. 30. Judges; discipline; removal from office; grounds; procedure.

(1) A Justice or Judge of the Supreme Court or judge of any court of this state may be reprimanded, disciplined, censured, suspended without pay for a definite period of time, not to exceed six months, or removed from office for (a) willful misconduct in office, (b) willful disregard of or failure to perform his or her duties, (c) habitual intemperance, (d) conviction of a crime involving moral turpitude, (e) disbarment as a member of the legal profession licensed to practice law in the State of Nebraska, or (f) conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or he or she may be retired for physical or mental disability seriously interfering with the performance of his or her duties if such disability is determined to be permanent or reasonably likely to become permanent. Any citizen of the State of Nebraska may request the Commission on Judicial Qualifications to consider the qualifications of any Justice or Judge of the Supreme Court or other judge, and in such event the commission shall make such investigation as the commission deems necessary and shall, upon a finding of probable cause, reprimand such Justice or Judge of the Supreme Court or other judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge. In the alternative or in addition, the commission may request the Supreme Court to appoint one or more special masters who shall be judges of courts of record to hold a formal open hearing to take evidence in any such matter, and to report to the commission. If, after formal open hearing, or after considering the record and report of the masters, the commission finds that the charges are established by clear and convincing evidence, it shall recommend to the Supreme Court that the Justice or Judge of the Supreme Court or other judge involved shall

be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six months, removed, or retired as the case may be.

(2) The Supreme Court shall review the record of the proceedings and in its discretion may permit the introduction of additional evidence. The Supreme Court shall make such determination as it finds just and proper, and may order the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or Judge of the Supreme Court or other judge, or may wholly reject the recommendation. Upon an order for retirement, the Justice or Judge of the Supreme Court or other judge shall thereby be retired with the same rights and privileges as if he or she had retired pursuant to statute. Upon an order for removal, the Justice or Judge of the Supreme Court or other judge shall be removed from office, his or her salary shall cease from the date of such order, and he or she shall be ineligible for judicial office. Upon an order for suspension, the Justice or Judge of the Supreme Court or other judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in the office of Justice or Judge of the Supreme Court or other judge.

(3) Upon order of the Supreme Court, a Justice or Judge of the Supreme Court or other judge shall be disqualified from acting as a Justice or Judge of the Supreme Court or other judge, without loss of salary, while there is pending (a) an indictment or information charging him or her in the United States with a crime punishable as a felony under Nebraska or federal law or (b) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his or her removal or retirement.

(4) In addition to the procedure set forth in subsections (1) and (2) of this section, on recommendation of the Commission on Judicial Qualifications or on its own motion, the Supreme Court (a) shall remove a Justice or Judge of the Supreme Court or other judge from office when in any court in the United States such justice or judge pleads guilty or no contest to a crime punishable as a felony under Nebraska or federal law, and (b) may suspend a Justice or Judge of the Supreme Court or other judge from office without salary when in any court in the United States such justice or judge is found guilty of a crime punishable as a felony under Nebraska or federal law or of any other crime that involves moral turpitude. If his or her conviction is reversed, suspension shall terminate and he or she shall be paid his or her salary for the period of suspension. If he or she is suspended and his or her conviction becomes final the Supreme Court shall remove him or her from office.

(5) All papers filed with and proceedings before the commission or masters appointed by the Supreme Court pursuant to this section prior to a reprimand or formal open hearing shall be confidential. The filing of papers with and the testimony given before the commission or masters or the Supreme Court shall be deemed a privileged communication.

When the Commission on Judicial Qualifications determines that disciplinary action is warranted, whether it be a reprimand or otherwise, the Commission on Judicial Qualifications shall issue one or more short announcements confirming that a complaint has been filed; stating the subject and nature of the complaint, the disciplinary action recommended or reprimand issued, or the date of the hearing; clarifying the procedural aspects; and reciting the right of a judge to a fair hearing.

When the Commission on Judicial Qualifications determines that disciplinary action is not warranted, and the existence of any investigation or complaint has become publicly known, the judge against whom a complaint has been filed or investigation commenced may waive the confidentiality of papers and proceedings under this subsection.

The Supreme Court shall by rule provide for procedure under this section before the commission, the masters, and the Supreme Court.

(6) No Justice or Judge of the Supreme Court or other judge shall participate, as a member of the commission, or as a master, or as a member of the Supreme Court, in any proceedings involving his or her own reprimand, discipline, censure, suspension, removal, or retirement.

Source: Neb. Const. art. V, sec. 30 (1966); Adopted 1966, Laws 1965, c. 301, sec. 1, p. 848; Amended 1980, Laws 1980, LB 82, sec. 1; Amended 1984, Laws 1984, LR 235, sec. 1.

Annotations

Subdivision (1)(e) of this section does not grant authority to the Nebraska State Bar Association to commence disciplinary actions against sitting judges. *State ex rel. NSBA v. Krepela*, 259 Neb. 395, 610 N.W.2d 1 (2000).

Subsection (3) of this section does not limit suspension with pay to the two instances listed; suspension may be imposed in other instances pursuant to article V, section 1, of the Nebraska Constitution. In *re Complaint Against Jones*, 255 Neb. 1, 581 N.W.2d 876 (1998).

ARTICLE XV

MISCELLANEOUS PROVISIONS

Sec. 17. Retirement and pension funds; investment.

Notwithstanding section 3 of Article XIII or any other provision in the Constitution:

(1) The Legislature may provide for the investment of any state funds, including retirement or pension funds of state employees and Nebraska school employees in such manner and in such investments as it may by statute provide; and

(2) The Legislature may authorize the investment of retirement or pension funds of cities, villages, school districts, public power districts, and other governmental or political subdivisions in such manner and in such investments as the governing body of such city, village, school district, public power district and other governmental or political subdivision may determine but subject to such limitations as the Legislature may by statute provide.

Source: Neb. Const. art. XV, sec. 17 (1966); Adopted 1966, Laws 1965, c. 302, sec. 2(2), p. 852.

This page left intentionally blank.

STATUTES OF NEBRASKA

CHAPTER 2 – AGRICULTURE

ARTICLE 16 – COUNTY EXTENSION WORK

2-1608. Joint county extension organizations; employees; retirement system; organizations; duties.

ARTICLE 32 – NATURAL RESOURCES

2-3228. Districts; powers; Nebraska Association of Resources Districts; retirement plan reports; duties.

ARTICLE 16

COUNTY EXTENSION WORK

2-1608. Joint county extension organizations; employees; retirement system; organizations; duties.

Whenever two or more county extension organizations have united as provided in section 2-1607 for the purpose of support and management of extension work, county extension employees jointly employed by the participating extension organizations shall be considered persons employed by a county for the purpose of subdivision (10) of section 23-2301 and shall participate in the Retirement System for Nebraska Counties under the County Employees Retirement Act. To accomplish such participation, the participating county extension organizations shall (1) pick up employee contributions as salary deductions on behalf of such county extension employees in the manner required for a county in section 23-2307 and (2) pay to the Public Employees Retirement Board or an entity designated by the board an amount in accordance with the provisions of section 23-2308. In all other respects the participation of such county extension employees in the retirement system shall be in accordance with the act.

Source: Laws 1992, LB 672, § 6; Laws 1996, LB 847, § 1; Laws 1998, LB 1191, § 1; Laws 2002, LB 687, § 2; Laws 2003, LB 451, § 1; Laws 2006, LB 366, § 1.

Cross References

County Employees Retirement Act, see section 23-2331.

ARTICLE 32

NATURAL RESOURCES

2-3228. Districts; powers; Nebraska Association of Resources Districts; retirement plan reports; duties.

(1) Each district shall have the power and authority to:

(a) Receive and accept donations, gifts, grants, bequests, appropriations, or other contributions in money, services, materials, or otherwise from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any person as defined in section 49-801 and use or expend all such contributions in carrying on its operations;

(b) Establish advisory groups by appointing persons within the district, pay necessary and proper expenses of such groups as the board shall determine, and dissolve such groups;

(c) Employ such persons as are necessary to carry out its authorized purposes and, in addition to other compensation provided, establish and fund a pension plan designed and intended for the benefit of all permanent full-time employees of the district. Any recognized method of funding a pension plan may be employed. Employee contributions shall be required to fund at least fifty percent of the benefits, and past service benefits may be included. The district shall pay all costs of any such past service benefits, which may be retroactive to July 1, 1972, and the plan may be integrated with old age and survivors' insurance, generally known as social security. A uniform pension plan, including the method for jointly funding such plan, shall be established for all districts in the state. A district may elect not to participate in such a plan but shall not establish an independent plan;

(d) Purchase liability, property damage, workers' compensation, and other types of insurance as in the judgment of the board are necessary to protect the assets of the district;

(e) Borrow money to carry out its authorized purposes;

(f) Adopt and promulgate rules and regulations to carry out its authorized purposes; and

(g) Invite the local governing body of any municipality or county to designate a representative to advise and counsel with the board on programs and policies that may affect the property, water supply, or other interests of such municipality or county.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the Nebraska Association of Resources Districts as organized under the Interlocal Cooperation Act shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the association may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the association shall cause to be prepared a quadrennial report and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and

is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1969, c. 9, § 28, p. 118; Laws 1975, LB 404, § 5; Laws 1983, LB 36, § 4; Laws 1985, LB 387, § 1; Laws 1991, LB 15, § 2; Laws 1994, LB 480, § 10; Laws 1998, LB 1191, § 2; Laws 1999, LB 436, § 5; Laws 1999, LB 795, § 1; Laws 2000, LB 891, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.

This page left intentionally blank.

CHAPTER 3 – AERONAUTICS

ARTICLE 5 – CITY AIRPORT AUTHORITY

3-505. Airport authority; city officers and employees; transfer; retention of privileges; social security and pension plans; continuance of coverage.

ARTICLE 6 – COUNTY AIRPORT AUTHORITY

3-615. Officers and employees of county; transfer to authority; effect.

ARTICLE 5

CITY AIRPORT AUTHORITY

3-505. Airport authority; city officers and employees; transfer; retention of privileges; social security and pension plans; continuance of coverage.

Officers and employees of any board or department in or of a city may be transferred to the authority established in the city, and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers or employees of such city, who shall have accepted such transfer and who are at the time of such transfer members or beneficiaries of any existing pension or retirement system, shall continue to have the rights, privileges, obligations, and status with respect to such system or systems as are now prescribed by law. In a city of the metropolitan or of the primary class, the authority may enter into an agreement with the city to provide for the continued coverage of officers and employees of the authority, and for the coverage of such officers and employees not formerly employed by the city, under the city's social security system, pension plan, or retirement plan, and shall pay its proportionate cost of such pension or retirement plan and expense of social security coverage.

Source: Laws 1957, c. 9, § 5, p. 118; Laws 1959, c. 12, § 3, p. 125; Laws 1963, c. 18, § 1, p. 97.

ARTICLE 6

COUNTY AIRPORT AUTHORITY

3-615. Officers and employees of county; transfer to authority; effect.

Officers and employees of any board or department in or of a county may be transferred to the authority established in the county, and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers or employees of such county, who shall have accepted such transfer and who are at the time of such transfer members or beneficiaries of any existing pension or retirement system, shall continue to have the rights, privileges, obligations, and status with respect to such system or systems as are now prescribed by law.

Source: Laws 1969, c. 141, § 15, p. 656.

This page left intentionally blank.

CHAPTER 4 – ALIENS

4-108. Public benefits; state agency or political subdivision; verification of lawful presence; employee; participation in retirement system; restriction.

(1) Notwithstanding any other provisions of law, unless exempted from verification under section 4-110 or pursuant to federal law, no state agency or political subdivision of the State of Nebraska shall provide public benefits to a person not lawfully present in the United States.

(2) Except as provided in section 4-110 or if exempted by federal law, every agency or political subdivision of the State of Nebraska shall verify the lawful presence in the United States of any person who has applied for public benefits administered by an agency or a political subdivision of the State of Nebraska. This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) On and after October 1, 2009, no employee of a state agency or political subdivision of the State of Nebraska shall be authorized to participate in any retirement system, including, but not limited to, the systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act, unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

Source: Laws 2009, LB403, § 1.

Cross References

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

This page left intentionally blank.

CHAPTER 13 – CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

ARTICLE 5 -- BUDGETS

(a) NEBRASKA BUDGET ACT

13-503. Terms, defined.

ARTICLE 24 – RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES

13-2401. Transfer between political subdivisions; rights of employee; transferring and receiving entities; powers and duties.

ARTICLE 5

BUDGETS

(a) NEBRASKA BUDGET ACT

13-503. Terms, defined.

For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body shall mean the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, learning community, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district, school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, Educational Service Unit Coordinating Council, and political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid;

(2) Levying board shall mean any governing body which has the power or duty to levy a tax;

(3) Fiscal year shall mean the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax shall mean any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor shall mean the Auditor of Public Accounts;

(6) Cash reserve shall mean funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement shall mean a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund shall mean any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period shall mean the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by a city in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget shall mean a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs.

Source: Laws 1969, c. 145, § 2, p. 669; Laws 1972, LB 537, § 1; Laws 1977, LB 510, § 6; R.S.1943, (1987), § 23-922; Laws 1988, LB 802, § 2; Laws 1992, LB 1063, § 3; Laws 1992, Second Spec. Sess., LB 1, § 3; Laws 1993, LB 734, § 17; Laws 1994, LB 1257, § 3; Laws 1996, LB 299, § 10; Laws 1997, LB 250, § 2; Laws 1999, LB 437, § 25; Laws 2000, LB 968, § 4; Laws 2000, LB 1116, § 6; Laws 2001, LB 142, § 25; Laws 2003, LB 607, § 1; Laws 2006, LB 1024, § 1; Laws 2007, LB603, § 1; Laws 2009, LB392, § 2; Laws 2010, LB779, § 1.

Cross References

Joint Airport Authorities Act, see section 3-716.

Local Option Municipal Economic Development Act, see section 18-2701.

Nebraska County and City Lottery Act, see section 9-601.

Political Subdivisions Self-Funding Benefits Act, see section 13-1601.

ARTICLE 24

RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES

13-2401. Transfer between political subdivisions; rights of employee; transferring and receiving entities; powers and duties.

(1) For purposes of this section:

(a) Political subdivision includes villages, cities of all classes, counties, municipal counties, school districts, and all other units of local government, including entities created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. Political subdivision does not include any contractor with a political subdivision;

(b) Receiving entity means a political subdivision which receives transferred employees from a separate political subdivision; and

(c) Transferring entity means a political subdivision which is transferring employees to a separate political subdivision.

(2) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the transferring entity maintains a defined benefit plan, an initial benefit transfer value of the employee's accrued benefit shall be determined by calculating

the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the transferring entity so that the effect on the retirement system of the transferring entity will be actuarially neutral; and

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the employee actually completed at the transferring entity prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the receiving entity so that the effect on the retirement system of the receiving entity will be actuarially neutral.

(3) A full-time or part-time employee of a transferring entity who becomes an employee of a receiving entity pursuant to a merger of services shall receive credit for his or her years of participation in the retirement system of the transferring entity for purposes of membership in the retirement system of the receiving entity.

(4) An employee referred to in subsection (3) of this section shall have his or her participation in the retirement system of the transferring entity transferred to the retirement system of the receiving entity through one of the following options:

(a) If the retirement system of the receiving entity maintains a defined contribution plan, the employee shall transfer all of his or her funds by paying to the retirement system of the receiving entity from funds held by the retirement system of the transferring entity an amount equal to one of the following: (i) If the retirement system of the transferring entity maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the transferring entity, or (ii) if the retirement system of the transferring entity maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the transferring entity. The employee shall receive eligibility and vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the employee shall transfer all of his or her funds out of the retirement system of the transferring entity to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the transferring entity. After such purchase, the employee shall receive eligibility and vesting credit in the retirement system of the receiving entity for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the receiving entity for allowing such additional service credit to the employee. If any funds remain in the retirement system of the transferring entity after the employee has purchased service credits in the retirement system of the receiving entity, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the transfer of services, but prior to retirement, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(5) The transferring entity, the receiving entity, and the employees who are being transferred may by binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the receiving entity sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of a direct rollover from the retirement system of the transferring entity is not sufficient to provide a final benefit transfer value in the retirement system of the receiving entity.

(6) The retirement system of the receiving entity may accept cash rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the amount of payment required for the service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(7) Cash transferred to the retirement system of the receiving entity as a rollover contribution shall be deposited as other contributions.

(8) The retirement system of the receiving entity may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(9) The receiving entity or its retirement system shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(10) Any retirement system authorized pursuant to section 14-1805, 15-1017, 16-1004, 16-1023, 19-3501, 23-1118, or 23-2330.04 or any retirement system for a city of the metropolitan class authorized pursuant to home rule charter shall be modified to conform with this section prior to any merger of service involving such system.

Source: Laws 1997, LB 250, § 4; Laws 1997, LB 624, § 45; Laws 1998, LB 1191, § 4; Laws 1999, LB 87, § 58; Laws 2001, LB 142, § 28.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

CHAPTER 14 – CITIES OF THE METROPOLITAN CLASS

ARTICLE 5 – FISCAL MANAGEMENT, REVENUE, AND FINANCES (g) PENSION BOARD

14-567. Pension board; duties; retirement plan reports.

ARTICLE 18 – METROPOLITAN TRANSIT AUTHORITY

14-1805. Metropolitan transit authority; general powers.

14-1805.01. Metropolitan transit authority; retirement plan reports; duties.

ARTICLE 21 – PUBLIC UTILITIES

14-2111. Utilities district; employees; retirement and other benefits; terms and conditions; reports.

ARTICLE 5

FISCAL MANAGEMENT, REVENUE, AND FINANCES

(g) PENSION BOARD

14-567. Pension board; duties; retirement plan reports.

(1) Beginning December 31, 1998, and each December 31 thereafter, the pension board of a city of the metropolitan class shall file with the Public Employees Retirement Board an annual report on each retirement plan established by such city pursuant to section 401(a) of the Internal Revenue Code and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (h) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the pension board may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the pension board of a city of the metropolitan class shall cause to be prepared a quadrennial report and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established by the city. The analysis shall be prepared by an independent private

organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1998, LB 1191, § 5; Laws 1999, LB 795, § 3.

ARTICLE 18

METROPOLITAN TRANSIT AUTHORITY

14-1805. Metropolitan transit authority; general powers.

For the purpose of accomplishing the object and purpose of the Transit Authority Law, the authority shall possess all the necessary powers of a public body corporate and governmental subdivision of the State of Nebraska, including, but not limited to, the following powers:

- (1) To maintain a principal office in the city of the metropolitan class in which created;
- (2) To adopt the official seal of the authority and to alter the same at its pleasure;
- (3) To employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as may be necessary in its judgment, to fix the compensation of and to discharge the same, to negotiate with employees and enter into contracts of employment, to employ persons singularly or collectively, and, with the consent of such city, to use the services of agents, employees, and facilities of such city, including the city attorney as legal advisor to such authority, for which such authority shall reimburse such city a proper proportion of the compensation or cost thereof;
- (4) To adopt bylaws and adopt and promulgate rules and regulations for the regulation of its affairs and for the conduct of its business;
- (5) To acquire, lease, own, maintain, and operate for public service a public passenger transportation system, excluding taxicabs and railroad systems, within or without a city of the metropolitan class;
- (6) To sue and be sued in its own name, but execution shall not, in any case, issue against any of its property, except that the lessor, vendor, or trustee under any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust certificate, as provided for in subdivision (15) of this section, may repossess the equipment described therein upon default;
- (7) To acquire, lease, and hold such real or personal property and any rights, interests, or easements therein as may be necessary or convenient for the purposes of the authority and to sell, assign, and convey the same;
- (8) To make and enter into any and all contracts and agreements with any individual, public or private corporation or agency of the State of Nebraska, public or private corporation or agency of any state of the United States adjacent to the city of the metropolitan class, and the United States of America as may be necessary or incidental to the performance of its duties and the execution of its powers under the Transit Authority Law and to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act;
- (9) To contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems of such authority;

(10) To acquire and hold capital stock in any passenger transportation system, excluding taxicabs and railroad systems, solely for the purpose of lawfully acquiring the physical property of such corporation for public use;

(11) To borrow money and issue and sell negotiable bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders thereof, and to pledge all or any part of the income of the authority received as herein provided to secure the payment thereof. The authority shall not have the power to pledge the credit or taxing power of the state or any political subdivision thereof, except such tax receipts as may be authorized herein, or to place any lien or encumbrance on any property owned by the state, county, or city used by the authority;

(12) To receive and accept from the government of the United States of America or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations or loans or grants for or in aid of the acquisition or operation of passenger transportation facilities, and to administer, hold, use, and apply the same for the purposes for which such grants or donations may have been made;

(13) To exercise the right of eminent domain under and pursuant to the Constitution, statutes, and laws of the State of Nebraska to acquire private property, including any existing private passenger transportation system, but excluding any taxicabs, railroad, and air passenger transportation systems, which is necessary for the passenger transportation purposes of the authority and including the right to acquire rights and easements across, under, or over the right-of-way of any railroad. Exercise of the right of eminent domain shall be pursuant to sections 76-704 to 76-724;

(14) Subject to the continuing rights of the public to the use thereof, to use any public road, street, or other public way in any city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority for transportation of passengers;

(15) To purchase and dispose of equipment, including motor buses, and to execute any agreement, lease, conditional sales contract, conditional lease contract, and equipment trust note or certificate to effect such purpose;

(16) To pay for any equipment and rentals therefor in installments and to give evidence by equipment trust notes or certificates of any deferred installments, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid;

(17) To certify annually to the local lawmaking body of the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority such tax request for the fiscal year commencing on the first day of the following January as, in its discretion and judgment, the authority determines to be necessary, pursuant to section 14-1821. The local lawmaking body of such county, city, or village is authorized to levy and collect such taxes in the same manner as other taxes in such county, city, or village subject to section 77-3443;

(18) To apply for and accept grants and loans from the government of the United States of America, or any agency or instrumentality thereof, to be used for any of the authorized purposes of the authority, and to enter into any agreement with the government of the United States of America, or any agency or instrumentality thereof, in relation to such grants or loans, subject to the provisions hereof;

(19) To determine routes and to change the same subject to the provisions hereof;

(20) To fix rates, fares, and charges for transportation. The revenue derived from rates, from the taxation herein provided, and from any grants or loans herein authorized shall at all times be sufficient in the aggregate to provide for the payment of: (a) All operating costs of the

transit authority, (b) interest on and principal of all revenue bonds, revenue certificates, equipment trust notes or certificates, and other obligations of the authority, and to meet all other charges upon such revenue as may be provided by any trust agreement executed by such authority in connection with the issuance of revenue bonds or certificates under the Transit Authority Law, and (c) any other costs and charges, acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through the issuance of revenue bonds or certificates;

(21) To provide free transportation for firefighters and police officers in uniform in the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority in which they are employed and for employees of such authority when in uniform or upon presentation of proper identification;

(22) To enter into agreements with the Post Office Department of the United States of America or its successors for the transportation of mail and letter carriers and the payment therefor;

(23) To exercise all powers usually granted to corporations, public and private, necessary or convenient to carry out the powers granted by the Transit Authority Law; and

(24) To establish pension and retirement plans for officers and employees and to adopt any existing pension and retirement plans and any existing pension and retirement contracts for officers and employees of any passenger transportation system purchased or otherwise acquired pursuant to the Transit Authority Law.

Source: Laws 1957, c. 23, § 5, p. 160; Laws 1972, LB 1275, § 5; Laws 1973, LB 69, § 2; Laws 1979, LB 187, § 34; Laws 1986, LB 1012, § 1; Laws 1987, LB 471, § 1; Laws 1997, LB 269, § 17; Laws 1999, LB 87, § 60; Laws 2003, LB 720, § 3.

Cross References

Interlocal Cooperation Act, see section 13-801.

Joint Public Agency Act, see section 13-2501.

Annotations

The jurisdiction and powers herein given a transit authority is for local control and does not affect the general control vested in the Public Service Commission by the Constitution. *Ritums v. Howell*, 190 Neb. 503, 209 N.W.2d 160 (1973).

14-1805.01. Metropolitan transit authority; retirement plan reports; duties.

(1) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 14-1805 and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(h) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the authority shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 14-1805. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1998, LB 1191, § 8; Laws 1999, LB 795, § 4.

ARTICLE 21

PUBLIC UTILITIES

14-2111. Utilities district; employees; retirement and other benefits; terms and conditions; reports.

(1) The board of directors of any metropolitan utilities district may also provide benefits for, insurance of, and annuities for the present and future employees and appointees of the district covering accident, disease, death, total and permanent disability, and retirement, all or any of them, under such terms and conditions as the board may deem proper and expedient from time to time. Any retirement plan adopted by the board of directors shall be upon some contributory basis requiring contributions by both the district and the employee or appointee, except that the district may pay the entire cost of the fund necessary to cover service rendered prior to the adoption of any new retirement plan. Any retirement plan shall take into consideration the benefits provided for employees and appointees of metropolitan utilities districts under the Social Security Act, and any benefits provided under a contributory retirement plan shall be supplemental to the benefits provided under the Social Security Act as defined in section 68-602 if the employees entitled to vote in a referendum vote in favor of old age and survivors' insurance coverage. To effectuate any plan adopted pursuant to this authority, the board of directors of the district is empowered to establish and maintain reserves and funds, provide for insurance premiums and costs, and make such delegation as may be necessary to carry into execution the general powers granted by this section. Payments made to employees and appointees, under the authority in this section, shall be exempt from attachment or other legal process and shall not be assignable.

(2) Any retirement plan adopted by the board of directors of any metropolitan utilities district may allow the district to pick up the employee contribution required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal

Revenue Code, except that the employer shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The employer shall pick up the contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

(3)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the board of directors of any metropolitan utilities district shall cause to be prepared a quadrennial report and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1919, c. 33, § 3, p. 108; C.S.1922, § 3759; C.S.1929, § 14-1015; Laws 1941, c. 20, § 1, p. 110; C.S.Supp.,1941, § 14-1015; Laws 1943, c. 38, § 1(2), p. 181; R.S.1943, § 14-1022; Laws 1951, c. 31, § 1, p. 129; Laws 1955, c. 25, § 1, p. 118; Laws 1985, LB 353, § 1; R.S.1943, (1991), § 14-1022; Laws 1992, LB 746, § 11; Laws 1995, LB 574, § 16; Laws 1998, LB 1191, § 16; Laws 1999, LB 795, § 5.

CHAPTER 15 – CITIES OF THE PRIMARY CLASS

ARTICLE 10 – PENSIONS

- 15-1017. Pension funds; investment; reports.
- 15-1026. Fire and police pension fund; authorized; tax levy; authorized.
- 15-1027. Pension or benefits; existing system; rights retained.

ARTICLE 10

PENSIONS

15-1017. Pension funds; investment; reports.

(1) A city of the primary class which has a city pension and retirement plan or fund, or a city fire and police pension plan or fund, or both, may provide by ordinance as authorized by its home rule charter, and not prohibited by the Constitution of Nebraska, for the investment of any plan or fund, and it may provide that (a) such a city shall place in trust any part of such plan or fund, (b) it shall place in trust any part of any such plan or fund with a corporate trustee in Nebraska, or (c) it shall purchase any part of any such plan from a life insurance company licensed to do business in the State of Nebraska. The powers conferred by this section shall be independent of and in addition and supplemental to any other provisions of the laws of the State of Nebraska with reference to the matters covered hereby and this section shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the clerk of a city of the primary class shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to this section, section 15-1026, and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the city clerk may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the city council of a city of the primary class shall cause to be prepared

a quadrennial report and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section and section 15-1026. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1967, c. 52, § 1, p. 188; Laws 1998, LB 1191, § 17; Laws 1999, LB 795, § 6.

15-1026. Fire and police pension fund; authorized; tax levy; authorized.

Any city of the primary class may establish a fire and police pension fund. Such city may anticipate its liability for future pension payments on an actuarial basis and, in order to equalize the tax burden over a period of years, may levy and collect taxes in each fiscal year sufficient to meet current needs and equalize the future payments. The tax so levied and collected, together with contributions made by firefighters and police officers, shall be credited to the fund. Any unexpended balance remaining in the fund at the close of the fiscal year shall be reappropriated for the ensuing year. Pension payments required by law shall be a general obligation of the city and may be made out of, but not limited to, the fund.

Source: Laws 1987, LB 408, § 9; Laws 1996, LB 1114, § 27; Laws 2000, LB 1116, § 15.

15-1027. Pension or benefits; existing system; rights retained.

Nothing in sections 15-1001.01, 15-1007.02, 15-1007.05, 15-1013.02, and 15-1022 to 15-1026, the repeal of any sections in Chapter 15, article 10, or the unilateral action of any city of the primary class shall in any manner diminish the right of any person receiving or entitled to receive, now or in the future, pension or other benefits provided for in Chapter 15, article 10, as the sections of such article existed immediately prior to the repeal of any such sections, to receive such pension or other benefits in all respects the same as if such repealed sections remained in full force and effect.

Source: Laws 1987, LB 408, § 10.

CHAPTER 16 – CITIES OF THE FIRST CLASS

CHAPTER 16 – CITIES OF THE FIRST CLASS

ARTICLE 10 – RETIREMENT SYSTEMS

(a) POLICE OFFICERS RETIREMENT

- 16-1001. Applicability of sections.
- 16-1002. Terms, defined.
- 16-1003. Police officer; prior service; how treated.
- 16-1004. Police Officers Retirement System Fund; administration; transfer of contributions; system funding; separate investment accounts.
- 16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.
- 16-1006. Contributions by city; amount; how credited; interest; when.
- 16-1007. Retiring officer; annuity options; how determined; lump-sum payment option.
- 16-1008. Retirement options; retirement date.
- 16-1009. Police officer; death other than in the line of duty; pension benefit payable.
- 16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits.
- 16-1011. Police officer; disability in the line of duty; benefit; requirements.
- 16-1012. Police officer; temporary disability; workers' compensation benefits; how treated.
- 16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule.
- 16-1014. Retirement committee; established; governing body; responsibilities.
- 16-1015. Retirement committee; members; terms; vacancy.
- 16-1016. Retirement system funds; contracts for investments.
- 16-1017. Retirement committee; duties.
- 16-1018. Termination of employment; transfer of benefits; when.
- 16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

(b) FIREFIGHTERS RETIREMENT

- 16-1020. Applicability of sections.
- 16-1021. Terms, defined.
- 16-1022. Firefighter; prior service; how treated.
- 16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.
- 16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.
- 16-1025. Contributions by city; amount; how credited; interest.
- 16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment.
- 16-1028. Retirement options; retirement date.
- 16-1029. Firefighter; death other than in the line of duty; pension benefit payable.
- 16-1030. Firefighter; death in the line of duty; retirement benefits.
- 16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.
- 16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated.
- 16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule.
- 16-1034. Retirement committee; established; governing body; responsibilities; powers and duties; allocation.
- 16-1035. Retirement committee; members; terms; vacancy; expenses.
- 16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.
- 16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation.
- 16-1037. Retirement committee; officers; duties.
- 16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.

2010 Nebraska Public Retirement Laws

- 16-1039. Firefighter serving on August 7, 1965; pension benefits.
- 16-1040. Firefighter subject to prior law; contributions; reimbursement.
- 16-1041. Benefits under prior law, how construed.
- 16-1042. Termination of employment; transfer of benefits; when.

ARTICLE 10

RETIREMENT SYSTEMS

(a) POLICE OFFICERS RETIREMENT

ARTICLE 10 – RETIREMENT SYSTEMS

(a) POLICE OFFICERS RETIREMENT

- 16-1001. Applicability of sections.
- 16-1002. Terms, defined.
- 16-1003. Police officer; prior service; how treated.
- 16-1004. Police Officers Retirement System Fund; administration; transfer of contributions; system funding; separate investment accounts.
- 16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.
- 16-1006. Contributions by city; amount; how credited; interest; when.
- 16-1007. Retiring officer; annuity options; how determined; lump-sum payment option.
- 16-1008. Retirement options; retirement date.
- 16-1009. Police officer; death other than in the line of duty; pension benefit payable.
- 16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits.
- 16-1011. Police officer; disability in the line of duty; benefit; requirements.
- 16-1012. Police officer; temporary disability; workers' compensation benefits; how treated.
- 16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule.
- 16-1014. Retirement committee; established; governing body; responsibilities.
- 16-1015. Retirement committee; members; terms; vacancy.
- 16-1016. Retirement system funds; contracts for investments.
- 16-1017. Retirement committee; duties.
- 16-1018. Termination of employment; transfer of benefits; when.
- 16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

16-1001. Applicability of sections.

Sections 16-1001 to 16-1019 shall apply to all police officers of a city of the first class.

Source: Laws 1983, LB 237, § 1.

16-1002. Terms, defined.

For purposes of sections 16-1001 to 16-1019, unless the context otherwise requires:

(1) Actuarial equivalent shall mean equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalent of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by the police officer's retirement value. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Beneficiary shall mean the person or persons designated by a police officer, pursuant to a written instrument filed with the retirement committee before the police officer's death, to receive death benefits which may be payable under the retirement system;

(3) Funding agent shall mean any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the city or retirement committee to hold or invest the funds of the retirement system;

(4) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1984, equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings shall mean the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year;

(5) Regular pay shall mean the average salary of a police officer for the five years preceding the date such police officer elects to retire, the five years preceding his or her death, or the five years preceding the date of disability, whichever is earliest, except that for any police officer who retires, dies, or becomes disabled after July 15, 1992, regular pay shall mean the average salary of the police officer for the period of five consecutive years preceding such retirement, death, or disability which produces the highest average;

(6) Salary shall mean all amounts paid to a participating police officer by the employing city for personal services as reported on the participant's federal income tax withholding statement, including the police officer's contributions picked up by the city as provided in subsection (2) of section 16-1005 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code;

(7) Retirement committee shall mean the retirement committee created pursuant to section 16-1014;

(8) Retirement system shall mean a retirement system established pursuant to sections 16-1001 to 16-1019;

(9) Retirement value shall mean the accumulated value of the police officer's employee account and employer account. The retirement value shall consist of the sum of the contributions made or transferred to such accounts by the police officer and by the city on the police officer's behalf and the regular interest credited to the accounts as of the date of computation, reduced by any realized losses which were not taken into account in determining regular interest in any year, and further adjusted each year to reflect the pro rata share for the accounts of the appreciation or depreciation of the fair market value of the assets of the retirement system as determined by the retirement committee. The retirement value shall be reduced by the amount of all distributions made to or on the behalf of the police officer from the retirement system. Such valuation shall be computed annually as of December 31. If separate investment accounts are established pursuant to subsection (3) of section 16-1004, a police officer's retirement value with respect to such accounts shall be equal to the value of his or her separate investment accounts as determined under such subsection;

(10) Annuity contract shall mean the contract or contracts issued by one or more life insurance companies and purchased by the retirement system in order to provide any of the benefits described in sections 16-1001 to 16-1019. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis; and

(11) Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind.

Source: Laws 1983, LB 237, § 2; Laws 1992, LB 672, § 7; Laws 1995, LB 574, § 17.

16-1003. Police officer; prior service; how treated.

A police officer shall be credited with all years of his or her service after the year 1965 for the purpose of determining vested retirement benefits under sections 16-1001 to 16-1019.

Source: Laws 1983, LB 237, § 3.

16-1004. Police Officers Retirement System Fund; administration; transfer of contributions; system funding; separate investment accounts.

(1) Commencing on January 1, 1984, each city of the first class shall keep and maintain a Police Officers Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered under the direction of the city and the retirement committee exclusively for the purposes of the retirement system and for the benefit of participating police officers and their beneficiaries. The fund shall be established as a trust under the laws of this state for all purposes of section 401(a) of the Internal Revenue Code. Upon the passage of sections 16-1001 to 16-1019 all of the contributions made by a police officer prior to January 1, 1984, will be transferred to the police officer's employee account without interest unless the city, at the time of the transfer, credited interest on such contributions. Regular interest shall begin to accrue on the contributions transferred into the fund from January 1, 1984. Such funds shall be invested in the manner prescribed in section 16-1016.

(2) The city shall establish a medium for funding of the retirement system, which may be a pension trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1016 and to provide the retirement, death, and disability benefits for police officers pursuant to sections 16-1001 to 16-1019. The trustee or custodian of any trust fund may be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, a city officer authorized to administer funds of the city, or a combination thereof.

(3) Upon direction of the city, there may be established separate investment accounts for each participating police officer for the purpose of allowing each police officer to direct the investment of all or a portion of his or her employee account or employer account subject to the requirements of section 16-1016 and any other rules or limitations that may be established by the city or the retirement committee. If separate investment accounts are established, each account shall be separately invested and reinvested, separately credited with all earnings and gains with respect to the investment of the assets of the investment account, and separately debited with the losses of the account. Each investment account shall be adjusted each year to reflect the appreciation or depreciation of the fair market value of the assets held in such account as determined by the retirement committee. The expenses incurred by the retirement system when a police officer directs the investment of all or a portion of his or her individual investment account shall be charged against the police officer's investment account and shall reduce the police officer's retirement value.

Source: Laws 1983, LB 237, § 4; Laws 1992, LB 672, § 8; Laws 1995, LB 574, § 18.

16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.

(1) Each police officer participating in the retirement system shall contribute to the retirement system a sum equal to six percent of his or her salary. Such payment shall be made by

regular payroll deductions from his or her periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class with police officers participating in a retirement system established pursuant to sections 16-1001 to 16-1019 shall pick up the police officers' contributions required by subsection (1) of this section for all compensation paid on or after January 1, 1984, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. A police officer shall not be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each police officer participating in the retirement system shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code. Voluntary contributions shall be credited to the police officer's employee account and shall thereafter be credited with regular interest. A police officer's voluntary contribution shall become a part of the Police Officers Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Source: Laws 1983, LB 237, § 5; Laws 1992, LB 672, § 9; Laws 1995, LB 574, § 19.

16-1006. Contributions by city; amount; how credited; interest; when.

Beginning January 1, 1984, each city of the first class with police officers participating in a retirement system shall contribute to the retirement system a sum equal to six percent of each such participating police officer's periodic salary. Such payment shall be contributed as provided in subsection (1) of section 16-1005 for employee contributions and shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any police officer employed by the city on January 1, 1984, an amount equal to the employee contributions of such police officer that were made to the city prior to January 1, 1984, without interest, with such contribution to be made at the time the police officer retires or terminates employment with the city. The city may contribute such amount before the police officer's retirement or termination of employment or credit interest on such contribution.

Source: Laws 1983, LB 237, § 6; Laws 1992, LB 672, § 10.

16-1007. Retiring officer; annuity options; how determined; lump-sum payment option.

(1) At any time before the retirement date, the retiring police officer may elect to receive at his or her retirement date a pension benefit either in the form of a straight life annuity or any optional form of annuity benefit established by the retirement committee and provided under a purchased annuity contract. The optional annuity benefit shall be specified in the funding

medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring police officer and, after the death of the retiree, monthly payments, as elected by the retiring police officer, of either one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring police officer during his or her life, to the beneficiary selected by the retiring police officer at the time of the original application for an annuity. For any police officer whose retirement date is on or after January 1, 1997, the optional benefit forms for the retirement system shall include a single lump-sum payment of the police officer's retirement value. For police officers whose retirement date is prior to January 1, 1997, a single lump-sum payment shall be available only if the city has adopted such distribution option in the funding medium established for the retirement system. The retiring police officer may further elect to defer the date of the first annuity payment or lump-sum payment to the first day of any specified month prior to age seventy. If the retiring police officer elects to receive his or her pension benefit in the form of an annuity, the amount of annuity benefit shall be the amount paid by the annuity contract purchased or otherwise provided by his or her retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the police officer and, upon such distribution, all obligations of the retirement system to pay retirement, death, or disability benefits to the police officer and his or her beneficiaries shall terminate, without exception.

(2) For all officers employed on January 1, 1984, and continuously employed by the city from such date through the date of their retirement, the amount of the pension benefit, when determined on the straight life annuity basis, shall not be less than the following amounts:

(a) If retirement occurs following age sixty and with twenty-five years of service with the city, or twenty-one years of service if hired prior to November 18, 1965, fifty percent of regular pay; or

(b) If retirement occurs following age fifty-five but before age sixty and with twenty-five years of service with the city, forty percent of regular pay.

A police officer entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of this section, including a single lump-sum payment, if the officer retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for officers retiring before January 1, 1997, in the funding medium for the retirement system. If the minimum pension benefit is paid in a form other than a straight life annuity, such benefit shall be the actuarial equivalent of the straight life annuity that would otherwise be paid to the officer pursuant to this subsection.

If the police officer chooses the single lump-sum payment option, the officer can request that the actuarial equivalent be equal to the average of the cost of three annuity contracts purchased on the open market. Of the three annuity contracts used for comparison, one shall be chosen by the police officer, one shall be chosen by the retirement committee, and one shall be chosen by the city.

(3) If the retirement value of an officer entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the first payment to purchase or provide the required pension benefit, the city shall transfer such funds as may be necessary to the employer account of the police officer so that the retirement value of such officer is sufficient to purchase or provide for the required pension benefit.

(4) Any retiring police officer whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value and shall not be entitled to elect to receive annuity benefits.

Source: Laws 1983, LB 237, § 7; Laws 1992, LB 672, § 11.

16-1008. Retirement options; retirement date.

- (1) A police officer of a city of the first class may:
 - (a) Elect to retire and receive the applicable pension benefit provided in section 16-1007 based on his or her full retirement value upon the attainment of age sixty;
 - (b) Elect to take early retirement and receive the applicable pension benefit provided in section 16-1007 if he or she has attained the age of fifty-five and has completed twenty-five years of service with the city; or
 - (c) Retire as a result of disability while in the line of duty, as determined under section 16-1011, at any age, and receive the applicable pension benefit provided in section 16-1011.
- (2) A police officer who is eligible to retire pursuant to subsection (1) of this section but does not, shall continue to contribute to his or her employee account, and the city shall continue to contribute to his or her employee account and to his or her employer account.
- (3) The first of the month immediately following the last day of work shall be the retirement date.

Source: Laws 1983, LB 237, § 8; Laws 1992, LB 672, § 12.

16-1009. Police officer; death other than in the line of duty; pension benefit payable.

- (1) When prior to retirement any police officer participating in the retirement system dies other than in the line of duty and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased police officer prior to his or her death or to the deceased police officer's estate if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. If benefits are paid in the form of an annuity, the annuity shall be the amount paid by the annuity contract purchased or otherwise provided by the amount of the beneficiary's share of the retirement value as of the date of the first payment. Upon the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.
- (2) If any police officer employed by such city as a member of its paid police department on January 1, 1984, except those who shall have been formerly employed in such department who are now in military service, dies while employed by the city as a police officer, other than in the line of duty, after becoming fifty-five years of age and before electing to retire, and after serving in the paid police department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay in the form of a straight life annuity shall be paid to the surviving spouse of such deceased police officer. If the deceased police officer is not survived by a spouse or if the surviving spouse dies before the children of the police officer attain the age of majority, the pension benefit shall be paid to the police officer's minor children until they attain the age of majority. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess shall be paid in the manner provided in subsection (1) of this section. If the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary to purchase or provide for the required pension benefit. If a deceased police officer described in this subsection

is not survived by a spouse or minor children, his or her death benefits shall be provided under subsection (1) of this section as if such officer was not employed by the city on January 1, 1984.

(3) Any payments for the benefit of a minor child shall be made on behalf of the child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child.

Source: Laws 1983, LB 237, § 9; Laws 1992, LB 672, § 13.

16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits.

When prior to retirement any police officer participating in the retirement system dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty and if such police officer is not survived by a spouse or by minor children, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death or to the deceased police officer's estate if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. For a police officer who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor children during each child's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1012. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child. To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified retirement pension, as reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1009. If the actuarial equivalent of the pension benefit payable to a surviving spouse or minor children under this section exceeds the retirement value at the time of the first payment, the city shall contribute such additional amount as may be necessary to purchase or provide for the required pension benefit.

Source: Laws 1983, LB 237, § 10; Laws 1986, LB 811, § 3; Laws 1992, LB 672, § 14.

16-1011. Police officer; disability in the line of duty; benefit; requirements.

(1) If any police officer becomes disabled, such police officer shall be placed upon the roll of pensioned police officers at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the police officer, for reasons of accident or other cause while in the line of duty, to perform the duties of a police officer.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, such proof to consist of a medical examination conducted by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the police officer is unable to perform the duties of a police officer. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled police officer to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the police officer to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the police officer is fraudulently

receiving disability payments. The city shall have the right to demand a physical examination of the police officer by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state, and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city council or other proper municipal authorities within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Such payments shall not commence until all credit for unused annual or sick leave and other similar credits have been fully utilized by the disabled police officer if there will be no impairment to his or her salary during the period of disability. Total payments to a disabled police officer, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the police officer's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a police officer who was pensioned under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the police officer's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled police officer or former police officer.

(6) If a police officer who has pensioned under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid the police officer may return to duty with the police force under the following conditions:

(a) If a vacancy exists on the police force for which the police officer is qualified and the police officer wishes to return to the police force, the city shall hire the police officer to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists on the police force and the police officer wishes to return to the police force, the city may create a vacancy under the city's reduction in force policy adopted under the Civil Service Act and rehire the officer at a pay grade of not less than his or her previous pay grade.

The provisions of this subsection shall not apply to a police officer whose disability benefit payments are terminated because of fraud on the part of the police officer.

Source: Laws 1983, LB 237, § 11; Laws 1986, LB 811, § 4; Laws 1992, LB 672, § 15.

Cross References

Civil Service Act, see section 19-1825.

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1012. Police officer; temporary disability; workers' compensation benefits; how treated.

No police officer shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under the Nebraska Workers' Compensation Act. All Nebraska workers' compensation benefits shall be payable in full to such police officer

as provided in the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under the Nebraska Workers' Compensation Act to any disabled police officer entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 16-1001 to 16-1019.

Source: Laws 1983, LB 237, § 12; Laws 1985, LB 3, § 1; Laws 1986, LB 811, § 5.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule.

If a police officer quits or is discharged before his or her normal or early retirement date, the officer may request and receive as a lump-sum payment an amount equal to the retirement value of his or her employee account as determined at the valuation date preceding his or her termination of employment. Such police officer, if vested, shall also receive a deferred pension benefit in an amount purchased or provided by the retirement value at the date of retirement. The retirement value at such retirement date shall consist of the accumulated value of the police officer's employee account, as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the police officer's employer account at the date of retirement.

The vesting schedule shall be as follows:

- (1) If the terminated police officer has been a member of the system for less than four years, such vesting shall be nil;
- (2) If the terminating officer has been a member of the paid department of the city of the first class for at least four years, such vesting percentage shall be forty percent. Such vesting percentage shall be fifty percent after five years, sixty percent after six years, seventy percent after seven years, eighty percent after eight years, ninety percent after nine years, and one hundred percent after ten years; and
- (3) All police officers shall be one hundred percent vested upon attainment of age sixty while employed by the city as a police officer.

The deferred pension benefit shall be payable on the first of the month immediately following the police officer's sixtieth birthday. At the option of the terminating police officer, such pension benefit may be paid as of the first of the month after such police officer attains the age of fifty-five. Such election may be made by the police officer any time prior to the payment of the pension benefits. The deferred pension benefit shall be paid in the form of the benefit options specified in subsection (1) of section 16-1007 as elected by the police officer. If the police officer's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, the city may elect to pay such police officer his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a police officer may elect upon his or her termination of employment to receive his or her vested retirement value in the form of a single lump-sum payment. For a police officer whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating police officers in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating police officer's retirement value under this section, such police officer will not be entitled to any deferred pension benefit and the city and

the retirement system shall have no further obligation to pay such police officer or his or her beneficiaries any benefits under sections 16-1001 to 16-1019.

If the terminating police officer is not credited with one hundred percent of his or her employer account, the nonvested portion of the account shall be forfeited and first used to meet the expense charges incurred by the city in connection with administering the police officers retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Source: Laws 1983, LB 237, § 13; Laws 1992, LB 672, § 16.

16-1014. Retirement committee; established; governing body; responsibilities.

A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to sections 16-1001 to 16-1019. The governing body of the city shall continue to be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. Whenever duties or powers are vested in the city or the retirement committee under such sections or whenever such sections fail to specifically allocate the duties or powers of administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee. The city and the retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system.

Source: Laws 1983, LB 237, § 14; Laws 1992, LB 672, § 17.

16-1015. Retirement committee; members; terms; vacancy.

Each retirement committee established pursuant to section 16-1014 shall consist of members from both the police force and designees of the city council. The committee shall consist of six members of which four members shall be selected by the officers from the police force of the city. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall receive no salary and shall not be compensated for expenses.

Source: Laws 1983, LB 237, § 15.

16-1016. Retirement system funds; contracts for investments.

The funds of the retirement system shall be invested under the general direction of the retirement committee. The city or the retirement committee if delegated such function by the city shall select and contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by sections 16-1001 to 16-1019. The city or committee may select and contract with investment managers registered under the Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or committee. All funds of the

retirement system shall be invested pursuant to the policies established by the Nebraska Investment Council.

Source: Laws 1983, LB 237, § 16; Laws 1991, LB 2, § 2; Laws 1992, LB 672, § 18.

16-1017. Retirement committee; duties.

- (1) It shall be the duty of the retirement committee to:
- (a) Provide each employee a summary of plan eligibility requirements and benefit provisions;
 - (b) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and
 - (c) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to sections 16-1001 to 16-1019 and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the retirement committee shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1001 to 16-1019. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1983, LB 237, § 17; Laws 1998, LB 1191, § 18; Laws 1999, LB 795, § 7.

16-1018. Termination of employment; transfer of benefits; when.

If a police officer terminates his or her employment for the purpose of becoming a police officer employed by another city of the first class in Nebraska and such new employment commences within one hundred twenty days of such termination, such police officer shall be entitled to transfer to the Police Officers Retirement System Fund of the city by which he or she is newly employed, the full amount of his or her employee account and the vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be directly transferred to the police officer's employee account in the retirement system of the city to which transferred and administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system shall have no further obligation to such police officer or his or her beneficiary. Following the commencement of new employment, the transferring police officer shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Source: Laws 1983, LB 237, § 18; Laws 1992, LB 672, § 19.

16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

(1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, and section 401(a)(25) relating to the specification of actuarial assumptions. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under sections 16-1001 to 16-1019, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A police officer whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under sections 16-1001 to 16-1019, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Source: Laws 1983, LB 237, § 19; Laws 1992, LB 672, § 20; Laws 1995, LB 574, § 20; Laws 1996, LB 1114, § 29.

This page left intentionally blank.

(b) FIREFIGHTERS RETIREMENT

ARTICLE 10 – RETIREMENT SYSTEMS

(b) FIREFIGHTERS RETIREMENT

- 16-1020. Applicability of sections.
- 16-1021. Terms, defined.
- 16-1022. Firefighter; prior service; how treated.
- 16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.
- 16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.
- 16-1025. Contributions by city; amount; how credited; interest.
- 16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment.
- 16-1028. Retirement options; retirement date.
- 16-1029. Firefighter; death other than in the line of duty; pension benefit payable.
- 16-1030. Firefighter; death in the line of duty; retirement benefits.
- 16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.
- 16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated.
- 16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule.
- 16-1034. Retirement committee; established; governing body; responsibilities; powers and duties; allocation.
- 16-1035. Retirement committee; members; terms; vacancy; expenses.
- 16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.
- 16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation.
- 16-1037. Retirement committee; officers; duties.
- 16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.
- 16-1039. Firefighter serving on August 7, 1965; pension benefits.
- 16-1040. Firefighter subject to prior law; contributions; reimbursement.
- 16-1041. Benefits under prior law, how construed.
- 16-1042. Termination of employment; transfer of benefits; when.

16-1020. Applicability of sections.

Except as provided in section 16-1039, sections 16-1020 to 16-1038 shall apply to all firefighters of a city of the first class.

Source: Laws 1983, LB 531, § 1.

16-1021. Terms, defined.

For the purposes of sections 16-1020 to 16-1042, unless the context otherwise requires:

(1) Actuarial equivalent shall mean equality in value of the aggregate amount of benefit expected to be received under different forms or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Such actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalency of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by such contract. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Annuity contract shall mean the contract or contracts issued by one or more life insurance companies or designated trusts and purchased by the retirement system in order to

provide any of the benefits described in such sections. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

(3) Beneficiary shall mean the person or persons designated by a firefighter, pursuant to a written instrument filed with the retirement committee before the firefighter's death, to receive death benefits which may be payable under the retirement system;

(4) Funding agent shall mean any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the retirement committee, subject to the approval of the city, to hold or invest the funds of the retirement system;

(5) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1984, equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings shall mean the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year. The retirement committee shall annually report the amount of regular interest earned for such year;

(6) Regular pay shall mean the salary of a firefighter at the date such firefighter elects to retire or terminate employment with the city;

(7) Retirement committee shall mean the retirement committee created pursuant to section 16-1034;

(8) Retirement system shall mean a retirement system established pursuant to sections 16-1020 to 16-1042;

(9) Retirement value shall mean the accumulated value of the firefighter's employee account and employer account. The retirement value at any time shall consist of the sum of the contributions made or transferred to such accounts by the firefighter and by the city on the firefighter's behalf and the regular interest credited to the accounts through such date, reduced by any realized losses which were not taken into account in determining regular interest in any year, and as further adjusted each year to reflect the accounts' pro rata share of the appreciation or depreciation of the assets of the retirement system as determined by the retirement committee at their fair market values, including any account under subsection (2) of section 16-1036. Such valuation shall be undertaken at least annually as of December 31 of each year and at such other times as may be directed by the retirement committee. The value of each account shall be reduced each year by the appropriate share of the investment costs as provided in section 16-1036.01. The retirement value shall be further reduced by the amount of all distributions made to or on the behalf of the firefighter from the retirement system;

(10) Salary shall mean the base rate of pay, excluding overtime, callback pay, clothing allowances, and other such benefits as reported on the participant's federal income tax withholding statement including the firefighters' contributions picked up by the city as provided in subsection (2) of section 16-1024 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code; and

(11) Straight life annuity shall mean an ordinary annuity payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind.

Source: Laws 1983, LB 531, § 2; Laws 1993, LB 724, § 1; Laws 1995, LB 574, § 21.

16-1022. Firefighter; prior service; how treated.

A firefighter shall be credited with all years of his or her service after August 7, 1965, for the purpose of determining vested retirement benefits under sections 16-1020 to 16-1038.

Source: Laws 1983, LB 531, § 3.

16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.

(1) Commencing on January 1, 1984, each city of the first class having a paid fire department shall keep and maintain a Firefighters Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered exclusively for the purposes of the retirement system and for the benefit of participating firefighters and their beneficiaries and so as to establish the fund as a trust under the law of this state for all purposes of section 401(a) of the Internal Revenue Code. Upon the passage of sections 16-1020 to 16-1038 all of the contributions made by a firefighter under section 35-203.01 as it formerly existed and interest accrued at five percent per annum on such contributions prior to January 1, 1984, shall be transferred to the firefighter's employee account. Regular interest shall begin to accrue on the contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16-1036.

(2) The city shall establish a medium for funding the retirement system which, with the approval of the retirement committee, may be a pension trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1036 and to provide the retirement, death, and disability benefits for firefighters granted by sections 16-1020 to 16-1042. The trustee or custodian of any trust fund shall be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, an appropriate city officer authorized to administer funds of the city, or a combination thereof.

Source: Laws 1983, LB 531, § 4; Laws 1993, LB 724, § 2; Laws 1995, LB 574, § 22.

16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.

(1) Each firefighter participating in the retirement system shall contribute to the retirement system a sum equal to six and one-half percent of his or her salary. Such payment shall be made by regular payroll deductions from his or her periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class with firefighters participating in a retirement system shall pick up the firefighters' contributions required by subsection (1) of this section for all compensation paid on or after January 1, 1984, and the contributions so picked up shall be treated as employer contributions in determining federal income tax treatment under the Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. The city shall pay the employee contributions from the same source of funds which is used in paying compensation to the employee. The city shall pick up the employee contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. In no event shall a firefighter be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each firefighter participating in the retirement system shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code. Voluntary contributions shall be credited to the employee account and shall thereafter be credited with regular interest. A voluntary contribution shall become a part of the Firefighters Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Source: Laws 1983, LB 531, § 5; Laws 1993, LB 724, § 3; Laws 1995, LB 574, § 23.

16-1025. Contributions by city; amount; how credited; interest.

(1) Beginning January 1, 1984, each city of the first class with firefighters participating in a retirement system shall contribute to the retirement system a sum equal to thirteen percent of each such participating firefighter's periodic salary. Such payment shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any firefighter employed by the city on January 1, 1984, an amount equal to the employee's contributions, without interest, that were made to the city prior to January 1, 1984, with such contribution to be made at the time the firefighter retires or terminates employment with the city. The city may contribute such amount before the firefighter's retirement or termination of employment or credit interest on such contribution.

(2) Each such city shall contribute any additional amounts necessary to fund retirement or other retirement plan benefits not provided by employee contributions or city contributions to the employer account required by subsection (1) of this section. Such additional contributions shall be accumulated in an unallocated employer account of the Firefighters Retirement System Fund and used to provide the benefits, if any, specified in sections 16-1027 and 16-1029 to 16-1031 which are not otherwise funded by the firefighter's retirement value. Funds needed to provide for a firefighter's benefits shall be transferred from the unallocated employer account when and as such funds are needed. All funds committed by the city to the funding of a firefighter pension system on January 1, 1984, that are not transferred to the firefighters employee accounts shall be transferred to the unallocated employer account.

Source: Laws 1983, LB 531, § 6; Laws 1993, LB 724, § 4.

16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment.

(1) At any time before the retirement date, the retiring firefighter may elect to receive his or her pension benefit at retirement either in the form of a straight life annuity or any optional form of annuity benefit established by the retirement committee and provided under a purchased annuity contract. Such optional annuity benefit shall be specified in the funding medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring firefighter and, after the death of the retiree, monthly payments, as elected by the retiring firefighter, of one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring firefighter during his or her life, to the beneficiary selected by the retiring firefighter at the time of the original application for an annuity. For any firefighter whose retirement date is on or after January 1, 1997, the optional benefit forms for the retirement system shall include a single lump-sum payment of the firefighter's retirement value. For firefighters whose retirement date is prior to January 1, 1997, a single lump-sum payment shall be available only if the city has

adopted such distribution option in the funding medium established for the retirement system. The retiring firefighter may further elect to defer the date of the first payment or lump-sum distribution to the first day of any specified month prior to age seventy. In the event the retiring firefighter elects to receive his or her pension benefit in the form of an annuity, the amount of such annuity benefit shall be the amount provided by the annuity contract purchased or otherwise provided by the firefighter's retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the retiring firefighter. Upon the payment of a lump sum or the distribution of a paid-up annuity contract, all obligations of the retirement system to pay retirement benefits to the firefighter and his or her beneficiaries shall terminate, without exception.

(2) For all firefighters employed on January 1, 1984, the amount of the pension benefit at the retirement date shall not be less than the following amounts:

(a) If retirement from the city occurs following age fifty-five with twenty-one years of service with the city, fifty percent of regular pay;

(b) If retirement from the city occurs following age fifty but before age fifty-five with at least twenty-one years of service with the city, such firefighter shall receive the actuarial equivalent of the benefit which would otherwise be provided at age fifty-five;

(c) If retirement from the city occurs on or after age fifty-five with less than twenty-one years of service with the city, such firefighter shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of retirement multiplied by the ratio of the years of service to twenty-one;

(d) For terminations of employment from the city on or after September 9, 1993, if such termination of employment as a firefighter occurs before age fifty-five but after completion of twenty-one years of service with the city, such firefighter shall receive upon the attainment of age fifty-five a pension benefit of fifty percent of regular pay;

(e) Unless an optional annuity benefit is selected by the retired firefighter, at the death of any such retired firefighter the same rate of pension as is provided for in this section shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse remains unmarried and, in case there is no surviving spouse, then the minor children, if any, of such deceased firefighter shall equally share such pension benefit during their minority, except that as soon as a child of such deceased firefighter ceases to be a minor, such pension as to such child shall cease; or

(f) In the event a retired firefighter or his or her surviving beneficiaries die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account, at the time of the first benefit payment the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's estate.

A firefighter entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of this section, including a single lump-sum payment, if the firefighter retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for firefighters retiring before January 1, 1997, in the funding medium for the retirement system. If the minimum pension benefit is paid in the form of an optional annuity benefit or a single lump-sum payment, such benefit or payment shall be the actuarial equivalent of the annuity that would otherwise be paid to the firefighter pursuant to this subsection.

If the firefighter chooses the single lump-sum payment option, the firefighter may request that the actuarial equivalent be equal to the average of the cost of two annuity contracts

purchased on the open market, if the difference between the cost of the two annuity contracts does not exceed five percent. Of the two annuity contracts used for comparison, one shall be chosen by the firefighter and one shall be chosen by the city. If the difference between the two annuity contracts exceeds five percent, the retirement committee shall review the costs of the two annuity contracts and make a recommendation to the city council as to the amount of the lump-sum payment to be made to the firefighter. The city council shall, after a hearing, determine the amount of the single lump-sum payment due the firefighter.

(3) If the retirement value of a firefighter entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the first payment to purchase or provide the required pension benefit, the city shall utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit.

(4) Any retiring firefighter whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value in lieu of annuity and shall not be entitled to elect to receive annuity benefits.

Source: Laws 1983, LB 531, § 8; Laws 1992, LB 672, § 22; Laws 1993, LB 724, § 5; Laws 1994, LB 1068, § 1.

16-1028. Retirement options; retirement date.

- (1) A firefighter of a city of the first class may:
- (a) Retire or be retired and receive the applicable retirement pension benefit upon the attainment of age fifty-five while employed by the city as a firefighter;
 - (b) Elect to retire after he or she has attained the age of fifty and has completed at least twenty-one years of service with the city and receive the actuarial equivalent of the pension benefit he or she would otherwise receive upon the attainment of age fifty-five;
 - (c) After twenty-one years of service with the city, terminate employment with the city and, upon the attainment of age fifty-five, receive the applicable retirement pension benefit; or
 - (d) Retire or be retired as a result of disability while in the line of duty, as determined under section 16-1031, at any age and receive the applicable pension benefit provided in such section.
- (2) A firefighter who is eligible to retire pursuant to subdivision (1)(a) of this section but does not shall continue to contribute to his or her employee account and the city shall continue to contribute to its employer account.
- (3) For purposes of subdivisions (1)(a), (b), and (d) of this section, the first of the month immediately following the last day of work shall be the retirement date. For purposes of subdivision (1)(c) of this section, the first of the month immediately following the attainment of age fifty-five shall be the retirement date.

Source: Laws 1983, LB 531, § 9; Laws 1993, LB 724, § 6; Laws 1994, LB 1068, § 2.

16-1029. Firefighter; death other than in the line of duty; pension benefit payable.

- (1) When prior to the commencement of retirement benefits any firefighter participating in the retirement system dies other than in the line of duty, and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be received by the beneficiary in the form of a single lump-sum payment, a straight life annuity,

or any other optional form of benefit specified in the retirement system's funding medium. In the event benefits are paid in the form of an annuity, such annuity shall be the amount provided by the annuity contract purchased or otherwise provided by the amount of retirement value to be paid to the beneficiary as of the date of the first payment. Upon the payment of a lump-sum distribution or the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.

(2) If any firefighter employed by such city as a member of its paid fire department on January 1, 1984, and any firefighter reemployed thereafter who, while employed in such department entered military service and is still in military service, dies while employed by the city as a firefighter other than in the line of duty after becoming fifty years of age and before electing to retire, and after serving in the paid fire department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay as defined in section 16-1021, in the form of a straight life annuity, shall be paid to the surviving spouse or minor children of such deceased firefighter. If the deceased firefighter is not survived by a spouse or in the event such surviving spouse dies before the minor children of such firefighter attain the age of majority, such pension benefit shall be paid to the firefighter's minor children until they have attained the age of majority. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

In the event that the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit. In the event a deceased firefighter described in this subsection is not survived by a spouse or minor children, his or her death benefits shall be provided under the provisions of subsection (1) of this section as if such firefighter were not employed by the city on January 1, 1984.

(3) In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between such total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's beneficiary, or in the absence of a surviving beneficiary, his or her estate.

(4) To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified pension under subsection (2) of this section, the excess shall be paid in the manner provided in subsection (1) of this section.

(5) Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

Source: Laws 1983, LB 531, § 10; Laws 1992, LB 672, § 23; Laws 1993, LB 724, § 7.

16-1030. Firefighter; death in the line of duty; retirement benefits.

When prior to commencement of retirement benefits any firefighter participating in the retirement system dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty and such firefighter is not survived by a spouse or minor children, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the

event that no beneficiary was specified. The retirement value or portion thereof may be paid in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's funding medium. For a firefighter who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1032. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between the total amount in the employee account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's beneficiary or, in the absence of a surviving beneficiary, his or her estate.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1029.

Source: Laws 1983, LB 531, § 11; Laws 1986, LB 811, § 6; Laws 1992, LB 672, § 24; Laws 1993, LB 724, § 8.

16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.

(1) Except as provided in subsection (3) of this section for temporary disability, if any firefighter becomes disabled, such firefighter shall be placed upon the roll of pensioned firefighters at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the firefighter, for reasons of accident or other cause while in the line of duty, to perform the duties of a firefighter as defined by fire department job descriptions or ordinance.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, consisting of a medical examination conducted by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the firefighter is unable to perform the duties of a firefighter. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled firefighter to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the firefighter to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the firefighter is fraudulently receiving disability payments. The city shall have the right to demand a physical examination of the firefighter by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a firefighter received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Total payments to a disabled firefighter, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the firefighter's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the firefighter's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled firefighter or former firefighter.

(6) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid, the firefighter may return to duty with the fire department under the following conditions:

(a) If a vacancy exists on the fire department for which the firefighter is qualified and the firefighter wishes to return to the fire department, the city shall hire the firefighter to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists in the fire department and the firefighter wishes to return to the fire department, the city shall place the firefighter on a waiting list and rehire the firefighter at a pay grade of not less than his or her previous pay grade when a vacancy occurs for which the firefighter is qualified.

The provisions of this subsection shall not apply to a firefighter whose disability benefit payments are terminated because of fraud on the part of the firefighter.

Source: Laws 1983, LB 531, § 12; Laws 1986, LB 811, § 7; Laws 1993, LB 724, § 9.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated.

No firefighter shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under the Nebraska Workers' Compensation Act. All Nebraska workers' compensation benefits shall be payable in full to such firefighter as provided in the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under the Nebraska Workers' Compensation Act to any disabled firefighter entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 16-1020 to 16-1038.

Source: Laws 1983, LB 531, § 13; Laws 1985, LB 3, § 2; Laws 1986, LB 811, § 8.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule.

In the event a firefighter quits or is discharged before his or her retirement date as defined in subsection (3) of section 16-1028, the firefighter may request and receive, as a lump-sum payment, an amount equal to the value of his or her employee account as determined at the valuation date preceding his or her termination of employment pursuant to subdivision (9) of section 16-1021. Such firefighter, if vested, may, in lieu thereof, receive a deferred pension benefit or lump-sum benefit in an amount purchased or provided by the vested retirement value at the date of retirement. The retirement value at such retirement date shall consist of the then accumulated value of the firefighter's employee account at the date of the retirement as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the firefighter's employer account at the date of retirement. The vesting schedule shall be as follows:

(1) If the terminating firefighter has been a member of the system for less than four years, the vesting percentage shall be zero; and

(2) If the terminating firefighter has been a member of the paid department of the city for at least four years, the vesting percentage shall be forty percent. The vesting percentage shall be sixty percent after five years, eighty percent after six years, and one hundred percent after seven years.

The deferred pension benefit shall be payable on the first of the month immediately following the terminating firefighter's fifty-fifth birthday. At the option of the firefighter, such pension benefit may be paid as of the first of the month after he or she attains the age of fifty. Such election may be made by the firefighter any time prior to the payment of the pension benefits.

The deferred pension benefit shall be paid in the optional benefit forms specified at subsection (1) of section 16-1027 as elected by the firefighter. Notwithstanding anything in sections 16-1020 to 16-1042 to the contrary, if the firefighter's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, such firefighter shall, upon request within one year of such termination, be paid his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a firefighter may elect, upon his or her termination of employment, to receive his or her vested retirement value in the form of a single lump-sum payment. For a firefighter whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating firefighters in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating firefighter's retirement value under this section, such firefighter will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such firefighter or his or her beneficiaries any benefits under sections 16-1020 to 16-1042.

In the event that the terminating firefighter is not credited with one hundred percent of his or her employer account, the remaining nonvested portion of the account shall be forfeited and shall be deposited in the unallocated employer account. If the actuarial analysis required by section 16-1037 shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities, such forfeitures shall instead be used to meet the expenses incurred by the city in connection with administering the retirement system, and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Source: Laws 1983, LB 531, § 14; Laws 1993, LB 724, § 10; Laws 1994, LB 1068, § 3; Laws 1998, LB 1191, § 19.

16-1034. Retirement committee; established; governing body; responsibilities; powers and duties; allocation.

A retirement committee shall be established to supervise the general operation of the retirement system. The governing body of the city shall be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. All costs incurred with regard to the administration of the retirement system shall be paid by the city from the unallocated employer account as provided in section 16-1036.01.

The city and retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system. Whenever sections 16-1020 to 16-1042 fail to address the allocation of duties or powers in the administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee.

Source: Laws 1983, LB 531, § 15; Laws 1992, LB 672, § 25; Laws 1993, LB 724, § 11.

16-1035. Retirement committee; members; terms; vacancy; expenses.

Each retirement committee established pursuant to section 16-1034 shall consist of six members of which four members shall be selected by the active paid firefighters excluding firefighters identified in section 16-1039. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city, active members of the fire department, and members of the general public may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall, subject to approval by the city council, be reimbursed for their actual and necessary expenses incurred in carrying out their duties.

Source: Laws 1983, LB 531, § 16; Laws 1992, LB 672, § 26.

16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.

(1) The funds in the Firefighters Retirement System Fund shall be invested by the retirement committee. The city, subject to the approval of the retirement committee, shall contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by sections 16-1020 to 16-1042. The retirement committee, subject to the approval of the city, may also select an investment manager. The city, subject to approval of the retirement committee, may contract with investment managers registered under the Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or retirement committee.

(2) The retirement committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account to the various investment options or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account

in any proportion, including full allocation, in any investment option offered by the plan. Upon the direction of the city, firefighters employed on January 1, 1984, may have the option to allocate their employer account to various investment options or combinations of investment options in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

(3) The funds in the Firefighters Retirement System Fund shall be invested pursuant to the policies established by the Nebraska Investment Council.

Source: Laws 1983, LB 531, § 17; Laws 1991, LB 2, § 3; Laws 1992, LB 672, § 27; Laws 1993, LB 724, § 12; Laws 2004, LB 1097, § 1.

16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation.

The city and the retirement committee shall develop a schedule of investment costs relating to the investment of the funds in each of the accounts in the Firefighters Retirement System Fund, which costs shall be paid out of the funds in such accounts or assessed to the firefighters as provided in such schedule. The schedule of investment costs shall provide for the allocation of the administrative or record-keeping costs of the various investment options available to the members of the retirement system and shall assess such costs so that each member pays a fair proportion of the costs based upon his or her choice of options and number of transfers among options. All other costs related to the general operation of the retirement system established pursuant to sections 16-1020 to 16-1038 and not allocated or assessed pursuant to the schedule of investment costs shall be considered administrative costs and shall be paid by the city from the unallocated employer account.

Source: Laws 1992, LB 672, § 29.

16-1037. Retirement committee; officers; duties.

- (1) It shall be the duty of the retirement committee to:
- (a) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;
 - (b) Hold regular quarterly meetings and special meetings upon the call of the chairperson;
 - (c) Conduct meetings pursuant to the Open Meetings Act;
 - (d) Provide each employee a summary of plan eligibility requirements, benefit provisions, and investment options available to such employee;
 - (e) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and
 - (f) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to sections 16-1020 to 16-1042 and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the

Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the retirement committee shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1983, LB 531, § 18; Laws 1992, LB 672, § 28; Laws 1998, LB 1191, § 20; Laws 1999, LB 795, § 8; Laws 2004, LB 821, § 8.

Cross References

Open Meetings Act, see section 84-1407.

16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.

(1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of

the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, section 401(a)(25) relating to the specification of actuarial assumptions, and section 401(a)(31) relating to direct rollover distribution from qualified retirement plans. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under sections 16-1020 to 16-1042, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A firefighter whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under sections 16-1020 to 16-1042, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Source: Laws 1983, LB 531, § 19; Laws 1993, LB 724, § 13; Laws 1995, LB 574, § 24; Laws 1996, LB 1114, § 30.

16-1039. Firefighter serving on August 7, 1965; pension benefits.

(1) All cities of the first class having a paid fire department shall pension all firefighters of the paid fire department who were serving as such on August 7, 1965, and who did not elect coverage under the provisions of sections 35-204 to 35-215 as they existed prior to January 1, 1984, whenever such firefighters shall have first served in such fire department for the period of twenty-one years and shall elect to retire from active service and go upon the retired list.

(2) Such pension shall be paid by the city in the same manner as firefighters upon the active list are paid. Such pension shall be at least fifty percent of the amount of salary such retiring firefighter is receiving at the time he or she goes upon such pension list.

(3) Any such firefighter who retires on or after age fifty-five with less than twenty-one years of service shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of his or her retirement multiplied by the ratio of the years of service to twenty-one.

(4) At the death of any such retired firefighter, the same rate of pension, as is herein provided for, shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse shall remain unmarried and, in case there be no surviving spouse, then the minor children, if any, of such deceased firefighter, shall be paid such pension during their minority to the age of eighteen years, except that as soon as a child of such deceased firefighter shall become eighteen years of age, such pension as to such child shall cease.

(5) Firefighters subject to subsection (1) of this section shall be subject to sections 16-1029 to 16-1032 but shall be exempt from sections 16-1024, 16-1025, 16-1027, 16-1028, and 16-1033.

Source: Laws 1983, LB 531, § 20.

16-1040. Firefighter subject to prior law; contributions; reimbursement.

After August 7, 1965, every firefighter subject to the provisions of sections 35-201 to 35-203 as they existed prior to January 1, 1984, shall contribute to the city an amount equal to five percent of his or her salary until he or she shall be entitled to retire or otherwise become eligible for a pension. No such firefighter continuing in the employment of the city as a member of such department after becoming eligible to retire shall be required to make any further contribution. Any such firefighter whose employment shall terminate, whether by discharge or otherwise, prior to the time he or she shall become entitled to a pension, and who shall have made contributions from his or her salary as provided in this section shall, upon demand, be reimbursed by the city for the amount of such contributions plus interest at five percent per annum.

Source: Laws 1983, LB 531, § 21.

16-1041. Benefits under prior law, how construed.

Nothing in sections 16-1020 to 16-1042 shall in any manner affect the right of any person now receiving or entitled to receive, now or in the future, pension or other benefits provided for in sections 35-201 to 35-216, as they exist immediately prior to January 1, 1984, to receive such pension or other benefits in all respects the same as if such sections remained in full force and effect.

Source: Laws 1983, LB 531, § 22; Laws 1985, LB 6, § 1.

16-1042. Termination of employment; transfer of benefits; when.

In the event that after four or more years of employment a firefighter terminates his or her employment for the purpose of becoming a firefighter employed by another city of the first class in Nebraska and such new employment commences within ninety days of such termination, such firefighter shall be entitled to transfer to the Firefighters Retirement System Fund of the city by which he or she is newly employed the full amount of his or her contribution and his or her vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system from which the firefighter transferred shall have no further obligation to such firefighter or his or her beneficiary. Following the commencement of new employment, the transferring firefighter shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Beginning January 1, 1993, a firefighter who is to receive an eligible rollover distribution, within the meaning of section 401(a)(31) of the Internal Revenue Code, from the retirement system may choose to have such distribution made in the form of a direct transfer to the trustee or custodian of a retirement plan eligible to receive the transfer under the code if the election is made in the form and within the time period required by the retirement committee and the plan to which such transfer is to be made will accept such transfer.

Source: Laws 1983, LB 531, § 23; Laws 1993, LB 724, § 14; Laws 1995, LB 574, § 25.

This page left intentionally blank.

CHAPTER 18 – CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

ARTICLE 12 – MISCELLANEOUS TAXES

18-1221. Pension or retirement system; tax; amount; use.

ARTICLE 17 – MISCELLANEOUS

18-1723. Firefighter; police officer; presumption of death or disability; rebuttable.

18-1749. Pension or retirement plan; employee contribution authorized; manner of payment.

ARTICLE 12

MISCELLANEOUS TAXES

18-1221. Pension or retirement system; tax; amount; use.

Subject to the levy limitations contained in section 77-3442, but notwithstanding any limitations in any other law or city home rule charter, any city or village of this state which provides a pension or retirement system for all or a portion of its employees shall levy a tax in addition to all other taxes in order to defray the cost to such city or village in meeting the obligations arising by reason of providing such pension or retirement system. The revenue so raised shall be limited to the amount required to defray the cost to such city or village in meeting the obligations arising by reason of providing such pension or retirement system, and shall be used for no other purpose.

Source: Laws 1971, LB 667, § 2; R.S.1943, (1977), § 68-620.01; Laws 1979, LB 187, § 182; Laws 1996, LB 1114, § 34.

ARTICLE 17

MISCELLANEOUS

18-1723. Firefighter; police officer; presumption of death or disability; rebuttable.

Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of Chapter 15, article 10, sections 16-1001 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December

25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Source: Laws 1969, c. 281, § 1, p. 1048; Laws 1985, LB 3, § 3; Laws 2010, LB373, § 1.

Annotations

The clear import of the language of this section is that the rebuttable presumption it creates applies only for purposes of the designated pension plans and retirement systems and not to workers' compensation cases. *Spangler v. State*, 233 Neb. 790, 448 N.W.2d 145 (1989).

18-1749. Pension or retirement plan; employee contribution authorized; manner of payment.

Any city or village of this state may pick up the employee contributions required by a pension or retirement plan for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining the federal tax treatment under the Internal Revenue Code, except that the city or village shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The city or village shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The city or village shall pick up the contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

Source: Laws 1985, LB 353, § 4; Laws 1995, LB 574, § 26.

**CHAPTER 19 – CITIES AND VILLAGES;
LAWS APPLICABLE TO MORE THAN ONE
AND LESS THAN ALL CLASSES**

ARTICLE 35

PENSION PLANS

(Applicable to cities of the first or second class and villages)

19-3501. Pension plans authorized; employees covered; contributions; funding past service benefits; joinder in plan by two or more cities; reports.

(1) The governing body of cities of the first and second classes and villages may, by appropriate ordinance or proper resolution, establish a pension plan designed and intended for the benefit of the regularly employed or appointed full-time employees of the city. Any recognized method of funding a pension plan may be employed. The plan shall be established by appropriate ordinance or proper resolution, which may provide for mandatory contribution by the employee. The city may also contribute, in addition to any amounts contributed by the employee, amounts to be used for the purpose of funding employee past service benefits. Any two or more cities of the first and second classes and villages may jointly establish such a pension plan by adoption of appropriate ordinances or resolutions. Such a pension plan may be integrated with old age and survivors insurance, otherwise generally known as social security.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the clerk of a city or village with a retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the city or village clerk may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the city council or village board shall cause to be prepared a quadrennial report and shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of each report. The report shall consist of a full actuarial analysis of each such retirement

plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

(3) Subsection (1) of this section shall not apply to firefighters or police officers who are included under an existing pension or retirement system established by the municipality employing such firefighters or police officers or the Legislature. If a city of the first class decreases in population to less than five thousand, as determined by the latest federal census, any police officer or firefighter employed by such city on or prior to the date such city becomes a city of the second class shall retain the level of benefits established by the Legislature for police officers or firefighters employed by a city of the first class on the date such city becomes a city of the second class.

Source: Laws 1957, c. 26, § 1, p. 180; Laws 1963, c. 63, § 10, p. 262; Laws 1967, c. 98, § 1, p. 297; R.S.Supp.,1967, § 16-328; Laws 1969, c. 79, § 1, p. 410; Laws 1974, LB 1002, § 1; Laws 1983, LB 291, § 2; Laws 1989, LB 145, § 1; Laws 1998, LB 1191, § 21; Laws 1999, LB 795, § 9.

CHAPTER 23 – COUNTY GOVERNMENT AND OFFICERS

CHAPTER 23 – COUNTY GOVERNMENT AND OFFICERS

ARTICLE 11 – SALARIES OF COUNTY OFFICERS

- 23-1118. Employees of certain counties or municipal counties; retirement benefits; establish; approval of voters; contribution rates; funds; investment; employees, defined; reports.

ARTICLE 23 – COUNTY EMPLOYEES RETIREMENT

- 23-2301. Terms, defined.
- 23-2302. Retirement System for Nebraska Counties; establish; purpose; acceptance of contributions.
- 23-2305. Public Employees Retirement Board; duties; rules and regulations.
- 23-2305.01. Board; power to adjust contributions and benefits.
- 23-2306. Retirement system; members; employees; elected officials; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 23-2306.02. Retirement system; transferred employee; payment to system.
- 23-2306.03. Retirement system; municipal county employee; participation in another governmental plan; how treated.
- 23-2307. Retirement system; members; contribution; amount; county pay.
- 23-2308. Retirement system; county clerk; payment; fees.
- 23-2308.01. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 23-2309. Defined contribution benefit; employee account, defined; interest credited to account.
- 23-2309.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 23-2310. Defined contribution benefit; employer account, defined; state investment officer; duties.
- 23-2310.03. State Treasurer; duties.
- 23-2310.04. County Employees Retirement System Expense Fund; created; use; investment.
- 23-2310.05. Defined contribution benefit; employer account; investment options; procedures; administration.
- 23-2312. Retirement system; records; contents; employer education program.
- 23-2313. Retirement system; Auditor of Public Accounts; audit; report.
- 23-2314. Retirement system; powers.
- 23-2315. Retirement system; retirement; when; conditions; application for benefits; deferment of payment; board; duties.
- 23-2315.01. Retirement for disability; application; when; medical examination.
- 23-2316. Retirement system; retirement value for employee.
- 23-2317. Retirement system; future service retirement benefit; when payable; how computed; selection of annuity; board; provide tax information.
- 23-2317.01. County Equal Retirement Benefit Fund; created; use.
- 23-2319. Termination of employment; termination benefit; vesting.
- 23-2319.01. Termination of employment; account forfeited; when.
- 23-2319.02. County Employer Retirement Expense Fund; State Employer Retirement Expense Fund; use.
- 23-2320. Employee; reemployment; status; how treated.
- 23-2321. Retirement system; employee; death before retirement; death benefit.
- 23-2322. Retirement system; retirement benefits; exemption from legal process; exception.
- 23-2323.01. Reemployment; military service; contributions; effect.
- 23-2323.02. Direct rollover; terms, defined; distributee; powers; board; duties.
- 23-2323.03. Retirement system; accept payments and rollovers; limitations; board; duties.
- 23-2323.04. Retirement system; accept transfers; limitations; how treated.
- 23-2324. Retirement system; membership status; not lost while employment continues.
- 23-2325. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 23-2326. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 23-2328. Retirement system; elected officials and employees having regular term; when act operative.
- 23-2329. Retirement system; when effective.

- 23-2330. Retirement system; adoption; certification; list of eligible employees to retirement board.
- 23-2330.01. Limitation of actions.
- 23-2330.02. Retirement system contributions, property, and rights; how treated.
- 23-2330.03. Termination of system or contributions; effect.
- 23-2330.04. Municipal county; duties.
- 23-2331. Act, how cited.
- 23-2332. County in excess of 85,000; commissioned law enforcement personnel; supplemental retirement plan.
- 23-2332.01. County of 85,000 or less; commissioned law enforcement personnel; supplemental retirement plan.
- 23-2333. Retirement; prior service annuity; how computed.
- 23-2334. Retirement; prior service retirement benefit; how determined.

ARTICLE 25 -- CIVIL SERVICE SYSTEM

(c) COUNTIES OF 150,000 TO 300,000 INHABITANTS

- 23-2518.02. Transfer of employees; retirement benefits; calculation; funding.

ARTICLE 35 -- MEDICAL AND MULTIUNIT FACILITIES

(a) GENERAL PROVISIONS

- 23-3526. Retirement plan; authorized; reports.
- 23-3527. Retirement system; option to discontinue participation under County Employees Retirement Act; future participation in a retirement system, option.

ARTICLE 11

SALARIES OF COUNTY OFFICERS

23-1118. Employees of certain counties or municipal counties; retirement benefits; establish; approval of voters; contribution rates; funds; investment; employees, defined; reports.

(1)(a) Unless the county has adopted a retirement system pursuant to section 23-2329, the county board of any county having a population of one hundred fifty thousand inhabitants or more may, in its discretion and with the approval of the voters, provide retirement benefits for present and future employees of the county. The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary cost being treated in the county budget in the same way as any other operating expense.

(b) Except as provided in subdivision (c) of this subsection, each employee shall be required to contribute, or have contributed on his or her behalf, an amount at least equal to the county's contribution to the cost of any such retirement program as to service performed after the adoption of such retirement program, but the cost of any benefits based on prior service shall be borne solely by the county.

(c) In a county or municipal county having a population of two hundred thousand or more inhabitants but not more than three hundred thousand inhabitants, the county or municipal county shall establish the employee and employer contribution rates to the retirement program for each year after July 15, 1992. The county or municipal county shall contribute at least an amount equal to each employee's mandatory contribution, if any, to the cost of any such retirement program and by January 1, 1996, shall be contributing one hundred fifty percent of each employee's mandatory contribution. The combined contributions of the county or municipal county and its employees to the cost of any such retirement program shall not exceed thirteen percent of the employees' salaries.

(2) Before the county board or council provides retirement benefits for the employees of the county or municipal county, such question shall be submitted at a regular general or primary election held within the county or municipal county, and in which election all persons eligible to vote for the officials of the county or municipal county shall be entitled to vote on such question, which shall be submitted in the following language: Shall the county board or council provide retirement benefits for present and future employees of the county or municipal county? If a majority of the votes cast upon such question are in favor of such question, then the county board or council shall be empowered to provide retirement benefits for present and future employees as provided in this section. If such retirement benefits for present and future county and municipal county employees are approved by the voters and authorized by the county board or council, then the funds of such retirement system, in excess of the amount required for current operations as determined by the county board or council, may be invested and reinvested in the class of securities and investments described in section 30-3209.

(3) As used in this section, employees shall mean all persons or officers devoting more than twenty hours per week to employment by the county or municipal county, all elected officers of the county or municipal county, and such other persons or officers as are classified from time to time as permanent employees by the county board or council.

(4) The county or municipal county may pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the county or municipal county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The county or municipal county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The county or municipal county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date picked up.

(5)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the county board or council with a retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the county board of a county or council of the municipal county with a retirement plan established pursuant to this section shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1961, c. 97, § 1, p. 327; Laws 1967, c. 257, § 3, p. 680; Laws 1967, c. 129, § 1, p. 412; Laws 1984, LB 216, § 1; Laws 1985, LB 353, § 2; Laws 1992, LB 672, § 30; Laws 1995, LB 369, § 1; Laws 1995, LB 574, § 30; Laws 1998, LB 1191, § 22; Laws 1999, LB 795, § 10; Laws 2001, LB 142, § 31.

ARTICLE 23

COUNTY EMPLOYEES RETIREMENT

ARTICLE 23 – COUNTY EMPLOYEES RETIREMENT

- 23-2301. Terms, defined.
- 23-2302. Retirement System for Nebraska Counties; establish; purpose; acceptance of contributions.
- 23-2305. Public Employees Retirement Board; duties; rules and regulations.
- 23-2305.01. Board; power to adjust contributions and benefits.
- 23-2306. Retirement system; members; employees; elected officials; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 23-2306.02. Retirement system; transferred employee; payment to system.
- 23-2306.03. Retirement system; municipal county employee; participation in another governmental plan; how treated.
- 23-2307. Retirement system; members; contribution; amount; county pay.
- 23-2308. Retirement system; county clerk; payment; fees.
- 23-2308.01. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 23-2309. Defined contribution benefit; employee account, defined; interest credited to account.
- 23-2309.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 23-2310. Defined contribution benefit; employer account, defined; state investment officer; duties.
- 23-2310.03. State Treasurer; duties.
- 23-2310.04. County Employees Retirement System Expense Fund; created; use; investment.
- 23-2310.05. Defined contribution benefit; employer account; investment options; procedures; administration.
- 23-2312. Retirement system; records; contents; employer education program.
- 23-2313. Retirement system; Auditor of Public Accounts; audit; report.
- 23-2314. Retirement system; powers.
- 23-2315. Retirement system; retirement; when; conditions; application for benefits; deferment of payment; board; duties.
- 23-2315.01. Retirement for disability; application; when; medical examination.
- 23-2316. Retirement system; retirement value for employee.
- 23-2317. Retirement system; future service retirement benefit; when payable; how computed; selection of annuity; board; provide tax information.
- 23-2317.01. County Equal Retirement Benefit Fund; created; use.
- 23-2319. Termination of employment; termination benefit; vesting.
- 23-2319.01. Termination of employment; account forfeited; when.
- 23-2319.02. County Employer Retirement Expense Fund; State Employer Retirement Expense Fund; use.
- 23-2320. Employee; reemployment; status; how treated.
- 23-2321. Retirement system; employee; death before retirement; death benefit.
- 23-2322. Retirement system; retirement benefits; exemption from legal process; exception.
- 23-2323.01. Reemployment; military service; contributions; effect.
- 23-2323.02. Direct rollover; terms, defined; distributee; powers; board; duties.
- 23-2323.03. Retirement system; accept payments and rollovers; limitations; board; duties.
- 23-2323.04. Retirement system; accept transfers; limitations; how treated.
- 23-2324. Retirement system; membership status; not lost while employment continues.
- 23-2325. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 23-2326. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 23-2328. Retirement system; elected officials and employees having regular term; when act operative.
- 23-2329. Retirement system; when effective.
- 23-2330. Retirement system; adoption; certification; list of eligible employees to retirement board.
- 23-2330.01. Limitation of actions.
- 23-2330.02. Retirement system contributions, property, and rights; how treated.
- 23-2330.03. Termination of system or contributions; effect.
- 23-2330.04. Municipal county; duties.

- 23-2331. Act, how cited.
- 23-2332. County in excess of 85,000; commissioned law enforcement personnel; supplemental retirement plan.
- 23-2332.01. County of 85,000 or less; commissioned law enforcement personnel; supplemental retirement plan.
- 23-2333. Retirement; prior service annuity; how computed.
- 23-2334. Retirement; prior service retirement benefit; how determined.

23-2301. Terms, defined.

For purposes of the County Employees Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment. The mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(6) Date of adoption of the retirement system by each county means the first day of the month next following the date of approval of the retirement system by the county board or January 1, 1987, whichever is earlier;

(7) Date of disability means the date on which a member is determined by the board to be disabled;

(8) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 23-2309 and, if vested, employer contributions and earnings pursuant to section 23-2310;

(9) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(10) Employee means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by which they are employed, except that employee does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

(11) Employee contribution credit means an amount equal to the member contribution amount required by section 23-2307;

(12) Employer contribution credit means an amount equal to the employer contribution amount required by section 23-2308;

(13) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(14) Five-year break in service means a period of five consecutive one-year breaks in service;

(15) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(16) Future service means service following the date of adoption of the retirement system;

(17) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(18) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(19) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee

cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(20) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317;

(21) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(22) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(23) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(24) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(25) Prior service means service prior to the date of adoption of the retirement system;

(26) Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1985;

(27) Required contribution means the deduction to be made from the compensation of employees as provided in the act;

(28) Retirement means qualifying for and accepting the retirement benefit granted under the act after terminating employment;

(29) Retirement board or board means the Public Employees Retirement Board;

(30) Retirement system means the Retirement System for Nebraska Counties;

(31) Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 23-2315;

(32) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(33) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-

employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(34) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Source: Laws 1965, c. 94, § 1, p. 402; Laws 1969, c. 172, § 1, p. 750; Laws 1973, LB 216, § 1; Laws 1974, LB 905, § 1; Laws 1975, LB 47, § 1; Laws 1975, LB 45, § 1; Laws 1984, LB 216, § 2; Laws 1985, LB 347, § 1; Laws 1985, LB 432, § 1; Laws 1986, LB 311, § 2; Laws 1991, LB 549, § 1; Laws 1993, LB 417, § 1; Laws 1994, LB 833, § 1; Laws 1995, LB 369, § 2; Laws 1996, LB 847, § 2; Laws 1996, LB 1076, § 1; Laws 1996, LB 1273, § 14; Laws 1997, LB 624, § 1; Laws 1998, LB 1191, § 23; Laws 1999, LB 703, § 1; Laws 2000, LB 1192, § 1; Laws 2001, LB 142, § 32; Laws 2002, LB 407, § 1; Laws 2002, LB 687, § 3; Laws 2003, LB 451, § 2; Laws 2004, LB 1097, § 2; Laws 2006, LB 366, § 2; Laws 2006, LB 1019, § 1.

Cross References

Spousal Pension Rights Act, see section 42-1101.

23-2302. Retirement System for Nebraska Counties; establish; purpose; acceptance of contributions.

(1) A county employees retirement system shall be established for the purpose of providing a retirement annuity or other benefits for employees as provided by the County Employees Retirement Act. It shall be known as the Retirement System for Nebraska Counties, and by such name shall transact all business and hold all cash and other property as provided in the County Employees Retirement Act.

(2) The retirement system shall not accept as contributions any money from members or participating counties except the following:

- (a) Mandatory contributions established by sections 23-2307 and 23-2308;
- (b) Payments on behalf of transferred employees made pursuant to section 23-2306.02 or 23-2306.03;
- (c) Money that is a repayment of refunded contributions made pursuant to section 23-2320;
- (d) Contributions for military service credit made pursuant to section 23-2323.01;
- (e) Actuarially required contributions pursuant to subdivision (4)(b) of section 23-2317;
- (f) Trustee-to-trustee transfers pursuant to section 23-2323.04; or
- (g) Corrections ordered by the board pursuant to section 23-2305.01.

Source: Laws 1965, c. 94, § 2, p. 403; Laws 1985, LB 347, § 2; Laws 1985, LB 432, § 2; Laws 2003, LB 451, § 3.

23-2305. Public Employees Retirement Board; duties; rules and regulations.

It shall be the duty of the board to administer the County Employees Retirement Act as provided in section 84-1503. The board shall adopt and promulgate rules and regulations to carry out the act.

Source: Laws 1965, c. 94, § 5, p. 404; Laws 1969, c. 172, § 2, p. 752; Laws 1979, LB 416, § 1; Laws 1985, LB 347, § 3; Laws 1991, LB 549, § 2; Laws 1995, LB 369, § 3; Laws 1996, LB 847, § 3.

23-2305.01. Board; power to adjust contributions and benefits.

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the County Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, credit dividend amounts, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest or interest credits, whichever is appropriate, thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest or interest credits, whichever is appropriate.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 5; Laws 2002, LB 687, § 4; Laws 2006, LB 1019, § 2.

23-2306. Retirement system; members; employees; elected officials; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) The membership of the retirement system shall be composed of all persons who are or were employed by member counties and who maintain an account balance with the retirement system.

(2) The following employees of member counties are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment and full-time elected officials shall begin participation in the retirement system upon taking office, (b) all permanent part-time employees who have attained the age of twenty years may exercise the option to begin participation in the retirement system, and (c) all part-time elected officials may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system shall remain in the system until termination or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee of a member county shall be authorized to participate in the retirement system provided for in the County Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The

board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(5) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified from membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(6) A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

(7) A full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall receive credit for his or her years of employment with the city, village, fire protection district, or township for purposes of the vesting provisions of this section.

(8) Counties shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Source: Laws 1965, c. 94, § 6, p. 405; Laws 1975, LB 32, § 1; Laws 1984, LB 216, § 3; Laws 1985, LB 349, § 1; Laws 1991, LB 549, § 3; Laws 1995, LB 501, § 1; Laws 1996, LB 1076, § 2; Laws 1997, LB 250, § 5; Laws 1997, LB 624, § 2; Laws 1998, LB 1191, § 24; Laws 2000, LB 1192, § 2; Laws 2001, LB 142, § 33; Laws 2002, LB 407, § 2; Laws 2002, LB 687, § 5; Laws 2004, LB 1097, § 3; Laws 2006, LB 366, § 3; Laws 2008, LB1147, § 1; Laws 2009, LB188, § 1; Laws 2010, LB950, § 1.

23-2306.02. Retirement system; transferred employee; payment to system.

Under such rules and regulations as the retirement board adopts and promulgates, a full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services may pay to the retirement system an amount equal to the sum of all deductions which were made from the employee's compensation, plus earnings, during such period of employment with the city, village, or township. Payment shall be made within five years after the merger or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll authorization.

Source: Laws 1997, LB 250, § 6.

23-2306.03. Retirement system; municipal county employee; participation in another governmental plan; how treated.

Under such rules and regulations as the retirement board adopts and promulgates, a full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall transfer all of his or her funds in the retirement system of the city, village, fire protection district, or township by paying to the Retirement System for Nebraska Counties from funds held by the retirement system of the city, village, fire protection district, or township an amount equal to one of the following: (1) If the retirement system of the city, village, fire protection district, or township maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value as provided in section 13-2401, leaving no funds attributable to the transferred employee within the retirement system of the city, village, fire

protection district, or township; or (2) if the retirement system of the city, village, fire protection district, or township maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the city, village, fire protection district, or township. The employee shall receive vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the city, village, fire protection district, or township. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

Source: Laws 2001, LB 142, § 34; Laws 2006, LB 366, § 4.

23-2307. Retirement system; members; contribution; amount; county pay.

Each employee who is a member of the retirement system shall pay to the county or have picked up by the county a sum equal to four and one-half percent of his or her compensation for each pay period. The county shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The county shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The county shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the employee. Employee contributions picked up shall be treated for all purposes of the County Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Source: Laws 1965, c. 94, § 7, p. 405; Laws 1981, LB 459, § 1; Laws 1984, LB 218, § 1; Laws 1985, LB 347, § 4; Laws 1991, LB 549, § 4; Laws 1992, LB 1057, § 1; Laws 1995, LB 574, § 31; Laws 2001, LB 186, § 1; Laws 2001, LB 408, § 1.

23-2308. Retirement system; county clerk; payment; fees.

The county clerk shall pay to the board or an entity designated by the board an amount equal to two hundred fifty percent of the amounts deducted from the compensation of employees in accordance with the provisions of section 23-2307, which two hundred fifty percent equals the employees' contributions plus the county's contributions of one hundred fifty percent of the employees' contributions.

The board may charge the county an administrative processing fee of twenty-five dollars if the reports of necessary information or payments made pursuant to this section are received later than the date on which the board requires that such information or money should be received. In addition, the board may charge the county a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received or in an amount equal to the amount of any costs incurred by the member due to the late receipt of contributions, whichever is greater. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions.

Source: Laws 1965, c. 94, § 8, p. 405; Laws 1981, LB 459, § 2; Laws 1991, LB 549, § 5; Laws 1992, LB 1057, § 2; Laws 1993, LB 417, § 2; Laws 1998, LB 1191, § 25; Laws 2002, LB 407, § 3; Laws 2005, LB 364, § 1.

23-2308.01. Cash balance benefit; election; effect; administrative services agreements; authorized.

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for county employees, a cash balance benefit shall be added to the County Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008. If no election is made prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit on or after November 1, 2007, but before January 1, 2008, shall commence participation in the cash balance benefit on January 1, 2008. Any member who made the election prior to January 1, 2003, does not have to reelect the cash balance benefit on or after November 1, 2007, but before January 1, 2008. A member employed and participating in the retirement system prior to January 1, 2003, who terminates employment on or after January 1, 2003, and returns to employment prior to having a five-year break in service shall participate in the cash balance benefit as set forth in this section.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, elects to convert his or her employee and employer accounts to the cash balance benefit:

- (a) The employee cash balance account shall, at any time, be equal to the following:
 - (i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 23-2309; plus
 - (ii) Employee contribution credits deposited in accordance with section 23-2307; plus
 - (iii) Interest credits credited in accordance with subdivision (19) of section 23-2301; plus
 - (iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317;and

- (b) The employer cash balance account shall, at any time, be equal to the following:
 - (i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 23-2310; plus
 - (ii) Employer contribution credits deposited in accordance with section 23-2308; plus
 - (iii) Interest credits credited in accordance with subdivision (19) of section 23-2301; plus
 - (iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 23-2317.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the counties and their participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

Source: Laws 2002, LB 687, § 6; Laws 2003, LB 451, § 4; Laws 2005, LB 364, § 2; Laws 2006, LB 366, § 5; Laws 2006, LB 1019, § 3; Laws 2007, LB328, § 1; Laws 2009, LB188, § 2; Laws 2010, LB950, § 2.

23-2309. Defined contribution benefit; employee account, defined; interest credited to account.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, a member's share of the fund arising from the compensation deductions made in accordance with section 23-2307 shall be known as his or her employee account. Each year, commencing January 1, 1975, and ending December 31, 1985, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred percent of his or her employee account as of the next preceding January 1, increased by any regular interest earned and any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307.

On and after January 1, 1986, the employee account shall be equal to the sum of the employee's stable return account, equities account, and any assets of additional accounts created pursuant to section 23-2309.01.

Source: Laws 1965, c. 94, § 9, p. 405; Laws 1974, LB 905, § 2; Laws 1983, LB 313, § 1; Laws 1985, LB 347, § 5; Laws 1991, LB 549, § 6; Laws 1994, LB 833, § 2; Laws 2002, LB 687, § 7.

23-2309.01. Defined contribution benefit; employee account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options. The investment options shall include, but not be limited to, the following:

(a) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(b) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(c) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(d) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

(e) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(f) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;

(g) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(h) Beginning July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that

changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (b) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 23-2321 or his or her beneficiary may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Source: Laws 1985, LB 347, § 11; Laws 1991, LB 549, § 7; Laws 1994, LB 833, § 3; Laws 1996, LB 847, § 4; Laws 1999, LB 703, § 2; Laws 2000, LB 1200, § 1; Laws 2001, LB 408, § 2; Laws 2002, LB 407, § 4; Laws 2002, LB 687, § 8; Laws 2005, LB 503, § 1; Laws 2008, LB1147, § 2; Laws 2010, LB950, § 3.

23-2310. Defined contribution benefit; employer account, defined; state investment officer; duties.

(1) For a member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, a member's share of the fund arising from the county contributions shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty percent for the final three months of the year in accordance with section 23-2307. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty percent of the amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 23-2307. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or

other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section 23-2319.01, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with such section. On and after July 1, 1999, the employer account shall be equal to the sum of the assets of the accounts created by the board pursuant to section 23-2310.05.

(2) On and after January 1, 1997, and until July 1, 1999, the state investment officer shall invest the employer account, and, after July 1, 1999, upon maturity, the state investment officer shall invest the employer account funds which have been invested in guaranteed investment contracts prior to January 1, 1997. On and after July 1, 1999, the employer account shall be invested pursuant to section 23-2310.05. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he or she is under a duty to use such skills.

Source: Laws 1965, c. 94, § 10, p. 406; Laws 1981, LB 462, § 1; Laws 1983, LB 313, § 2; Laws 1985, LB 347, § 6; Laws 1986, LB 311, § 3; Laws 1991, LB 549, § 8; Laws 1992, LB 1057, § 3; Laws 1994, LB 833, § 4; Laws 1996, LB 847, § 5; Laws 1997, LB 624, § 3; Laws 1999, LB 687, § 2; Laws 2002, LB 687, § 9.

Annotations

At no time did the Legislature intend that a county make contributions of 250 percent of the amounts deducted from the compensation paid to the members of its retirement system. *Hoiengs v. County of Adams*, 254 Neb. 64, 574 N.W.2d 498 (1998).

23-2310.03. State Treasurer; duties.

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers signed by a person authorized by the retirement board. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the funds in his or her custody belonging to the retirement system.

Source: Laws 1997, LB 623, § 1.

23-2310.04. County Employees Defined Contribution Retirement Expense Fund; County Employees Cash Balance Retirement Expense Fund; created; use; investment.

(1) The County Employees Defined Contribution Retirement Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the County Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 23-2308.01, 23-2309.01, and 23-2310.05. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The County Employees Cash Balance Retirement Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 23-2319.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the County Employees Retirement Act and necessary in connection with the administration and operation

of the retirement system, except as provided in sections 23-2308.01, 23-2309.01, and 23-2310.05. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 623, § 2; Laws 2000, LB 1200, § 2; Laws 2001, LB 408, § 3; Laws 2003, LB 451, § 5; Laws 2005, LB 364, § 3; Laws 2007, LB328, § 2; Laws 2010, LB950, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

23-2310.05. Defined contribution benefit; employer account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 23-2309.01. If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(d) of section 23-2309.01. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 23-2321 or his or her beneficiary may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Source: Laws 1999, LB 687, § 1; Laws 2000, LB 1200, § 3; Laws 2001, LB 408, § 4; Laws 2002, LB 407, § 5; Laws 2002, LB 687, § 10; Laws 2004, LB 1097, § 4; Laws 2005, LB 364, § 4; Laws 2005, LB 503, § 2; Laws 2008, LB1147, § 3; Laws 2010, LB950, § 5.

23-2312. Retirement system; records; contents; employer education program.

(1) The director of the Nebraska Public Employees Retirement Systems shall keep a complete record of all members with respect to names, current addresses, ages, contributions, and any other facts as may be necessary in the administration of the County Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out

testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various counties and state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Source: Laws 1965, c. 94, § 12, p. 406; Laws 1985, LB 347, § 7; Laws 1986, LB 311, § 4; Laws 1991, LB 549, § 9; Laws 1998, LB 1191, § 26; Laws 2000, LB 1192, § 3; Laws 2005, LB 503, § 3.

23-2313. Retirement system; Auditor of Public Accounts; audit; report.

It shall be the duty of the Auditor of Public Accounts to make an annual audit of the retirement system and an annual report to the retirement board and to the Clerk of the Legislature of the condition of the retirement system. Each member of the Legislature shall receive a copy of the report required by this section by making a request for such report to either the Auditor of Public Accounts or the retirement board.

Source: Laws 1965, c. 94, § 13, p. 407; Laws 1973, LB 214, § 2; Laws 1979, LB 322, § 5; Laws 1988, LB 1169, § 1.

23-2314. Retirement system; powers.

The retirement system may sue or be sued in the name of the system, and in all actions brought by or against it, the system shall be represented by the Attorney General.

Source: Laws 1965, c. 94, § 14, p. 407; Laws 1996, LB 847, § 6.

23-2315. Retirement system; retirement; when; conditions; application for benefits; deferment of payment; board; duties.

(1) Upon filing an application for benefits with the board, an employee may elect to retire at any time after attaining the age of fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the County Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system may not be deferred later than April 1 of the year following the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the county, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform

Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the County Employees Retirement Act.

Source: Laws 1965, c. 94, § 15, p. 407; Laws 1975, LB 47, § 2; Laws 1979, LB 391, § 1; Laws 1982, LB 287, § 1; Laws 1986, LB 311, § 5; Laws 1987, LB 296, § 1; Laws 1987, LB 60, § 1; Laws 1994, LB 833, § 7; Laws 1996, LB 1076, § 3; Laws 2003, LB 451, § 6; Laws 2009, LB188, § 3.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

23-2315.01. Retirement for disability; application; when; medical examination.

(1) Any member, disregarding the length of service, may be retired as a result of disability either upon his or her own application or upon the application of his or her employer or any person acting in his or her behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member should be retired because he or she suffers from an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which began while the member was a participant in the plan and which can be expected to result in death or to be of long-continued and indefinite duration. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of fifty-five to undergo a medical examination at the expense of the board once each year. Should any disability beneficiary refuse to undergo such an examination, his or her disability retirement benefit may be discontinued by the board.

Source: Laws 1975, LB 47, § 3; Laws 1997, LB 623, § 5; Laws 2001, LB 408, § 5; Laws 2010, LB950, § 6.

23-2316. Retirement system; retirement value for employee.

The retirement value for any employee who retires under the provisions of section 23-2315 shall be (1) for participants in the defined contribution benefit, the sum of the employee's employee account and employer account as of the date of final account value and (2) for participants in the cash balance benefit, the benefit provided in section 23-2308.01 as of the date of final account value.

Source: Laws 1965, c. 94, § 16, p. 407; Laws 2002, LB 687, § 11; Laws 2003, LB 451, § 7.

23-2317. Retirement system; future service retirement benefit; when payable; how computed; selection of annuity; board; provide tax information.

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 23-2316 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments pursuant to subsection (2) of this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 23-2316 except as provided in this section.

The board shall provide to any county employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) Except as provided in subsection (4) of this section, the monthly income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amount, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the County Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made in total. Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 23-2308.01, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, pursuant to section 23-2308.01, and who, at the time of retirement,

chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefits Guarantee Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the County Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 23-2334 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the county, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

Source: Laws 1965, c. 94, § 17, p. 407; Laws 1979, LB 416, § 2; Laws 1981, LB 462, § 2; Laws 1983, LB 210, § 1; Laws 1985, LB 347, § 8; Laws 1986, LB 311, § 6; Laws 1987, LB 60, § 2; Laws 1992, LB 543, § 1; Laws 1993, LB 417, § 3; Laws 1996, LB 1273, § 15; Laws 2002, LB 687, § 12; Laws 2003, LB 451, § 8; Laws 2006, LB 1019, § 4; Laws 2007, LB328, § 3; Laws 2009, LB188, § 4.

23-2317.01. County Equal Retirement Benefit Fund; created; use.

There is hereby created the County Equal Retirement Benefit Fund to be administered by the board. Each county participating in the retirement system on January 1, 1984, pursuant to the County Employees Retirement Act shall make a contribution at least once a year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the board to provide all similarly situated male and female members of the retirement system with equal benefits pursuant to subsection (2) of section 23-2317 and to provide for direct expenses incurred in administering the fund. The board shall keep a record of the contributions made by each county.

Source: Laws 1983, LB 210, § 4; Laws 1991, LB 549, § 10; Laws 1998, LB 1191, § 27.

23-2319. Termination of employment; termination benefit; vesting.

(1) Except as provided in section 42-1107, upon termination of employment, except for retirement or disability, and after filing an application with the board, a member may receive:

(a) If not vested, a termination benefit equal to the amount of his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009; or

(b) If vested, a termination benefit equal to (i) the amount of his or her member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years or (ii)(A) the amount of his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years. For purposes of subdivision (1)(b) of this section, for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the employer account or member cash balance account or any annuity payment provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the county and no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 23-2306, including vesting credit. If an employee retires pursuant to section 23-2315, such employee shall be fully vested in the retirement system.

Source: Laws 1965, c. 94, § 19, p. 408; Laws 1975, LB 47, § 4; Laws 1975, LB 32, § 3; Laws 1984, LB 216, § 4; Laws 1986, LB 311, § 7; Laws 1987, LB 60, § 3; Laws 1991, LB 549, § 11; Laws 1993, LB 417, § 4; Laws 1994, LB 1306, § 1; Laws 1996, LB 1076, § 4; Laws 1996, LB 1273, § 16; Laws 1997, LB 624, § 4; Laws 1998, LB 1191, § 28; Laws 2002, LB 687, § 13; Laws 2003, LB 451, § 9; Laws 2006, LB 366, § 6; Laws 2009, LB188, § 5.

23-2319.01. Termination of employment; account forfeited; when; County Employer Retirement Expense Fund; created; investment.

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the County Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the County Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the County Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to reduce the county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the County Employees Retirement Act.

(2) If a member ceases to be an employee due to the termination of his or her employment by the county and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account shall be suspended pending the final outcome of the grievance or other appeal.

(3) The County Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall consist of any reduction in a county contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the county employees retirement system. Expenses incurred as a result of a county depositing amounts into the fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with section 23-2319.02. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 624, § 5; Laws 2000, LB 1200, § 4; Laws 2002, LB 687, § 14; Laws 2003, LB 451, § 10; Laws 2005, LB 364, § 5; Laws 2007, LB328, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

23-2319.02. County Employer Retirement Expense Fund; use.

The County Employer Retirement Expense Fund shall be used to meet expenses of the county employees retirement system whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the County Employees Defined Contribution Retirement Expense Fund or County Employees Cash Balance Retirement Expense Fund make such use reasonably necessary.

Source: Laws 2005, LB 364, § 22; Laws 2007, LB328, § 5; Laws 2010, LB950, § 7.

23-2320. Employee; reemployment; status; how treated.

(1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the County Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 23-2315 and again becomes a permanent full-time or permanent part-time county employee prior to having a five-year break in service shall immediately be reenrolled in the retirement system and resume making contributions. For purposes of vesting employer contributions made prior to and after the reentry into the retirement system under subsection (3) of section 23-2319, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 23-2319, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 23-2319.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 23-2319. A reemployed member who elects to repay all or a portion of the value of the termination benefit withdrawn pursuant to section 23-2319 shall repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years of reemployment and shall be completed within five years of reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the benefit that the member has repaid divided by the termination benefit received. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 23-2315 and becomes a permanent full-time employee or permanent part-time employee with a county under the County Employees Retirement Act more than one hundred twenty days after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the county shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Source: Laws 1965, c. 94, § 20, p. 409; Laws 1985, LB 347, § 9; Laws 1991, LB 549, § 12; Laws 1993, LB 417, § 5; Laws 1997, LB 624, § 6; Laws 1999, LB 703, § 3; Laws 2002, LB 407, § 6; Laws 2002, LB 687, § 15; Laws 2003, LB 451, § 11; Laws 2004, LB 1097, § 5; Laws 2007, LB328, § 6; Laws 2008, LB1147, § 4.

23-2321. Retirement system; employee; death before retirement; death benefit.

In the event of the death before his or her retirement date of any employee who is a member of the system, the death benefit shall be equal to (1) for participants in the defined contribution benefit, the total of the employee account and the employer account and (2) for participants in the cash balance benefit, the benefit provided in section 23-2308.01. The death benefit shall be paid to the member's beneficiary, to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107, or to the member's estate if there are no designated beneficiaries. If the beneficiary is not the member's surviving spouse, the death benefit shall be paid as a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death. If the sole primary beneficiary is the member's surviving spouse, the surviving spouse may elect to receive an annuity calculated as if the member retired and selected a one-hundred-percent joint and survivor annuity effective on the annuity purchase date. If the surviving spouse does not elect the annuity option within one hundred eighty days after the death of the member, the surviving spouse shall receive a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death.

Source: Laws 1965, c. 94, § 21, p. 409; Laws 1975, LB 47, § 5; Laws 1985, LB 347, § 10; Laws 1994, LB 1306, § 2; Laws 1996, LB 1273, § 17; Laws 2002, LB 687, § 16; Laws 2003, LB 451, § 12; Laws 2004, LB 1097, § 6; Laws 2009, LB188, § 6.

23-2322. Retirement system; retirement benefits; exemption from legal process; exception.

All annuities or benefits which any person shall be entitled to receive under the County Employees Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1965, c. 94, § 22, p. 409; Laws 1985, LB 347, § 12; Laws 1986, LB 311, § 8; Laws 1989, LB 506, § 1; Laws 1996, LB 1273, § 18.

Cross References

Spousal Pension Rights Act, see section 42-1101.

23-2323.01. Reemployment; military service; contributions; effect.

(1) Any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of section 23-2315, with all the time actually served in the armed forces as if such person had been an

employee throughout such service in the armed forces pursuant to the terms and conditions of subsection (2) of this section.

(2) Under such rules and regulations as the retirement board adopts and promulgates, an employee who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (a) the employee shall be treated as not having incurred a break in service by reason of his or her period of military service, (b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan, and (c) the employer shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of member and employer contributions under this section, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, the average rate the member received during the twelve-month period immediately preceding military service.

(3) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to this section, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under section 23-2307.

Source: Laws 1996, LB 847, § 7; Laws 1998, LB 1191, § 29; Laws 1999, LB 703, § 4.

23-2323.02. Direct rollover; terms, defined; distributee; powers; board; duties.

(1) For purposes of this section and section 23-2323.03:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 8; Laws 2002, LB 407, § 7.

23-2323.03. Retirement system; accept payments and rollovers; limitations; board; duties.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01 if the contributions do not exceed the amount authorized to be paid by the member pursuant to section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01, and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 23-2306.02, 23-2306.03, 23-2320, or 23-2323.01.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 9; Laws 1997, LB 250, § 7; Laws 1997, LB 624, § 7; Laws 2001, LB 142, § 35; Laws 2002, LB 407, § 8.

23-2323.04. Retirement system; accept transfers; limitations; how treated.

The retirement system may accept as payment for withdrawn amounts made pursuant to the County Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 9.

23-2324. Retirement system; membership status; not lost while employment continues.

Persons who have become members of the retirement system shall not thereafter lose their status as members while they remain employees.

Source: Laws 1965, c. 94, § 24, p. 409.

23-2325. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.

Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Source: Laws 1965, c. 94, § 25, p. 410; Laws 1977, LB 40, § 98; Laws 1998, LB 1191, § 32.

23-2326. Retirement benefits; declared additional to benefits under federal Social Security Act.

The retirement allowances and benefits provided for by the County Employees Retirement Act shall be in addition to benefits and allowances payable under the provisions of the federal Social Security Act.

Source: Laws 1965, c. 94, § 26, p. 410; Laws 1985, LB 347, § 13.

23-2328. Retirement system; elected officials and employees having regular term; when act operative.

The provisions of the County Employees Retirement Act pertaining to elected officials or other employees having a regular term of office shall be so interpreted as to effectuate its general purpose and to take effect as soon as the same may become operative under the Constitution of the State of Nebraska.

Source: Laws 1965, c. 94, § 28, p. 410; Laws 1985, LB 347, § 15.

23-2329. Retirement system; when effective.

The County Employees Retirement Act shall become effective for each county upon its adoption by the county board or on January 1, 1987, whichever is earlier.

Source: Laws 1965, c. 94, § 29, p. 410; Laws 1975, LB 45, § 2; Laws 1985, LB 347, § 16; Laws 1985, LB 432, § 3.

Cross References

County with one hundred fifty thousand inhabitants or more, provisions applicable if retirement system not adopted, see section 23-1118.

23-2330. Retirement system; adoption; certification; list of eligible employees to retirement board.

Upon the adoption of the retirement system by the county board, the county clerk shall certify such action to the retirement board. Upon the adoption of the retirement system by the county board or by January 1, 1987, whichever is earlier, the county clerk shall submit to the board a list of all employees then eligible for participation in the plan, which list shall state the name and address of the employee and his or her gross monthly wage.

Source: Laws 1965, c. 94, § 30, p. 410; Laws 1967, c. 133, § 1, p. 418; Laws 1973, LB 216, § 2; Laws 1975, LB 45, § 3; Laws 1985, LB 347, § 17; Laws 1985, LB 432, § 4.

23-2330.01. Limitation of actions.

Every claim and demand under the County Employees Retirement Act and against the retirement system or the retirement board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 6.

23-2330.02. Retirement system contributions, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the County Employees Retirement Act.

Source: Laws 1998, LB 1191, § 30.

23-2330.03. Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to the amounts credited to the members' accounts shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 31.

23-2330.04. Municipal county; duties.

The municipal county shall be responsible for making contributions and performing other duties and shall exercise the powers of a county under the County Employees Retirement Act with respect to the employees of the municipal county.

Source: Laws 2001, LB 142, § 36.

23-2331. Act, how cited.

Sections 23-2301 to 23-2332.01 shall be known and may be cited as the County Employees Retirement Act.

Source: Laws 1965, c. 94, § 31, p. 411; Laws 1985, LB 347, § 18; Laws 1991, LB 549, § 13; Laws 1994, LB 833, § 8; Laws 1995, LB 501, § 3; Laws 1996, LB 847, § 10; Laws 1996, LB 1076, § 7; Laws 1997, LB 250, § 8; Laws 1997, LB 623, § 6; Laws 1997, LB 624, § 8; Laws 1998, LB 1191, § 33; Laws 1999, LB 687, § 3; Laws 2001, LB 142, § 37; Laws 2001, LB 186, § 2; Laws 2002, LB 407, § 10; Laws 2002, LB 687, § 17.

23-2332. County in excess of 85,000; commissioned law enforcement personnel; supplemental retirement plan.

Any county with a population in excess of eighty-five thousand inhabitants which participates in the Retirement System for Nebraska Counties established by the County Employees Retirement Act shall establish and fund a supplemental retirement plan for the benefit of all present and future commissioned law enforcement personnel employed by such county. The auxiliary benefit plan shall be funded by additional contributions to the county employees retirement plan in excess of the amounts established by sections 23-2307 and 23-2308. The additional contributions made by employees shall be credited to the employee account, and contributions paid by the county shall be credited to the employer account, with each amount to be established at a rate of two percent of compensation. All contributions made pursuant to this section shall be invested and administered according to the County Employees Retirement Act.

Source: Laws 1985, LB 432, § 5; Laws 1991, LB 549, § 14.

23-2332.01. County of 85,000 or less; commissioned law enforcement personnel; supplemental retirement plan.

Any county with a population of eighty-five thousand inhabitants or less which participates in the Retirement System for Nebraska Counties established by the County Employees Retirement Act shall establish and fund a supplemental retirement plan for the benefit of all present and future commissioned law enforcement personnel employed by such county who possess a valid law enforcement officer certificate or diploma, as established by the Nebraska Police Standards Advisory Council. The auxiliary benefit plan shall be funded by additional contributions to the county employees retirement plan in excess of the amounts established by sections 23-2307 and 23-2308. The additional contributions made by employees shall be credited to the employee account, and contributions paid by the county shall be credited to the employer account, with each amount to be established at a rate of one percent of compensation. All contributions made pursuant to this section shall be invested and administered according to the County Employees Retirement Act.

Source: Laws 2001, LB 186, § 3.

23-2333. Retirement; prior service annuity; how computed.

For purposes of sections 23-2333 and 23-2334, the definitions found in section 23-2301 shall apply.

As of the date of adoption of the retirement system, a prior service annuity shall be computed for all employees who have been employees continuously for one year prior to the date of the adoption of the retirement system and who are at least twenty-five years of age. Such prior service annuity shall be equal to the number of years of creditable prior service multiplied by the prior service annuity factor.

The number of years of creditable prior service shall be the number of completed years of prior service less all years during which the employee was participating in or for which he or she received a benefit from a public retirement plan, but not more than twenty-five.

The prior service annuity factor shall be the smaller of (1) one dollar or (2) the employee's compensation for the last completed twelve months of prior service divided by two thousand four hundred.

Source: Laws 1965, c. 94, § 11, p. 406; Laws 1969, c. 172, § 3, p. 753; R.S.1943, (1991), § 23-2311; Laws 1994, LB 833, § 9; Laws 1998, LB 1191, § 34.

23-2334. Retirement; prior service retirement benefit; how determined.

The prior service retirement benefit shall be a straight life annuity, payable monthly with the first payment made as of the annuity start date, in an amount determined in accordance with section 23-2333, except that if the monthly payment would be less than ten dollars, payments shall be made annually in advance with each annual payment equal to 11.54 multiplied by the monthly payment that would have been made in the absence of this restriction on small monthly payments, and no prior service retirement benefit shall be paid to any person who terminates his or her employment unless such person has been continuously employed by the county for ten or more years immediately prior to termination. An employee meeting such requirement and who terminates his or her employment shall not receive a prior service benefit determined in accordance with section 23-2333 prior to attaining age sixty-five.

Prior service retirement benefits shall be paid directly by the county to the retired employee.

Source: Laws 1965, c. 94, § 18, p. 408; Laws 1973, LB 352, § 1; Laws 1975, LB 32, § 2; R.S.1943, (1991), § 23-2318; Laws 1994, LB 833, § 10; Laws 2003, LB 451, § 13.

This page left intentionally blank.

ARTICLE 25

CIVIL SERVICE SYSTEM

(b) COUNTIES OF 150,000 TO 300,000 INHABITANTS

23-2518.02. Transfer of employees; retirement benefits; calculation; funding.

(1) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the state or political subdivision maintains a defined benefit plan, an initial benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the state or political subdivision so that the effect on the retirement system of the state or political subdivision will be actuarially neutral; and

(b) If the retirement system of the county maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the employee actually completed at the state or political subdivision prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the county so that the effect on the retirement system of the county will be actuarially neutral.

(2) An employee of the state or a political subdivision who transfers from a position in the state or a political subdivision to a position in the county, and whose customary employment with the state or a political subdivision was for more than twenty hours per week shall receive credit for his or her years of participation in the retirement system of the state or political subdivision for purposes of membership in the retirement system of the county.

(3) An employee referred to in subsection (2) of this section shall have his or her participation in the retirement system of the state or political subdivision transferred to the retirement system of the county through one of the following options:

(a) If the retirement system of the county maintains a defined contribution plan, the employee shall transfer all of his or her funds by paying to the retirement system of the county from funds held by the retirement system of the state or political subdivision an amount equal to one of the following: (i) If the retirement system of the state or political subdivision maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the state or political subdivision; or (ii) if the retirement system of the state or political subdivision maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the state or political subdivision. The employee shall receive vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the state or political subdivision. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(b) If the retirement system of the county maintains a defined benefit plan, the employee shall transfer all of his or her funds out of the retirement system of the state or political subdivision to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the state or political subdivision. After such purchase, the employee shall receive vesting credit in the retirement system of the county for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the state or political subdivision. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the county for allowing such additional service credit to the employee. If any funds remain in the retirement system of the state or political subdivision after the employee has purchased service credits in the retirement system of the county, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the transfer of services, but prior to retirement, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(4) The state or political subdivision, the county, and the employees who are being transferred may by binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the county sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of a direct rollover from the retirement system of the state or political subdivision is not sufficient to provide a final benefit transfer value in the retirement system of the county.

(5) The retirement system of the county may accept cash rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the amount of payment required for the service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection shall be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(6) Cash transferred to the retirement system of the county as a rollover contribution shall be deposited as other contributions.

(7) The retirement system of the county may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(8) The county or its retirement system shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(9) If the county participates in the Retirement System for Nebraska Counties and the transferred employee participates in the State Employees Retirement System, the transferred employee shall immediately begin participation in the Retirement System for Nebraska Counties under the same benefit which had been elected pursuant to subsection (1) of section 84-1309.02.

Source: Laws 2006, LB 808, § 10.

ARTICLE 35

MEDICAL AND MULTIUNIT FACILITIES

(a) GENERAL PROVISIONS

23-3526. Retirement plan; authorized; reports.

(1) The board of trustees of each facility, as provided by section 23-3501, shall, upon approval of the county board, have the power and authority to establish and fund a retirement plan for the benefit of its full-time employees. The plan may be funded by any actuarially recognized method approved by the county board. Employees participating in the plan may be required to contribute toward funding the benefits. The facility shall pay all costs of establishing and maintaining the plan. The plan may be integrated with old age and survivor's insurance.

(2)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the board of trustees of a facility with a retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (i) The number of persons participating in the retirement plan;
- (ii) The contribution rates of participants in the plan;
- (iii) Plan assets and liabilities;
- (iv) The names and positions of persons administering the plan;
- (v) The names and positions of persons investing plan assets;
- (vi) The form and nature of investments;
- (vii) For each defined contribution plan which is not administered by a retirement system under the County Employees Retirement Act, a full description of investment policies and options available to plan participants; and
- (viii) For each defined benefit plan which is not administered by a retirement system under the County Employees Retirement Act, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan which is not administered by a retirement system under the County Employees Retirement Act contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the board of trustees shall cause to be prepared a quadrennial report for each retirement plan which is not administered by a retirement system under the County Employees Retirement Act, and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section which is not administered by a retirement system under the County Employees Retirement Act. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization

offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1977, LB 346, § 1; R.S.1943, (1987), § 23-343.121; Laws 1998, LB 1191, § 35; Laws 1999, LB 795, § 11.

Cross References

County Employees Retirement Act, see section 23-2331.

23-3527. Retirement system; option to discontinue participation under County Employees Retirement Act; future participation in a retirement system, option.

(1) A facility established under the provisions of section 23-3501, in a county which is presently participating in a retirement system under the County Employees Retirement Act pursuant to Chapter 23, article 23, shall be given the option to continue participation under such act or to discontinue such participation.

(2) A facility established under the provisions of section 23-3501, in a county which in the future shall elect to participate in a retirement system under the County Employees Retirement Act shall be given the option to participate in a retirement system pursuant to such act or to decline such participation.

Source: Laws 1977, LB 346, § 2; R.S.1943, (1987), § 23-343.122.

Cross References

County Employees Retirement Act, see section 23-2331.

CHAPTER 24 – COURTS

CHAPTER 24 – COURTS

ARTICLE 7 – JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

- 24-701. Terms, defined.
- 24-701.01. Act, how cited.
- 24-701.02. Changes to act; operative; when.
- 24-702. Nebraska Retirement Fund for Judges; Nebraska Judges Retirement Act Expense Fund; created; use.
- 24-703. Judges; contributions; payment; funding of system.
- 24-703.01. Participation in retirement system; requirements.
- 24-703.03. Elections authorized.
- 24-704. Administration of system; Public Employees Retirement Board, Auditor of Public Accounts, and Nebraska Investment Council; duties; employer education program.
- 24-704.01. Board; power to adjust contributions and benefits.
- 24-705. Technical and administrative employees; actuary; report; expenses.
- 24-706. Termination of employment; return of contributions, when; rejoining system.
- 24-706.01. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 24-707. Death of judge; benefits spouse entitled to receive; contributions paid to beneficiary; when.
- 24-707.01. Surviving spouse; benefits; applicable, when.
- 24-708. Retirement of judge; when; deferment of payment; board; duties.
- 24-708.01. Retired member; reemployment; how treated.
- 24-709. Judge; physically or mentally disabled; retirement; Commission on Judicial Qualifications; application; examination; benefits.
- 24-709.01. Judicial retirement proceedings before Commission on Judicial Qualifications; confidential.
- 24-709.02. Certain clerk magistrates; disabled; retirement; Public Employees Retirement Board; application; examination; benefits.
- 24-710. Judges; retirement annuity; amount; how computed; cost-of-living adjustment.
- 24-710.01. Judges; alternative contribution rate and retirement benefit; election; notice.
- 24-710.02. Retirement benefits; exemption from legal process; exception.
- 24-710.03. Judges; purchase of service credit; application of section.
- 24-710.04. Reemployment; military service; credit; effect.
- 24-710.05. Direct rollover; terms, defined; distributee; powers; board; duties.
- 24-710.06. Retirement system; accept payments and rollovers; limitations; board; duties.
- 24-710.07. Benefits; adjustment.
- 24-710.09. Annual benefit adjustment; terms, defined.
- 24-710.10. Annual benefit adjustment; minimum accrual rate.
- 24-710.11. Annual benefit adjustment; calculations.
- 24-710.12. Retirement system; accept transfers; limitations; how treated.
- 24-711. Retired judge; statement of facts; contents; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 24-712. Annuity payments; continuation; physical examinations, when; cost.
- 24-713. State Treasurer; duties; warrants.
- 24-713.01. Limitation of actions.
- 24-713.02. Retirement system contributions, property, and rights; how treated.
- 24-713.03. Termination of system or contributions; effect.
- 24-714. Retirement of judge; effect; filling of vacancy.

(b) JUDICIAL DISCIPLINE

- 24-721. Commission; complaint or request filed by citizen; investigation; proceedings; rights of judge or justice; special master; commission; recommendations; rules.
- 24-723. Supreme Court; record of proceedings; review; order; retirement, removal, or suspension; effect.
- 24-723.01. Justice or judge; disqualification without loss of salary; Supreme Court order; when.

24-728. Judge or justice; own discipline, removal, or retirement; participation prohibited.

(c) RETIRED JUDGES

24-729. Judges; retired; assignment; when; retired judge, defined.

24-730. Retired judge; temporary duty; compensation.

24-732. Retired judge; temporary duty; not contribute to retirement fund; retirement benefits not affected.

24-733. Retired judge; temporary duty; request for compensation and expenses.

ARTICLE 7

JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

ARTICLE 7 – JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

- 24-701. Terms, defined.
- 24-701.01. Act, how cited.
- 24-701.02. Changes to act; operative; when.
- 24-702. Nebraska Retirement Fund for Judges; Nebraska Judges Retirement Act Expense Fund; created; use.
- 24-703. Judges; contributions; payment; funding of system.
- 24-703.01. Participation in retirement system; requirements.
- 24-703.03. Elections authorized.
- 24-704. Administration of system; Public Employees Retirement Board, Auditor of Public Accounts, and Nebraska Investment Council; duties; employer education program.
- 24-704.01. Board; power to adjust contributions and benefits.
- 24-705. Technical and administrative employees; actuary; report; expenses.
- 24-706. Termination of employment; return of contributions, when; rejoining system.
- 24-706.01. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 24-707. Death of judge; benefits spouse entitled to receive; contributions paid to beneficiary; when.
- 24-707.01. Surviving spouse; benefits; applicable, when.
- 24-708. Retirement of judge; when; deferment of payment; board; duties.
- 24-708.01. Retired member; reemployment; how treated.
- 24-709. Judge; physically or mentally disabled; retirement; Commission on Judicial Qualifications; application; examination; benefits.
- 24-709.01. Judicial retirement proceedings before Commission on Judicial Qualifications; confidential.
- 24-709.02. Certain clerk magistrates; disabled; retirement; Public Employees Retirement Board; application; examination; benefits.
- 24-710. Judges; retirement annuity; amount; how computed; cost-of-living adjustment.
- 24-710.01. Judges; alternative contribution rate and retirement benefit; election; notice.
- 24-710.02. Retirement benefits; exemption from legal process; exception.
- 24-710.03. Judges; purchase of service credit; application of section.
- 24-710.04. Reemployment; military service; credit; effect.
- 24-710.05. Direct rollover; terms, defined; distributee; powers; board; duties.
- 24-710.06. Retirement system; accept payments and rollovers; limitations; board; duties.
- 24-710.07. Benefits; adjustment.
- 24-710.09. Annual benefit adjustment; terms, defined.
- 24-710.10. Annual benefit adjustment; minimum accrual rate.
- 24-710.11. Annual benefit adjustment; calculations.
- 24-710.12. Retirement system; accept transfers; limitations; how treated.
- 24-711. Retired judge; statement of facts; contents; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 24-712. Annuity payments; continuation; physical examinations, when; cost.
- 24-713. State Treasurer; duties; warrants.
- 24-713.01. Limitation of actions.
- 24-713.02. Retirement system contributions, property, and rights; how treated.
- 24-713.03. Termination of system or contributions; effect.
- 24-714. Retirement of judge; effect; filling of vacancy.

24-701. Terms, defined.

For purposes of the Judges Retirement Act, unless the context otherwise requires:

(1) Fund means the Nebraska Retirement Fund for Judges;

(2) Judge means and includes (a) all duly elected or appointed Chief Justices or judges of the Supreme Court and judges of the district courts of Nebraska who serve in such capacity on and after January 3, 1957, (b)(i) all duly appointed judges of the Nebraska Workmen's Compensation Court who served in such capacity on and after September 20, 1957, and prior to July 17, 1986, and (ii) judges of the Nebraska Workers' Compensation Court who serve in such capacity on and after July 17, 1986, (c) judges of separate juvenile courts, (d) judges of the county courts of the respective counties who serve in such capacity on and after January 5, 1961, except acting judges of the county court appointed pursuant to section 24-507, (e) judges of the county court and clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates, (f) judges of municipal courts established by Chapter 26, article 1, who served in such capacity on and after October 23, 1967, and prior to July 1, 1985, and (g) judges of the Court of Appeals;

(3) Prior service means all the periods of time any person has served as a (a) judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(4)(a) Current service means the period of service (i) any judge of the Supreme Court or judge of the district court serves in such capacity from and after January 3, 1957, (ii)(A) any judge of the Nebraska Workmen's Compensation Court served in such capacity from and after September 20, 1957, and prior to July 17, 1986, and (B) any judge of the Nebraska Workers' Compensation Court serves in such capacity on and after July 17, 1986, (iii) any county judge serves in such capacity from and after January 5, 1961, (iv) any judge of a separate juvenile court serves in such capacity, (v) any judge of the municipal court served in such capacity subsequent to October 23, 1967, and prior to July 1, 1985, (vi) any judge of the county court or associate county judge serves in such capacity subsequent to January 4, 1973, (vii) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, serves in such capacity from and after July 1, 1986, and (viii) any judge of the Court of Appeals serves in such capacity on or after September 6, 1991.

(b) Current service shall not be deemed to be interrupted by (i) temporary or seasonal suspension of service that does not terminate the employee's employment, (ii) leave of absence authorized by the employer for a period not exceeding twelve months, (iii) leave of absence because of disability, or (iv) military service, when properly authorized by the board. Current service does not include any period of disability for which disability retirement benefits are received under section 24-709;

(5) Military service means active service of (a) any judge of the Supreme Court or judge of the district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, if such service commenced while such judge was holding the office of judge, (b) any judge of the Nebraska Workmen's Compensation Court or the Nebraska Workers' Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, if such service commenced while such judge was holding the office of judge, (c) any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, and prior to July 1, 1985, if such service commenced while such judge was holding the office of judge, (d) any judge of the county court

or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge, (e) any clerk magistrate, who was an associate county judge and a member of the fund at the time of appointment as a clerk magistrate, in any of the armed forces of the United States during a war or national emergency on or after July 1, 1986, if such service commenced while such clerk magistrate was holding the office of clerk magistrate, and (f) any judge of the Court of Appeals in any of the armed forces of the United States during a war or national emergency on or after September 6, 1991, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Creditable service means the total number of years served as a judge, including prior service, military service, and current service, computed to the nearest one-twelfth year. For current service prior to the time that the member has contributed the required percentage of salary until the maximum benefit as limited by section 24-710 has been earned, creditable service does not include current service for which member contributions are not made or are withdrawn and not repaid;

(7)(a) Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(8) Beneficiary means a person so designated by a judge in the last designation of beneficiary on file with the board or, if no designated person survives or if no designation is on file, the estate of such judge;

(9) Normal form annuity means a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge as provided in sections 24-707 and 24-710, except as provided in section 42-1107. The first payment shall include all amounts accrued since the effective date of the award of the annuity. The last payment shall be at the end of the calendar month in which such judge dies. If at the time of death the amount of annuity payments such judge has received is less than contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate;

(10) Board means the Public Employees Retirement Board;

(11) Member means a judge eligible to participate in the retirement system established under the Judges Retirement Act;

(12) Original member means a judge who first served as a judge prior to December 25, 1969, who does not elect to become a future member pursuant to subsection (8) of section 24-703 or section 24-710.01, and who was retired on or before December 31, 1992;

(13) Future member means a judge who first served as a judge on or after December 25, 1969, or means a judge who first served as a judge prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) of section 24-703 or section 24-710.01;

(14) Final average compensation means the average monthly compensation for the three twelve-month periods of service as a judge in which compensation was the greatest or, in the event of a judge serving less than three twelve-month periods, the average monthly compensation for such judge's period of service;

(15) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(16) Normal retirement date means the first day of the month following attainment of age sixty-five;

(17) Actuarial equivalence means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations are to be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations;

(18) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 24-710.08 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the Judges Retirement Act;

(19) Initial benefit means the retirement benefit calculated at the time of retirement;

(20) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(21) Retirement system or system means the Nebraska Judges Retirement System as provided in the Judges Retirement Act;

(22) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under the qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(23) Termination of employment occurs on the date on which the State Court Administrator's office determines that the judge's employer-employee relationship with the State of Nebraska is dissolved. The State Court Administrator's office shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment as a judge if the judge returns to regular employment as a judge or is employed on a regular basis by another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the judge's employer-employee relationship ceased and the date when the employer-employee relationship recommences.

Source: Laws 1955, c. 83, § 1, p. 244; Laws 1957, c. 77, § 1, p. 315; Laws 1957, c. 79, § 1, p. 318; Laws 1959, c. 95, § 1, p. 409; Laws 1959, c. 189, § 13, p. 687; Laws 1965, c. 115, § 1, p. 440; Laws 1969, c. 178, § 1, p. 759; Laws 1971, LB 987, § 4; Laws 1972, LB 1032, § 120; Laws 1973, LB 226, § 10; Laws 1974, LB 905, § 3; Laws 1983, LB 223, § 1; Laws 1984, LB 13, § 32; Laws 1984, LB 750, § 1; Laws 1986, LB 92, § 1; Laws 1986,

LB 311, § 9; Laws 1986, LB 351, § 1; Laws 1986, LB 529, § 17; Laws 1986, LB 811, § 12; Laws 1989, LB 506, § 2; Laws 1991, LB 549, § 15; Laws 1991, LB 732, § 36; Laws 1992, LB 682, § 1; Laws 1994, LB 833, § 12; Laws 1996, LB 700, § 1; Laws 1996, LB 847, § 11; Laws 1996, LB 1076, § 8; Laws 1996, LB 1273, § 19; Laws 1997, LB 624, § 9; Laws 1999, LB 674, § 1; Laws 2000, LB 1192, § 4; Laws 2001, LB 408, § 6; Laws 2003, LB 451, § 14.

Cross References

Spousal Pension Rights Act, see section 42-1101.

Annotations

Judges Retirement Act did not become operative until after terms of all incumbent judges had expired. *Wilson v. Marsh*, 162 Neb. 237, 75 N.W.2d 723 (1956).

24-701.01. Act, how cited.

Sections 24-701 to 24-714 shall be known and may be cited as the Judges Retirement Act.

Source: Laws 1996, LB 847, § 12; Laws 1997, LB 624, § 10; Laws 1998, LB 532, § 1; Laws 1998, LB 1191, § 36; Laws 2001, LB 408, § 7; Laws 2002, LB 407, § 11; Laws 2004, LB 1097, § 10; Laws 2010, LB950, § 8.

24-701.02. Changes to act; operative; when.

Any changes made to the Judges Retirement Act affecting retirement benefits shall be so interpreted as to effectuate their general purpose to provide, in the public interest, adequate retirement benefits for judges and to permit a change in such retirement benefits as soon as the same may become operative under the Constitution of Nebraska.

Source: Laws 2004, LB 1097, § 9.

24-702. Nebraska Retirement Fund for Judges; Nebraska Judges Retirement Act Expense Fund; created; use.

(1) There is hereby created in the state treasury a fund to be known as the Nebraska Retirement Fund for Judges which shall be administered by the board and to which shall be credited all money appropriated or transferred by law thereto. The fund is hereby appropriated and made available to the board for the uses and purposes prescribed by the provisions of the Judges Retirement Act.

(2) The employer contribution to the fund shall consist of the amounts remitted pursuant to subsection (3) of section 24-703.

(3) The Nebraska Judges Retirement Act Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the Judges Retirement Act and necessary in connection with the administration and operation of the retirement system.

Source: Laws 1955, c. 83, § 2, p. 245; Laws 1994, LB 833, § 13; Laws 2001, LB 408, § 8; Laws 2002, LB 407, § 12; Laws 2005, LB 364, § 6.

24-703. Judges; contributions; payment; funding of system; late fees.

(1) Each original member shall contribute monthly four percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. It shall be the duty of the Director of Administrative Services in accordance with subsection (10) of this section to make a deduction of four percent on the monthly payroll of each original member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the

county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. The Director of Administrative Services and the State Treasurer shall credit the four percent as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2)(a) In addition to the contribution required under subdivision (c) of this subsection, beginning on July 1, 2004, each future member who has not elected to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. After the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such future member shall make no further contributions to the fund, except that (i) any time the maximum benefit is changed, a future member who has previously earned the maximum benefit as it existed prior to the change shall contribute monthly six percent of his or her monthly compensation to the fund until the maximum benefit as changed and as limited in subsection (2) of section 24-710 has been earned and (ii) such future member shall continue to make the contribution required under subdivision (c) of this subsection.

(b) In addition to the contribution required under subdivision (c) of this subsection, beginning on July 1, 2004, a judge who first serves as a judge on or after such date or a future member who elects to make contributions and receive benefits as provided in section 24-703.03 shall contribute monthly eight percent of his or her monthly compensation to the fund until the maximum benefit as limited by subsection (2) of section 24-710 has been earned. In addition to the contribution required under subdivision (c) of this subsection, after the maximum benefit as limited in subsection (2) of section 24-710 has been earned, such judge or future member shall contribute monthly four percent of his or her monthly compensation to the fund for the remainder of his or her active service.

(c) Beginning on July 1, 2009, and until July 1, 2014, a member or judge described in subdivisions (a) and (b) of this subsection shall contribute monthly an additional one percent of his or her monthly compensation to the fund.

(d) It shall be the duty of the Director of Administrative Services to make a deduction on the monthly payroll of each such future member who is a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, a judge of a separate juvenile court, a judge of the county court, a clerk magistrate of the county court who was an associate county judge and a member of the fund at the time of his or her appointment as a clerk magistrate, or a judge of the Nebraska Workers' Compensation Court showing the amount to be deducted and its credit to the fund. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the amount as shown on the payroll and the amounts received from the various counties to the fund and remit the same to the director in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) Except as otherwise provided in this subsection, a Nebraska Retirement Fund for Judges fee of five dollars shall be taxed as costs in each (a) civil cause of action, criminal cause of action, traffic misdemeanor or infraction, and city or village ordinance violation filed in the district courts, the county courts, and the separate juvenile courts, (b) filing in the district court of an order, award, or judgment of the Nebraska Workers' Compensation Court or any judge thereof pursuant to section 48-188, (c) appeal or other proceeding filed in the Court of Appeals, and (d) original action, appeal, or other proceeding filed in the Supreme Court. Beginning on

July 1, 2009, and until July 1, 2014, such fee shall be six dollars. In county courts a sum shall be charged which is equal to ten percent of each fee provided by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to the nearest even dollar. No judges retirement fee shall be charged for filing a report pursuant to sections 33-126.02 and 33-126.06. When collected by the clerk of the district or county court, such fees shall be paid and information submitted to the director in charge of the judges retirement system on forms prescribed by the board by the clerk within ten days after the close of each calendar quarter. The board may charge a late administrative processing fee not to exceed twenty-five dollars if the information is not timely received or the money is delinquent. In addition, the board may charge a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. Such director shall promptly thereafter remit the same to the State Treasurer for credit to the fund. No Nebraska Retirement Fund for Judges fee which is uncollectible for any reason shall be waived by a county judge as provided in section 29-2709.

(4) All expenditures from the fund shall be authorized by voucher in the manner prescribed in section 24-713. The fund shall be used for the payment of all annuities and other benefits and for the expenses of administration.

(5) The fund shall consist of the total fund as of December 25, 1969, the contributions of members as provided in this section, all supplementary court fees as provided in subsection (3) of this section, and any required contributions of the state.

(6) Not later than January 1 of each year, the State Treasurer shall transfer to the fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30 in excess of member contributions for that fiscal year and court fees as provided in subsection (3) of this section and fees pursuant to sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123, 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be remitted to the fund, if any, for that fiscal year plus any required contributions of the state as provided in subsection (9) of this section.

(7) Benefits under the retirement system to members or to their beneficiaries shall be paid from the fund.

(8) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board.

(9) Not later than January 1 of each year, the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the retirement system as of June 30, 1988, by level payments up to January 1, 2000. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. For the fiscal year beginning July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. Prior to July 1, 2006, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. Beginning July 1, 2006, any existing

unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Judges Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Judges Retirement Act.

(10) The state or county shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state or county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state or county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or county shall pick up these contributions by a compensation deduction through a reduction in the compensation of the member. Member contributions picked up shall be treated for all purposes of the Judges Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Source: Laws 1955, c. 83, § 3, p. 246;Laws 1957, c. 79, § 2, p. 321;Laws 1959, c. 95, § 2, p. 411;Laws 1959, c. 189, § 14, p. 689;Laws 1963, c. 137, § 1, p. 513;Laws 1965, c. 115, § 2, p. 442;Laws 1965, c. 116, § 2, p. 446;Laws 1967, c. 140, § 1, p. 428;Laws 1969, c. 178, § 2, p. 957;Laws 1971, LB 987, § 5;Laws 1972, LB 1032, § 121;Laws 1972, LB 1471, § 1;Laws 1973, LB 226, § 11;Laws 1974, LB 228, § 1;Laws 1977, LB 344, § 2;Laws 1977, LB 467, § 1;Laws 1981, LB 459, § 3;Laws 1984, LB 13, § 33;Laws 1984, LB 218, § 2;Laws 1986, LB 92, § 2;Laws 1986, LB 529, § 18;Laws 1989, LB 233, § 1;Laws 1989, LB 506, § 3;Laws 1991, LB 549, § 16;Laws 1991, LB 732, § 37;Laws 1992, LB 682, § 2;Laws 1992, LB 672, § 31;Laws 1994, LB 833, § 14;Laws 1995, LB 574, § 34;Laws 2001, LB 408, § 9;Laws 2002, LB 407, § 13;Laws 2003, LB 320, § 1;Laws 2003, LB 760, § 4;Laws 2004, LB 1097, § 11;Laws 2005, LB 348, § 2;Laws 2005, LB 364, § 7;Laws 2006, LB 1019, § 5; Laws 2009, LB414, § 2.

Annotations

Statutory provisions requiring counties to pay cost of maintaining a county court, prosecuting criminal law violations, and conducting state and national elections do not contravene the constitutional provision which prohibits property tax by state. State ex rel. Meyer v. County of Banner, 196 Neb. 565, 244 N.W.2d 179 (1976).

The independent act considered herein is not unconstitutional for failure to mention in the incidental provision for payment or exemption from payment of costs, nor for failure to refer to and repeal certain other statutes. State ex rel. Douglas v. Gradwohl, 194 Neb. 745, 235 N.W.2d 854 (1975).

24-703.01. Participation in retirement system; requirements.

On and after July 1, 2010, no judge shall be authorized to participate in the retirement system provided for in the Judges Retirement Act unless the judge (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

Source: Laws 2010, LB950, § 9.

24-703.03. Elections authorized.

Any future member who has not previously retired prior to July 1, 2004, may elect to make contributions as provided in subdivision (2)(b) of section 24-703 and receive benefits as described in sections 24-707.01 and 24-708. Such election shall be made by written notice delivered to the board not later than ninety days after July 1, 2004.

Source: Laws 2004, LB 1097, § 8.

24-704. Administration of system; Public Employees Retirement Board, Auditor of Public Accounts, and Nebraska Investment Council; duties; employer education program.

(1) The general administration of the retirement system for judges provided for in the Judges Retirement Act, except the investment of funds, is hereby vested in the board. The Auditor of Public Accounts shall make an annual audit of the retirement system and file an annual report of its condition with the Clerk of the Legislature. Each member of the Legislature shall receive a copy of the annual report by making a request for such report to the Auditor of Public Accounts. The board shall adopt and promulgate rules and regulations as may be necessary to carry out the Judges Retirement Act.

(2)(a) The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act. The director shall keep a record of all acts and proceedings taken by the board.

(b) The director shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the act. The information in the records shall be provided by the State Court Administrator in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(c) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

(3) Information necessary to determine membership in the retirement system shall be provided by the State Court Administrator.

(4) Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the board, and the Nebraska Retirement Systems Committee. The state investment officer shall sell any such securities upon request from the director so as to provide money for the payment of benefits or annuities.

Source: Laws 1955, c. 83, § 4, p. 246; Laws 1971, LB 987, § 6; Laws 1979, LB 322, § 6; Laws 1986, LB 311, § 10; Laws 1991, LB 549, § 17; Laws 1994, LB 833, § 15; Laws 1994, LB 1066, § 18; Laws 1995, LB 369, § 4; Laws 1996, LB 847, § 13; Laws 2000, LB 1192, § 5; Laws 2005, LB 503, § 4.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

24-704.01. Board; power to adjust contributions and benefits.

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the Judges Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 10; Laws 2004, LB 1097, § 12.

24-705. Technical and administrative employees; actuary; report; expenses.

The board shall have the power to secure and employ the services of such technical and administrative employees as are necessary to carry out the provisions of the Judges Retirement Act. Pursuant to subdivision (2)(e) of section 84-1503, the board shall have an annual report prepared by a member of the American Academy of Actuaries showing a complete valuation of the present and prospective assets and liabilities of the fund created by the act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board. The report shall further include a prospectus of the amount of the appropriation that will be required from the Legislature for the succeeding year. This report shall be furnished to the Clerk of the Legislature at each regular session. Each member of the Legislature shall receive a copy of such report by making a request for it to the director. The employees of the board shall be paid at such rates as the board shall approve. All administrative expenses shall be paid from the retirement fund.

Source: Laws 1955, c. 83, § 5, p. 247; Laws 1971, LB 987, § 7; Laws 1979, LB 322, § 7; Laws 1981, LB 462, § 3; Laws 1994, LB 833, § 18; Laws 1995, LB 502, § 1; Laws 1998, LB 1191, § 37.

24-706. Termination of employment; return of contributions, when; rejoining system.

(1) Upon termination of employment, any member whose service is terminated prior to age sixty-five for any cause other than death or disability may, upon request to the board:

(a) Have returned to him or her the total amount of contributions which he or she has made to the fund, plus regular interest, and the return of such contributions to such judge shall

preclude such judge from any benefits under the Judges Retirement Act unless and until such judge again serves in such capacity and repays his or her withdrawals pursuant to section 24-706.01. If the member chooses not to repay such withdrawals with interest, the member shall enter the retirement system as a new member with no prior rights; or

(b) Leave his or her contributions in the fund and receive a retirement annuity as provided in sections 24-708 and 24-710.

(2) Any member whose service is terminated at or subsequent to age sixty-five shall be considered as beginning normal retirement and annuity payments shall begin as provided in section 24-710.

Source: Laws 1955, c. 83, § 6, p. 247; Laws 1959, c. 95, § 3, p. 412; Laws 1969, c. 178, § 3, p. 765; Laws 1974, LB 905, § 4; Laws 1975, LB 42, § 1; Laws 1986, LB 92, § 3; Laws 1989, LB 506, § 4; Laws 1994, LB 833, § 19; Laws 1996, LB 1076, § 9; Laws 1997, LB 624, § 11; Laws 1999, LB 703, § 5; Laws 2000, LB 1192, § 6; Laws 2001, LB 408, § 10.

24-706.01. Termination of employment prior to eligibility to retire; rejoining system; effect.

A member who terminates employment prior to becoming eligible to retire and again serves as a judge may elect to repay part or all of the amount he or she had withdrawn as a refund pursuant to section 24-706 plus the interest that would have accrued on such amount. Payment shall commence prior to termination of employment, shall not be extended more than five years after the date the member elects to repay his or her refund, and shall be completed prior to termination of employment. Prior service and rights shall be restored in proportion to the amounts repaid, and the prior service and rights of the member shall be fully restored only if he or she repays all accumulated withdrawals plus interest which would have accrued on that amount.

Source: Laws 2001, LB 408, § 11.

24-707. Death of judge; benefits spouse entitled to receive; contributions paid to beneficiary; when.

(1) In the event of the death of a judge prior to retirement, if such judge shall have had five or more years of creditable service, the surviving spouse of such judge shall at his or her option, exercised within twelve months after the date of death, be immediately entitled to receive an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (a) on the date of death if his or her age at death is sixty-five years or more or (b) at age sixty-five years if his or her age at death is less than sixty-five years. If such option is not exercised by such surviving spouse within twelve months after the judge's death, if there is no surviving spouse, or if the judge has not served for five years, then the beneficiary, or the estate if the judge has not filed a statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such judge plus regular interest.

(2) In the event of the death of a judge subsequent to retirement, if such judge has not filed a statement of intent with the board to elect to receive any other form of annuity which may be provided for by section 24-710 or elected to make contributions and receive benefits as provided in section 24-703.03, the amount of annuities such judge has received under the provisions of the Judges Retirement Act shall be computed and, if such amount shall be less

than the contributions to the fund made by such judge, plus regular interest, the difference shall be paid to the beneficiary or estate.

(3) Benefits to which the surviving spouse, beneficiary, or estate of a judge shall be entitled shall commence immediately upon the death of such judge.

Source: Laws 1955, c. 83, § 7, p. 248; Laws 1973, LB 478, § 1; Laws 1974, LB 905, § 5; Laws 1975, LB 298, § 1; Laws 1977, LB 344, § 4; Laws 1983, LB 223, § 2; Laws 1986, LB 92, 4; Laws 1989, LB 506, § 5; Laws 1994, LB 833, § 20; Laws 1996, LB 1273, § 20; Laws 1997, LB 624, § 12; Laws 2000, LB 1192, § 7; Laws 2003, LB 451, § 15; Laws 2004, LB 1097, § 13; Laws 2007, LB508, § 1.

24-707.01. Surviving spouse; benefits; applicable, when.

(1) This section only applies to a judge who first served as a judge on or after July 1, 2004, and to a future member who elects to make contributions and receive benefits as provided in section 24-703.03.

(2) In the event of the death of a judge subsequent to retirement, his or her surviving spouse, if any, shall be entitled to receive, if the surviving spouse was born not more than five years subsequent to the birth of the deceased judge, a monthly benefit payable for life equal to fifty percent of the monthly benefit the retired judge was entitled to receive under the normal form of payment. Such benefit to the surviving spouse shall be provided without actuarial reduction or other assessment to the retired judge in determining his or her benefits. The entire cost of such a benefit shall be assumed by the fund. This benefit value may be applied on an actuarially equivalent basis to any joint and survivor benefit elected by a retiring judge with the surviving spouse as named beneficiary.

(3) In the event that the spouse of a retiring judge was born more than five years subsequent to the birth of the judge, such benefit to the judge described under subsection (2) of this section shall be reduced by the actuarial cost of providing a benefit to the surviving spouse equal to fifty percent of the benefit the retired judge was entitled to receive. The reduction to the retired judge's benefit shall be limited to that portion of the actuarial cost that exceeds the actuarial cost if the spouse was born five years subsequent to the judge. In the event of the death of a retired judge as described by this subsection, his or her surviving spouse shall receive a monthly benefit payable for life equal to fifty percent of the monthly benefit received by the deceased judge.

(4) This section shall not prevent a retiring judge from contracting to provide a larger percentage of benefit for a surviving spouse under other applicable statutes.

Source: Laws 2004, LB 1097, § 7.

24-708. Retirement of judge; when; deferment of payment; board; duties.

(1) Except as provided in section 24-721, a judge may retire upon reaching the age of sixty-five years and upon making application to the board. Upon retiring each such judge shall receive retirement annuities as provided in section 24-710.

(2) Except as provided in section 24-721, a judge may retire upon reaching the age of fifty-five years and elect to receive a reduced monthly retirement income in lieu of a deferred vested annuity. The judge may request that the reduced monthly retirement income commence at any date, beginning on the first day of the month following the actual retirement date and ending on the normal retirement date. The amount of the reduced monthly retirement income shall be calculated based on the length of creditable service and average compensation at the actual retirement date. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-four years, the monthly payments shall be reduced by three

percent. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-three years, the monthly payments shall be reduced by six percent. When a judge has elected to receive a reduced monthly retirement income to commence at the age of sixty-two years, the monthly payments shall be reduced by nine percent. When a judge has elected to receive a reduced monthly retirement income to commence prior to the age of sixty-two years, the monthly payments shall be further reduced to an amount that is actuarially equivalent to the amount payable at the age of sixty-two years.

(3) Payment of any benefit provided under the Judges Retirement Act may not be deferred later than April 1 of the year following the year in which the judge has both attained at least age seventy and one-half years and terminated his or her employment as a judge.

(4) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the retirement system, whichever is later. An application may be filed no more than ninety days in advance of qualifying for retirement.

(5) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the Judges Retirement Act.

Source: Laws 1955, c. 83, § 8, p. 248; Laws 1957, c. 78, § 2, p. 317; Laws 1957, c. 79, § 3, p. 322; Laws 1965, c. 115, § 3, p. 444; Laws 1972, LB 1032, § 123; Laws 1973, LB 353, § 1; Laws 1984, LB 750, § 2; Laws 1986, LB 311, § 11; Laws 1987, LB 296, § 2; Laws 1989, LB 506, § 6; Laws 1994, LB 833, § 21; Laws 1997, LB 624, § 13; Laws 2003, LB 320, § 2; Laws 2003, LB 451, § 16; Laws 2004, LB 1097, § 14; Laws 2008, LB1147, § 5.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

24-708.01. Retired member; reemployment; how treated.

For a member who retired under section 24-708 and becomes employed full-time or part-time as a judge in the state after his or her retirement date, the retired member shall continue receiving retirement benefits, shall be treated as a new judge for all purposes of the Judges Retirement Act, and shall receive service credit only for service commencing from the date of reemployment. Retired judges who are assigned to temporary duty as provided in sections 24-729 to 24-733 shall not become contributing active members in the retirement system and shall not receive any service credits.

Source: Laws 1997, LB 624, § 14.

24-709. Judge; physically or mentally disabled; retirement; Commission on Judicial Qualifications; application; examination; benefits.

Any judge, except a clerk magistrate, who has become physically or mentally disabled, which disability seriously interferes with the performance of his or her duties and which disability is determined to be permanent or reasonably likely to become permanent, may, upon being found so disabled by the Commission on Judicial Qualifications, retire or be retired, and upon such retirement he or she shall be entitled to receive the retirement annuity as provided in

section 24-710. Any judge, or the guardian of any judge, so permanently disabled desiring to so retire, shall file an application for such retirement with the commission, which application shall be in such form and contain such information as such commission shall require. Such commission may require such judge to be examined by a physician appointed by the commission and may require such other evidence and proof of disability as it deems necessary to reach a determination as to whether such judge is so permanently disabled. If the commission determines that any such judge is so permanently disabled, it shall promptly notify the judge and the Public Employees Retirement Board and thereupon such judge shall be placed on retirement by the board and receive the retirement annuity each month as is provided in section 24-710.

Source: Laws 1955, c. 83, § 9, p. 248; Laws 1971, LB 987, § 8; Laws 1983, LB 223, § 3; Laws 1986, LB 529, § 19.

24-709.01. Judicial retirement proceedings before Commission on Judicial Qualifications; confidential.

All documents filed with and proceedings before the Commission on Judicial Qualifications pursuant to sections 24-709 and 24-712 shall be confidential.

Source: Laws 1981, LB 475, § 12; Laws 2000, LB 1192, § 8.

24-709.02. Certain clerk magistrates; disabled; retirement; Public Employees Retirement Board; application; examination; benefits.

(1) Clerk magistrates who were associate county judges and members of the fund at the time of their appointment as clerk magistrates shall have questions of disability decided by the Public Employees Retirement Board. Any such clerk magistrate may be retired as a result of disability either upon his or her own application or upon the application of an employer or any person acting in his or her behalf. Upon such retirement he or she shall be entitled to receive the retirement annuity as provided in section 24-710. Before any such clerk magistrate may be retired, a medical examination shall be made at the expense of the Nebraska Retirement Fund for Judges, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the board, and the physician shall certify to the board that the clerk magistrate is physically or mentally incapable of further performing his or her duties and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The board may require any such disability beneficiary who has not attained the age of sixty-five to undergo a medical examination at the expense of the board once each year. Should any disability beneficiary refuse to undergo such an examination, his or her disability retirement benefit may be discontinued by the board.

Source: Laws 1983, LB 223, § 5; Laws 1986, LB 529, § 20; Laws 1997, LB 623, § 9.

24-710. Judges; retirement annuity; amount; how computed; cost-of-living adjustment.

(1) The retirement annuity of a judge who is an original member, who has not made the election provided for in subsection (8) of section 24-703 or section 24-710.01, and who retires under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-third percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service. The amount stated in this section shall be

supplemental to any benefits received by such judge under the Nebraska and federal old age and survivors' insurance acts at the date of retirement, but the monthly combined benefits received thereunder and by the Judges Retirement Act shall not exceed sixty-five percent of the final average compensation such judge was receiving when he or she last served as such judge. The amount of retirement annuity of a judge who retires under section 24-708 or 24-709 shall not be less than twenty-five dollars per month if he or she has four years or more of service credit.

(2) The retirement annuity of a judge who is a future member and who retires after July 1, 1986, under section 24-708 or 24-709 shall be computed as follows: Each such judge shall be entitled to receive an annuity, each monthly payment of which shall be in an amount equal to three and one-half percent of his or her final average compensation as such judge, multiplied by the number of his or her years of creditable service, except that the monthly benefits received under this subsection shall not exceed seventy percent of the final average compensation such judge was receiving when he or she last served as such judge.

(3) Except as provided in section 42-1107, any member may, when filing an application as provided by the retirement system, elect to receive, in lieu of the normal form annuity benefits to which the member or his or her beneficiary may otherwise be entitled under the Judges Retirement Act, any form of annuity which the board may by rules and regulations provide, the value of which, determined by accepted actuarial methods and on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file in the office of the director, is equal to the value of the benefit replaced. The board shall (a) adopt and promulgate appropriate rules and regulations establishing joint and survivorship annuities, with and without reduction on the death of the first annuitant, and such other forms of annuities as may in its judgment be appropriate and establishing benefits as provided in sections 24-707 and 24-707.01, (b) prescribe appropriate forms for making the election by the members, and (c) provide for the necessary actuarial services to make the required valuations.

(4) A one-time cost-of-living adjustment shall be made for each retired judge and each surviving beneficiary who is receiving a retirement annuity as provided for in this section. The annuity shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increases shall not exceed three percent per year of retirement and the total increase shall not exceed two hundred fifty dollars per month.

Source: Laws 1955, c. 83, § 10, p. 249; Laws 1957, c. 79, § 4, p. 323; Laws 1959, c. 95, § 4, p. 413; Laws 1965, c. 116, § 3, p. 448; Laws 1965, c. 117, § 1, p. 489; Laws 1969, c. 178, § 4, p. 766; Laws 1973, LB 478, § 2; Laws 1974, LB 740, § 1; Laws 1975, LB 49, § 1; Laws 1977, LB 467, § 2; Laws 1977, LB 344, § 5; Laws 1981, LB 459, § 4; Laws 1981, LB 462, § 4; Laws 1986, LB 92, § 5; Laws 1986, LB 311, § 13; Laws 1989, LB 506, § 7; Laws 1991, LB 549, § 18; Laws 1992, LB 672, § 32; Laws 1992, LB 682, § 3; Laws 1994, LB 833, § 22; Laws 1996, LB 1273, § 21; Laws 1997, LB 624, § 15; Laws 2004, LB 1097, § 15.

24-710.01. Judges; alternative contribution rate and retirement benefit; election; notice.

Any original member, as defined in subdivision (12) of section 24-701, who has not previously retired, may elect to make contributions and receive benefits pursuant to subsection (2) of section 24-703 and subsection (2) of section 24-710, instead of those provided by subsection (1) of section 24-703 and subsection (1) of section 24-710. Such election shall be by written notice delivered to the board not later than November 1, 1981. Such member shall thereafter be considered a future member.

Source: Laws 1977, LB 344, § 1; Laws 1981, LB 459, § 5; Laws 1986, LB 92, § 6.

24-710.02. Retirement benefits; exemption from legal process; exception.

All annuities or benefits which any person shall be entitled to receive under the Judges Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1986, LB 311, § 12; Laws 1989, LB 506, § 8; Laws 1994, LB 833, § 23; Laws 1995, LB 574, § 37; Laws 1996, LB 1273, § 22; Laws 2004, LB 1097, § 16.

Cross References

Spousal Pension Rights Act, see section 42-1101.

24-710.03. Judges; purchase of service credit; application of section.

Any future member who has served as a judge for eighteen years but less than twenty years prior to July 15, 1992, and who has, prior to such date, contributed and earned the maximum benefit pursuant to subsection (2) of section 24-710 may purchase up to two years of service credit in order to qualify for the maximum benefit in effect after July 15, 1992. Service credit may only be purchased for actual time served as a judge. The amount to be paid shall not exceed the amount the member would have paid into the system based on the compensation and two years of service immediately following the year in which the member reached the maximum benefit in effect prior to July 15, 1992, plus the interest on that amount which would have accrued under the retirement system provided by the Judges Retirement Act. Any payment made pursuant to this section by a member to qualify for the maximum benefit in effect after July 15, 1992, shall be received by the retirement system office by December 31, 1993. Any such payment shall be made in a single lump sum.

This section shall not apply to any member who retires prior to July 15, 1992.

Source: Laws 1992, LB 682, § 4; Laws 1993, LB 363, § 1; Laws 1994, LB 833, § 24; Laws 1996, LB 847, § 17.

24-710.04. Reemployment; military service; credit; effect.

Under such rules and regulations as the retirement board adopts and promulgates, any judge who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. chapter 43, shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan. The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

Source: Laws 1996, LB 847, § 14.

24-710.05. Direct rollover; terms, defined; distributee; powers; board; duties.

(1) For purposes of this section and section 24-710.06:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 15; Laws 2002, LB 407, § 14.

24-710.06. Retirement system; accept payments and rollovers; limitations; board; duties.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 24-706 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 16; Laws 2002, LB 407, § 15.

24-710.07. Benefits; adjustment.

(1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subsection (2) of this section results in a benefit which would be less than seventy-five percent of the purchasing power of the initial benefit as calculated above, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year. In all other years, the adjustment provided under subsection (2) of this section shall be provided. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Except as provided in subsection (1) of this section:

(a) Beginning July 1, 2000, and until July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two percent; and

(b) Beginning July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two and one-half percent.

(3) The state shall contribute to the Nebraska Retirement Fund for Judges an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2012-13 fiscal year, the annual level dollar payment certified by the board shall equal 1.04778 percent of six million eight hundred ninety-five thousand dollars.

(4) The board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1996, LB 700, § 2; Laws 1999, LB 674, § 2; Laws 2001, LB 711, § 1; Laws 2004, LB 1097, § 17; Laws 2008, LB1147, § 6; Laws 2010, LB950, § 10.

24-710.09. Annual benefit adjustment; terms, defined.

For purposes of this section and sections 24-710.10 and 24-710.11:

(1) Eligible retiree means (a) a member or beneficiary who has been receiving a retirement benefit for at least five years, which member had at least twenty-five years of creditable service; (b) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 24-709; or (c) a beneficiary who has been receiving a death benefit pursuant to section 24-707 or 24-707.01 for at least five years, and which member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by section 24-710.10;

(2) Monthly accrual rate means the eligible retiree's total monthly benefit divided by the number of years of creditable service earned by the retiree or deceased member; and

(3) Total monthly benefit means the total benefit received by an eligible retiree pursuant to the Judges Retirement Act, previous adjustments made pursuant to section 24-710.11, or any other provision of Nebraska law which grants a benefit or cost-of-living increase within the act, but total monthly benefit does not include sums received by an eligible retiree from federal sources.

Source: Laws 1998, LB 532, § 2; Laws 2004, LB 1097, § 18.

24-710.10. Annual benefit adjustment; minimum accrual rate.

The minimum accrual rate is thirty-five dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Source: Laws 1998, LB 532, § 3; Laws 1999, LB 703, § 6; Laws 2008, LB1147, § 7.

24-710.11. Annual benefit adjustment; calculations.

(1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total

monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 24-710.10 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1998, LB 532, § 4; Laws 1999, LB 703, § 7.

24-710.12. Retirement system; accept transfers; limitations; how treated.

The retirement system may accept as payment for withdrawn amounts made pursuant to the Judges Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 16.

24-711. Retired judge; statement of facts; contents; false or fraudulent actions; prohibited acts; penalty; denial of benefits.

(1) Any judge who retires under the provisions of section 24-708 or 24-709, or his or her guardian, shall give to the board a statement of facts which shall include an accurate record of all service claimed by such judge, his or her compensation when he or she last served as a judge, the amount of contributions he or she has made to the fund, the amount of benefits he or she is receiving or shall be entitled to receive under the Nebraska and federal old-age and survivors insurance acts, designation of beneficiary, and any other information the board may request. The board shall determine the accuracy of all pertinent facts claimed and may call a hearing to determine any or all matters necessary in order to determine the amount of the annuity to which such judge is entitled. After obtaining all facts it deems necessary, the board shall render its decision as to the amount of the annuity, if any, to which such judge shall be entitled.

(2) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of

defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Source: Laws 1955, c. 83, § 11, p. 249; Laws 1991, LB 549, § 19; Laws 1998, LB 1191, § 38.

24-712. Annuity payments; continuation; physical examinations, when; cost.

Annuity payments to a judge, who has retired under the provisions of section 24-708, shall continue until the end of the month in which such judge shall die. The last annuity payment and any other payments to which such judge shall be entitled and which have not been paid at the time of his or her death shall be paid to his or her beneficiary. A judge who is receiving annuity payments, under the provisions of section 24-709, shall continue to receive such annuities as long as he or she is permanently disabled, and if such judge shall die while so disabled, payment of annuities shall be terminated in the same manner as provided for a judge who dies subsequent to his or her retirement. Any judge, who is receiving annuities under the provisions of section 24-709, may be required by the commission to submit to a reexamination at any time. Any such judge shall have the right to a reexamination, upon an application to the commission, but not more often than once every six months. A physician appointed by the commission shall make such examinations and report his or her findings to the commission which shall make a determination. If the commission shall find that the permanent disability no longer exists, it shall so notify the judge and the board shall discontinue annuity payments to such judge unless the judge has in the meantime qualified for retirement by reason of his or her age. If any judge refuses to submit to such reexamination, the commission shall immediately terminate all annuity payments to such judge. Costs incurred by the commission for the services of a physician, as authorized by the provisions of section 24-709 and this section, shall be paid by the commission out of money from the fund.

Source: Laws 1955, c. 83, § 12, p. 250; Laws 1971, LB 987, § 9; Laws 1994, LB 833, § 25.

Cross References

Confidentiality of proceedings, see section 24-709.01.

24-713. State Treasurer; duties; warrants.

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. The Director of Administrative Services is directed to draw warrants on the State Treasurer against the fund for authorized expenditures upon duly itemized vouchers signed by a person authorized by the retirement board. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the funds in his or her custody belonging to the retirement system.

Source: Laws 1955, c. 83, § 13, p. 250; Laws 1969, c. 178, § 5, p. 767; Laws 1997, LB 623, § 10.

24-713.01. Limitation of actions.

Every claim and demand under the Judges Retirement Act and against the retirement system or the board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 11; Laws 2004, LB 1097, § 19.

24-713.02. Retirement system contributions, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the Judges Retirement Act.

Source: Laws 1998, LB 1191, § 39.

24-713.03. Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 40.

24-714. Retirement of judge; effect; filling of vacancy.

When the Chief Justice or a judge of the Supreme Court, a judge of the Court of Appeals, a judge of the district court, or a judge of the Nebraska Workers' Compensation Court becomes retired under the Judges Retirement Act, he or she shall be relieved of further active duties on the court. The Governor may fill the vacancy caused by such retirement the same as when a vacancy exists on that court for any other reason. When a judge of the county court or judge of a separate juvenile court becomes retired under the provisions of such sections, he or she shall also be relieved of further active duties and a vacancy shall be deemed to exist, which vacancy shall be filled as provided by law.

Source: Laws 1955, c. 83, § 14, p. 251; Laws 1957, c. 78, § 3, p. 317; Laws 1957, c. 79, § 5, p. 323; Laws 1959, c. 189, § 15, p. 691; Laws 1965, c. 115, § 4, p. 444; Laws 1984, LB 13, § 34; Laws 1991, LB 732, § 38; Laws 1994, LB 833, § 26; Laws 2004, LB 1097, § 20.

(b) JUDICIAL DISCIPLINE

(b) JUDICIAL DISCIPLINE

- 24-721. Commission; complaint or request filed by citizen; investigation; proceedings; rights of judge or justice; special master; commission; recommendations; rules.
- 24-723. Supreme Court; record of proceedings; review; order; retirement, removal, or suspension; effect.
- 24-723.01. Justice or judge; disqualification without loss of salary; Supreme Court order; when.
- 24-728. Judge or justice; own discipline, removal, or retirement; participation prohibited.

24-721. Commission; complaint or request filed by citizen; investigation; proceedings; rights of judge or justice; special master; commission; recommendations; rules.

Any citizen of the State of Nebraska shall have the right at all times to complain to the Commission on Judicial Qualifications with reference to the acts, activities, or qualifications of any Justice or judge of the Supreme Court or judge of any of the courts of the State of Nebraska or to request that the commission consider the qualifications of any Justice or judge of the Supreme Court or judge of any of the courts of the State of Nebraska. Upon receipt of any such complaint or request, the commission shall make such investigation as it determines to be necessary. The commission shall have the right to subpoena witnesses; to hold hearings; to require the Justice or judge to submit to physical or mental examination by medical experts; to appoint special masters to conduct hearings; to make independent investigations, either by members of the commission or by special investigators employed by the commission; to hold confidential prehearing proceedings with the person or persons filing the complaint or request, or with his or her or their agents or attorneys; and to hold confidential prehearing proceedings with the judge or Justice involved in the complaint or request. If the commission finds probable cause for the existence of any of the grounds for disciplinary action or retirement specified in section 24-722, it shall reprimand the Justice or judge or order a formal open hearing to be held before it concerning the reprimand, discipline, censure, suspension, removal, or retirement of such Justice or judge. Any reprimand shall be public and shall be announced in a fashion similar to that of a published opinion of the Supreme Court. A judge who receives official notice of a complaint or request pursuant to this section shall not be allowed to retire pursuant to the Judges Retirement Act until the matter is resolved by the commission or the Supreme Court, if the commission recommends action by the court. If a hearing is ordered, the commission shall advise the judge or Justice involved, in writing, of the specific charges which have been made and supported, substantiated, or revealed by the independent investigation of the commission. The judge or Justice shall be given reasonable time in which to formally answer such charges in writing and the matter shall then be set for formal open hearing, at which time the commission shall cause the testimony and the documentary evidence relating to the charges to be produced and recorded in such manner as the commission shall determine to be advisable, giving the judge or Justice involved and his or her attorney a full opportunity to question and cross-examine the witnesses and evidence so produced. The judge or Justice shall have an opportunity to produce at such hearing, testimony, evidence, and documents relating to the charges involved; thereafter any rebuttal evidence may be produced. In the alternative or in addition, the commission may request the Supreme Court to appoint one or more special masters who shall be judges of courts of record to hold a formal open hearing to take evidence in any such matter, and to report to the commission. Whenever any person shall refuse to testify or to produce books, papers, or other evidence when required to do so in any hearing held before the Commission on Judicial Qualifications or before a special master or masters appointed under the provisions of this section for the reason that the testimony or evidence required of him or her may tend to

incriminate him or her or subject him or her to a forfeiture or penalty, he or she may nevertheless be compelled to testify or produce such evidence by order of the Commission on Judicial Qualifications or special master or masters on motion of counsel to the commission. No person who testifies or produces evidence in obedience to the command of the commission or special master or masters in such case shall be liable to any forfeiture or penalty for or on account of any transaction, matter, or thing concerning or arising from that as to which he or she may so testify or produce evidence, nor shall such testimony or evidence be used directly or indirectly in any proceedings against him or her, except that no person shall be exempt from prosecution and punishment for perjury or contempt committed in so testifying. The requirement to testify or produce evidence shall not apply when such person proves the real and substantial danger of a prosecution against him or her in another jurisdiction based on the admissions to be made by him or her in this state. The commission or special master or masters shall have power to punish for contempt for any action specified in section 25-2121. If, after formal open hearing, or after considering the record and report of the masters, the commission finds that the charges are established by clear and convincing evidence, it shall recommend to the Supreme Court that the Justice or judge of the Supreme Court or other judge involved shall be reprimanded, disciplined, censured, suspended without pay for a definite period of time not to exceed six months, removed, or retired as the case may be. All hearings before the commission and all proceedings before masters and before the Supreme Court shall be conducted in accordance with rules promulgated or to be promulgated by the Supreme Court.

Source: Laws 1967, c. 141, § 7, p. 432; Laws 1976, LB 640, § 1; Laws 1981, LB 475, § 6; Laws 2003, LB 320, § 3; Laws 2005, LB 754, § 2.

Cross References

Judges Retirement Act, see section 24-701.01.

24-723. Supreme Court; record of proceedings; review; order; retirement, removal, or suspension; effect.

The Supreme Court shall review the record of the proceedings and in its discretion may permit the introduction of additional evidence. The Supreme Court shall make such determination as it finds just and proper, and may order the reprimand, discipline, censure, suspension without pay for a definite period of time not to exceed six months, removal, or retirement of such Justice or judge of the Supreme Court or other judge, or may wholly reject the recommendation. Upon an order for retirement, the Justice or judge of the Supreme Court or other judge shall thereby be retired with the same rights and privileges as if he or she had retired pursuant to statute. Upon an order for removal, the Justice or judge of the Supreme Court or other judge shall be removed from office, his or her salary shall cease from the date of such order, and he or she shall be ineligible for judicial office. Upon an order for suspension, the Justice or judge of the Supreme Court or other judge shall draw no salary and shall perform no judicial functions during the period of suspension. Suspension shall not create a vacancy in the office of Justice or judge of the Supreme Court or other judge.

Source: Laws 1967, c. 141, § 9, p. 433; Laws 1981, LB 475, § 8.

24-723.01. Justice or judge; disqualification without loss of salary; Supreme Court order; when.

Upon order of the Supreme Court, a Justice or judge of the Supreme Court or other judge shall be disqualified from acting as a Justice or judge of the Supreme Court or other judge,

without loss of salary, while there is pending (1) an indictment or information charging him or her in the United States with a crime punishable as a felony under Nebraska or federal law or (2) a recommendation to the Supreme Court by the Commission on Judicial Qualifications for his or her removal or retirement.

Source: Laws 1981, LB 475, § 9.

24-728. Judge or justice; own discipline, removal, or retirement; participation prohibited.

No Justice or judge of the Supreme Court or other judge shall participate, as a member of the Commission on Judicial Qualifications, or as a master, or as a member of the Supreme Court, in any proceedings involving his or her own reprimand, discipline, censure, suspension, removal, or retirement.

Source: Laws 1967, c. 141, § 14, p. 434; Laws 1981, LB 475, § 14.

(c) RETIRED JUDGES

(c) RETIRED JUDGES

- 24-729. Judges; retired; assignment; when; retired judge, defined.
- 24-730. Retired judge; temporary duty; compensation.
- 24-732. Retired judge; temporary duty; not contribute to retirement fund; retirement benefits not affected.
- 24-733. Retired judge; temporary duty; request for compensation and expenses.

24-729. Judges; retired; assignment; when; retired judge, defined.

The Supreme Court of Nebraska is empowered, with the consent of the retired judge, (1) to assign judges of the Supreme Court, Court of Appeals, and district court who are now retired or who may be retired hereafter to (a) sit in any court in the state to relieve congested dockets or to prevent the docket of such court from becoming congested or (b) sit for the judge of any court who may be incapacitated or absent for any reason whatsoever and (2) to assign any judge of the separate juvenile court, county court, or Nebraska Workers' Compensation Court who is now retired or who may be retired hereafter to (a) sit in any court having the same jurisdiction as one in which any such judge may have previously served to relieve congested dockets or to prevent the docket of any such court from becoming congested or (b) sit for the judge of any such court who may be incapacitated or absent for any reason. Any judge who has retired on account of disability may not be so assigned.

For purposes of sections 24-729 to 24-733, retired judge shall include a judge who, before, on, or after March 31, 1993, has retired upon the attainment of age fifty-five and has elected to defer the commencement of his or her retirement annuity to a later date.

Source: Laws 1974, LB 832, § 1; Laws 1976, LB 296, § 1; Laws 1979, LB 240, § 1; Laws 1991, LB 732, § 39; Laws 1993, LB 363, § 2.

Annotations

The Nebraska Constitution clearly permits district court judges, retired or not, to act as associate Supreme Court judges when necessary for prompt submission and determination of causes. *ConAgra, Inc. v. Cargill, Inc.*, 223 Neb. 92, 388 N.W.2d 458 (1986).

This provision, which authorized the Supreme Court to assign retired district judges to sit in any court to relieve or prevent congested dockets, or to sit for a judge of any court who is incapacitated or absent, is not

limited by article V, section 2, of the Nebraska Constitution, which expressly authorizes district judges to sit in specific cases. *ConAgra, Inc. v. Cargill, Inc.*, 223 Neb. 92, 388 N.W.2d 458 (1986).

24-730. Retired judge; temporary duty; compensation.

A retired judge holding court pursuant to sections 24-729 to 24-733 shall receive, in addition to his or her retirement benefits, for each day of temporary duty an amount established by the Supreme Court. In addition, a retired judge who consents to serve a minimum number of temporary duty days annually, as established by the Supreme Court, and is appointed by the Supreme Court for such extended service, may also receive a stipend or an adjusted stipend calculated from the number of days of temporary duty performed by the judge in such annual period in relation to an annual base amount established by the Supreme Court.

Source: Laws 1974, LB 832, § 2; Laws 1983, LB 268, § 1; Laws 2008, LB1014, § 5; Laws 2010, LB727, § 1.

24-732. Retired judge; temporary duty; not contribute to retirement fund; retirement benefits not affected.

A retired judge on temporary duty shall not be required to contribute to the Nebraska Retirement Fund for Judges, and the retirement benefits of such a retired judge shall neither be increased nor decreased on account of his temporary duty.

Source: Laws 1974, LB 832, § 4.

24-733. Retired judge; temporary duty; request for compensation and expenses.

Within fifteen days following completion of a temporary duty assignment, the retired judge shall submit to the Chief Justice of the Supreme Court, on forms provided by the Chief Justice, a request for payment or reimbursement for services rendered and expenses incurred during such temporary duty assignment. Upon receipt of such request, the Chief Justice shall endorse on the request that the services were performed and expenses incurred pursuant to an assignment of the Supreme Court of Nebraska and file such request with the proper authority for payment.

Source: Laws 1974, LB 832, § 5; Laws 1979, LB 240, § 2; Laws 1984, LB 13, § 35; Laws 1988, LB 864, § 4.

CHAPTER 25 – COURTS; CIVIL PROCEDURE

ARTICLE 28

SMALL CLAIMS COURT

25-2804. Actions; how commenced; fee; hearing; notice; setoff or counterclaim; limitations; default judgment; actions authorized.

(1) Actions in the Small Claims Court shall be commenced by the filing of a claim, personally or by mail, by the plaintiff on a form provided by the clerk of a county court. The claim form shall be executed by the plaintiff in the presence of a judge, a clerk or deputy or assistant clerk of a county court, or a notary public or other person authorized by law to take acknowledgments. If not filed in person, the claim form and appropriate fees shall be mailed by the plaintiff to the court of proper jurisdiction.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of six dollars and twenty-five cents to the clerk. One dollar and twenty-five cents of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

(3) Upon filing of a claim in the Small Claims Court, the court shall set a time for hearing and shall cause notice to be served upon the defendant. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he or she fails to appear, judgment will be entered against him or her. Notice shall be served in the manner provided for service of a summons in a civil action. If the notice is to be served by certified mail, the clerk shall provide the plaintiff with written instructions, prepared and provided by the State Court Administrator, regarding the proper procedure for service by certified mail. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court as established pursuant to section 25-2802, the court shall cause the entire matter to be transferred to the regular county court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms required by this section shall be prescribed by the Supreme Court. The claim form shall provide for the names and addresses of the plaintiff and defendant, a concise statement of the nature, amount, and time and place of accruing of the claim, and an acknowledgment for use by the person in whose presence the claim form is executed and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

(7) For a default judgment rendered by a Small Claims Court (a) the default judgment may be appealed as provided in section 25-2807, (b) if a motion for a new trial, by the procedure provided in sections 25-1142, 25-1144, and 25-1144.01, is filed ten days or less after entry of the default judgment, the court may act upon the motion without a hearing, or (c) if more than ten days have passed since the entry of the default judgment, the court may set aside, vacate, or modify the default judgment as provided in section 25-2720.01. Parties may be represented by

attorneys for the purpose of filing a motion for a new trial or to set aside, vacate, or modify a default judgment.

Source: Laws 1972, LB 1032, § 24; Laws 1973, LB 226, § 7; Laws 1975, LB 283, § 1; Laws 1979, LB 117, § 2; Laws 1980, LB 892, § 1; Laws 1982, LB 928, § 17; Laws 1983, LB 447, § 14; Laws 1984, LB 13, § 14; Laws 1985, LB 373, § 3; Laws 1986, LB 125, § 1; Laws 1987, LB 77, § 2; R.S.Supp.,1988, § 24-524; Laws 2000, LB 921, § 28; Laws 2005, LB 348, § 4; Laws 2010, LB712, § 6.

Annotations

A general appearance waives any defects in the process or notice, the steps preliminary to its issuance, or in the service or return thereof. *Harris v. Eberhardt*, 215 Neb. 240, 338 N.W.2d 53 (1983)

CHAPTER 30 – DECEDENTS’ ESTATES PROTECTION OF PERSONS AND PROPERTY

ARTICLE 32

FIDUCIARIES

30-3209. Corporate trustee; retirement or pension funds of governmental employees; investments authorized.

(1) Corporate trustees authorized by Nebraska law to exercise fiduciary powers and holding retirement or pension funds for the benefit of employees or former employees of cities, villages, school districts, public power districts, or other governmental or political subdivisions may invest and reinvest such funds in such securities and investments as are authorized for trustees, guardians, conservators, personal representatives, or administrators under the laws of Nebraska. Retirement or pension funds of such cities, villages, districts, or subdivisions may be invested in annuities issued by life insurance companies authorized to do business in Nebraska. Except as provided in subsection (2) of this section, any other retirement or pension funds of cities, including cities operating under home rule charters, villages, school districts except as provided in section 79-9,107, public power districts, and all other governmental or political subdivisions may be invested and reinvested, as the governing body of such city, village, school district, public power district, or other governmental or political subdivision may determine, in the following classes of securities and investments: (a) Bonds, notes, or other obligations of the United States or those guaranteed by or for which the credit of the United States is pledged for the payment of the principal and interest or dividends thereof; (b) bonds or other evidences of indebtedness of the State of Nebraska and full faith and credit obligations of or obligations unconditionally guaranteed as to principal and interest by any other state of the United States; (c) bonds, notes, or obligations of any municipal or political subdivision of the State of Nebraska which are general obligations of the issuer thereof and revenue bonds or debentures of any city, county, or utility district of this state when the earnings available for debt service have, for a five-year period immediately preceding the date of purchase, averaged not less than one and one-half times such debt service requirements; (d) bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration; (e) certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation or capital stock financial institutions, and if the amount deposited exceeds the amount of insurance available thereon, then the excess shall be secured in the same manner as for the deposit of public funds; (f) accounts with building and loan associations, qualifying mutual financial institutions, or federal savings and loan associations in the State of Nebraska to the extent that such accounts are insured or guaranteed by the Federal Deposit Insurance Corporation; (g) bonds or other interest-bearing obligations of any corporation organized under the laws of the United States or any state thereof if (i) at the time the purchase is made, they are given, by at least one statistical organization whose publication is in general use, one of the three highest ratings given by such organization and (ii) not more than five percent of the fund shall be invested in the obligations of any one issuer; (h) direct short-term obligations, generally classified as commercial paper, of any corporation organized or existing under the laws of the United States or any state thereof with a net worth of ten million dollars or more; and (i)

preferred or common stock of any corporation organized under the laws of the United States or of any state thereof with a net worth of ten million dollars or more if (i) not more than fifty percent of the total investments at the time such investment is made is in this class and not more than five percent is invested in each of the first five years and (ii) not more than five percent thereof is invested in the securities of any one corporation. Notwithstanding the percentage limits stated in this subsection, the cash proceeds of the sale of such preferred or common stock may be reinvested in any securities authorized under this subdivision. No city, village, school district, public power district, or other governmental subdivision or the governing body thereof shall be authorized to sell any securities short, buy on margin, or buy, sell, or engage in puts and calls. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(2) Notwithstanding the limitations prescribed in subsection (1) of this section, trustees holding retirement or pension funds for the benefit of employees or former employees of any city of the metropolitan class, metropolitan utilities district, or county in which a city of the metropolitan class is located shall invest such funds in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trustees shall not buy on margin, buy call options, or buy put options. The trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. If shares of stock are purchased under this subsection, all proxies may be voted by the trustees. The asset allocation restrictions set forth in subsection (1) of this section shall not be applicable to the funds of pension or retirement systems administered by or on behalf of a city of the metropolitan class, metropolitan utilities district, or county in which a city of the metropolitan class is located.

Source: Laws 1967, c. 257, § 1, p. 678; Laws 1984, LB 752, § 1; Laws 1989, LB 33, § 25; R.S.Supp.,1989, § 24-601.04; Laws 1992, LB 757, § 21; Laws 1996, LB 900, § 1036; Laws 1998, LB 1321, § 78; Laws 2001, LB 362, § 29; Laws 2001, LB 408, § 12; Laws 2009, LB259, § 12.

CHAPTER 33 – FEES AND SALARIES

ARTICLE 1 – FEES AND SALARIES

- 33-103. Court of Appeals or Supreme Court; docketing and clerk's fees.
- 33-103.01. Court of Appeals; review by Supreme Court; docket fee.
- 33-106. Clerk of the district court; fees; enumerated.
- 33-106.02. Clerk of the district court; fees; report; disposition.
- 33-123. County court; civil matters; fees.
- 33-124. County court; criminal cases; fee.
- 33-125. County court; probate fees; how determined.
- 33-126.02. County court; guardianships; conservatorships; fees; how determined.
- 33-126.03. County court; inheritance tax proceedings; fees; by whom paid.
- 33-126.06. County court; matters relating to trusts; fees.

33-103. Court of Appeals or Supreme Court; docketing and clerk's fees.

At the time of filing an appeal, original action, or other proceeding in the Court of Appeals or Supreme Court there shall be paid to the clerk the sum of one hundred dollars as a docket fee. Fifty dollars of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

The clerk shall charge fees for copies of documents and certificates at the rate provided in section 25-1280.

Source: R.S.1866, c. 19, § 2, p. 157; R.S.1913, § 2425; C.S.1922, § 2366; Laws 1927, c. 120, § 1, p. 333; C.S.1929, § 33-105; Laws 1941, c. 32, § 3, p. 142; C.S.Supp.,1941, § 33-105; R.S.1943, § 33-103; Laws 1982, LB 719, § 1; Laws 1991, LB 732, § 97; Laws 2005, LB 348, § 5.

Cross References

For docket fees in criminal cases when poverty affidavit filed, see section 29-2306.

Annotations

The payment of the fee to docket a petition for further review is mandated by this section and is therefore deemed jurisdictional. A petition for further review, albeit tendered to the Clerk of the Supreme Court within 30 days after the Nebraska Court of Appeals has issued its decision, is not properly filed unless and until the required docket fee is timely paid. *Robertson v. Rose*, 270 Neb. 466, 704 N.W.2d 227 (2005).

Pursuant to section 25-1912, an appellant must file his or her notice of appeal and deposit with the clerk of the district court the docket fee required by this section within 30 days of the entry of the order from which the appeal is taken. *Martin v. McGinn*, 267 Neb. 931, 678 N.W.2d 737 (2004).

Appeals under the Workmen's Compensation Law are exempt from the fee required by this section for docketing appeal. *Scott v. Dohrse*, 130 Neb. 847, 266 N.W. 709 (1936).

33-103.01. Court of Appeals; review by Supreme Court; docket fee.

At the time of filing a petition for further review to the Supreme Court from the Court of Appeals, there shall be paid to the clerk the sum of fifty dollars as a docket fee in lieu of any other filing fees. The fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: Laws 2005, LB 348, § 6.

33-106. Clerk of the district court; fees; enumerated.

(1) In addition to the judges retirement fund fee provided in section 24-703 and the fee provided in section 33-106.03 and except as otherwise provided by law, the fees of the clerk of

the district court shall be as follows: There shall be a docket fee of forty-two dollars for each civil and criminal case except (a) a case commenced by filing a transcript of judgment as hereinafter provided, (b) proceedings under the Nebraska Workers' Compensation Act and the Employment Security Law, when provision is made for the fees that may be charged, and (c) a criminal case appealed to the district court from any court inferior thereto as hereinafter provided. There shall be a docket fee of twenty-five dollars for each case commenced by filing a transcript of judgment from another court in this state for the purpose of obtaining a lien. There shall be a docket fee of twenty-seven dollars for each criminal case appealed to the district court from any court inferior thereto.

(2) In all cases, other than those appealed from an inferior court or original filings which are within jurisdictional limits of an inferior court and when a jury is demanded in district court, the docket fee shall cover all fees of the clerk, except that the clerk shall be paid for each copy or transcript ordered of any pleading, record, or other paper and that the clerk shall be entitled to a fee of fifteen dollars for making a complete record of a case.

(3) The fee for making a complete record of a case shall be taxed as a part of the costs of the case, except when expressly waived by the parties to the action. In a Title IV-D case, in a case filed pursuant to sections 25-2301 to 25-2310, or in a case filed by a county attorney, the fee for making a complete record of a case shall be waived. In all civil cases, except habeas corpus cases in which a poverty affidavit is filed and approved by the court, and for all other services, the docket fee or other fee shall be paid by the party filing the case or requesting the service at the time the case is filed or the service requested.

(4) For any other service which may be rendered or performed by the clerk but which is not required in the discharge of his or her official duties, the fee shall be the same as that of a notary public but in no case less than one dollar.

Source: R.S.1866, c. 19, § 3, p. 157; Laws 1877, § 5, p. 217; Laws 1899, c. 31, § 1, p. 164; Laws 1905, c. 68, § 1, p. 363; Laws 1909, c. 55, § 1, p. 280; R.S.1913, §§ 2421, 2429; Laws 1917, c. 40, § 1, p. 119; Laws 1919, c. 82, § 1, p. 204; C.S.1922, §§ 2362, 2369; Laws 1925, c. 81, § 1, p. 255; Laws 1927, c. 118, § 1, p. 328; C.S.1929, §§ 33-101, 33-108; R.S.1943, § 33-106; Laws 1947, c. 120, § 1, p. 353; Laws 1949, c. 94, § 1(1), p. 252; Laws 1951, c. 106, § 2, p. 512; Laws 1959, c. 140, § 4, p. 546; Laws 1961, c. 157, § 1, p. 480; Laws 1965, c. 125, § 3, p. 463; Laws 1977, LB 126, § 2; Laws 1981, LB 84, § 1; Laws 1983, LB 617, § 4; Laws 1986, LB 811, § 14; Laws 1986, LB 333, § 8; Laws 2003, LB 760, § 13; Laws 2005, LB 348, § 7.

Cross References

Employment Security Law, see section 48-601.
Nebraska Workers' Compensation Act, see section 48-1,110.

Annotations

1. Fees
2. Interest
3. Court costs

1. Fees

This section does not require the clerk of the district court to account to the county for any naturalization fees collected by him. *State ex rel. Douglas County v. Smith*, 102 Neb. 82, 165 N.W. 896 (1917).

It is the duty of the clerk of the district court to collect in advance all fees provided by the statute for any service required of him. *State v. Several Parcels of Land*, 82 Neb. 51, 117 N.W. 450 (1908).

It is the duty of a clerk of the district court to require payment in advance or security for the payment of all fees for his services, and the sureties on his official bond are liable for all fees remaining uncollected at the expiration of his term. *Boettcher v. Lancaster County*, 74 Neb. 148, 103 N.W. 1075 (1905).

A clerk of the district court who makes certified transcripts of his records is entitled to fees for both the transcript and the certificate. The word certificate as used in this section refers to the act of certification as

distinguished from the paper and its contents upon which the certificate is placed. *Sheibley v. Hurley*, 74 Neb. 31, 103 N.W. 1082 (1905).

A clerk of the district court is not entitled to fees for attaching a separate certificate and seal to each paper and journal entry of which he makes a copy where at the end of the transcript a general certificate is made which includes the same matters covered by the other certificates. *Lydick v. Palmquist*, 31 Neb. 300, 47 N.W. 918 (1891).

2. Interest

Interest on money paid in to clerk of district court by bidders at tax foreclosure sale is not a perquisite of the office. *Bordy v. Smith*, 150 Neb. 272, 34 N.W.2d 331 (1948).

Interest received by a county treasurer on deposit of public money is a perquisite within the meaning of this section. *Scotts Bluff County v. McHenry*, 130 Neb. 717, 266 N.W. 586 (1936).

3. Court costs

Court costs are the property of such persons for whose benefit they are primarily allowed and taxed, and attorney's fees allowed as costs actually belong to the attorney although awarded to the client. *Solomon v. A. W. Farney, Inc.*, 136 Neb. 338, 286 N.W. 254 (1939).

A fee bill issued under this section is valid where a judgment for costs has been recovered and the costs have been taxed by the clerk of the district court and itemized upon the fee book prior to the issuance of a fee bill. *Citizens National Bank v. Gregg*, 53 Neb. 760, 74 N.W. 273 (1898).

33-106.02. Clerk of the district court; fees; report; disposition.

(1) The clerk of the district court of each county shall not retain for his or her own use any fees, revenue, perquisites, or receipts, fixed, enumerated, or provided in this or any other section of the statutes of the State of Nebraska or any fees authorized by federal law to be collected or retained by a county official. The clerk shall on or before the fifteenth day of each month make a report to the county board, under oath, showing the different items of such fees, revenue, perquisites, or receipts received, from whom, at what time, and for what service, and the total amount received by such officer since the last report, and also the amount received for the current year.

(2) The clerk shall account for and pay any fees, revenue, perquisites, or receipts not later than the fifteenth day of the month following the calendar month in which such fees, revenue, perquisites, or receipts were received in the following manner:

(a) Of the forty-two-dollar docket fee imposed pursuant to section 33-106, five dollars shall be remitted to the State Treasurer for credit to the General Fund and two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges;

(b) Of the twenty-seven-dollar docket fee imposed for appeal of a criminal case to the district court pursuant to section 33-106, two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges; and

(c) The remaining fees, revenue, perquisites, or receipts shall be credited to the general fund of the county.

Source: R.S.1866, c. 19, § 3, p. 157; Laws 1877, § 5, p. 217; Laws 1899, c. 31, § 1, p. 164; Laws 1905, c. 68, § 1, p. 363; Laws 1909, c. 55, § 1, p. 280; R.S.1913, §§ 2421, 2429; Laws 1917, c. 40, § 1, p. 119; Laws 1919, c. 82, § 1, p. 204; C.S.1922, §§ 2362, 2369; Laws 1925, c. 81, § 1, p. 255; Laws 1927, c. 118, § 1, p. 328; C.S.1929, §§ 33-101, 33-108; R.S.1943, § 33-106; Laws 1947, c. 120, § 1, p. 353; Laws 1949, c. 94, § 1(3), p. 254; Laws 1983, LB 617, § 5; Laws 1989, LB 4, § 3; Laws 2005, LB 348, § 8; Laws 2006, LB 823, § 1.

33-123. County court; civil matters; fees.

The county court shall be entitled to the following fees in civil matters: For any and all services rendered up to and including the judgment or dismissal of the action other than for a domestic relations matter, twenty dollars of which two dollars shall be remitted to the State

Treasurer for credit to the Nebraska Retirement Fund for Judges, and for any and all services rendered up to and including the judgment or dismissal of a domestic relations matter, forty dollars; for filing a foreign judgment or a judgment transferred from another court in this state, fifteen dollars; and for writs of execution, writs of restitution, garnishment, and examination in aid of execution, five dollars each.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 458; Laws 1907, c. 56, § 1, p. 229; Laws 1909, c. 58, § 1, p. 286; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 110; Laws 1917, c. 45, § 1, p. 125; Laws 1921, c. 95, § 1, p. 357; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 284; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 171; Laws 1937, c. 86, § 1, p. 283; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-123; Laws 1945, c. 74, § 1, p. 276; Laws 1972, LB 1032, § 220; Laws 1974, LB 739, § 2; Laws 1981, LB 99, § 2; Laws 1982, LB 928, § 29; Laws 1983, LB 617, § 6; Laws 1989, LB 233, § 2; Laws 1995, LB 270, § 2; Laws 1996, LB 1296, § 7; Laws 2005, LB 348, § 10.

33-124. County court; criminal cases; fee.

In criminal matters, including preliminary and juvenile hearings, the county court shall receive, for any and all services rendered up to and including the judgment or dismissal of the action and the issuance of mittimus or discharge to the jailer, the sum of twenty dollars of which two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: Laws 1915, c. 39, § 1, p. 110; Laws 1917, c. 45, § 1, p. 126; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 285; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 172; Laws 1937, c. 86, § 1, p. 284; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-124; Laws 1945, c. 74, § 2, p. 276; Laws 1972, LB 1032, § 221; Laws 1981, LB 99, § 3; Laws 1982, LB 928, § 30; Laws 1983, LB 617, § 7; Laws 1989, LB 233, § 3; Laws 2005, LB 348, § 11.

Annotations

The independent act considered herein is not unconstitutional for failure to mention in the incidental provision for payment or exemption from payment of costs, nor for failing to refer to and repeal certain other statutes. State ex rel. Douglas v. Gradwohl, 194 Neb. 745, 235 N.W.2d 854 (1975).

33-125. County court; probate fees; how determined.

- (1) In probate matters the county court shall be entitled to receive the following fees:
 - (a) For probate proceedings commenced and closed informally, twenty-two dollars of which two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges; for each petition or application filed within the informal proceedings, twenty-two dollars of which two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges; and for any other proceeding under the Nebraska Probate Code for which no court fee is established by statute, twenty-two dollars of which two dollars shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges. The fees assessed under this subdivision shall not exceed the fees which would be assessed for a formal probate under subdivision (b) of this subsection; and
 - (b) For probate proceedings commenced or closed formally:
 - (i) When the value does not exceed one thousand dollars, twenty-two dollars;
 - (ii) When the value exceeds one thousand dollars and is not more than two thousand dollars, thirty dollars;
 - (iii) When the value exceeds two thousand dollars and is not more than five thousand dollars, fifty dollars;
 - (iv) When the value exceeds five thousand dollars and is not more than ten thousand dollars, seventy dollars;

- (v) When the value exceeds ten thousand dollars and is not more than twenty-five thousand dollars, eighty dollars;
- (vi) When the value exceeds twenty-five thousand dollars and is not more than fifty thousand dollars, one hundred dollars;
- (vii) When the value exceeds fifty thousand dollars and is not more than seventy-five thousand dollars, one hundred twenty dollars;
- (viii) When the value exceeds seventy-five thousand dollars and is not more than one hundred thousand dollars, one hundred sixty dollars;
- (ix) When the value exceeds one hundred thousand dollars and is not more than one hundred twenty-five thousand dollars, two hundred twenty dollars;
- (x) When the value exceeds one hundred twenty-five thousand dollars and is not more than one hundred fifty thousand dollars, two hundred fifty dollars;
- (xi) When the value exceeds one hundred fifty thousand dollars and is not more than one hundred seventy-five thousand dollars, two hundred seventy dollars;
- (xii) When the value exceeds one hundred seventy-five thousand dollars and is not more than two hundred thousand dollars, three hundred dollars;
- (xiii) When the value exceeds two hundred thousand dollars and is not more than three hundred thousand dollars, three hundred fifty dollars;
- (xiv) When the value exceeds three hundred thousand dollars and is not more than four hundred thousand dollars, four hundred dollars;
- (xv) When the value exceeds four hundred thousand dollars and is not more than five hundred thousand dollars, five hundred dollars;
- (xvi) When the value exceeds five hundred thousand dollars and is not more than seven hundred fifty thousand dollars, six hundred dollars;
- (xvii) When the value exceeds seven hundred fifty thousand dollars and is not more than one million dollars, seven hundred dollars;
- (xviii) When the value exceeds one million dollars and is not more than two million five hundred thousand dollars, eight hundred dollars;
- (xix) When the value exceeds two million five hundred thousand dollars and is not more than five million dollars, one thousand dollars; and
- (xx) On all estates when the value exceeds five million dollars, one thousand five hundred dollars.

(2) The fees prescribed in subdivision (1)(b) of this section shall be based on the gross value of the estate, including both real and personal property in the State of Nebraska at the time of death. The gross value shall mean the actual value of the estate less liens and joint tenancy property. Formal fees shall be charged in full for all services performed by the court, and no additional fees shall be charged for petitions, hearing, and orders in the course of such administration. The court shall provide one certified copy of letters of appointment without charge. In other cases when it is necessary to copy instruments, the county court shall be allowed the fees provided in section 33-126.05. In all cases when a petition for probate of will or appointment of an administrator, special administrator, personal representative, guardian, or trustee or any other petition for an order in probate matters is filed and no appointment is made or order entered and the cause is dismissed, the fee shall be ten dollars.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 459; Laws 1907, c. 56, § 1, p. 230; Laws 1909, c. 58, § 1, p. 287; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 126; Laws 1921, c. 95, § 1, p. 358; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 285; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 172; Laws 1937, c. 86, § 1, p. 284; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-125; Laws 1945, c. 74, § 3, p.

277; Laws 1963, c. 187, § 1, p. 629; Laws 1975, LB 481, § 22; Laws 1982, LB 928, § 31; Laws 1983, LB 2, § 1; Laws 1984, LB 373, § 2; Laws 1984, LB 492, § 1; Laws 1989, LB 233, § 4; Laws 2005, LB 348, § 12.

Cross References

Nebraska Probate Code, see section 30-2201.

33-126.02. County court; guardianships; conservatorships; fees; how determined.

In matters of guardianship and conservatorship, the county court shall be entitled to receive the following fees: Upon the filing of a petition for the appointment of a guardian, twenty-two dollars; upon the filing of a petition for the appointment of a conservator, twenty-two dollars; upon the filing of one petition for a consolidated appointment of both a guardian and conservator, twenty-two dollars; for the appointment of a successor guardian or conservator, twenty-two dollars; for the appointment of a temporary guardian or temporary or special conservator, twenty-two dollars; and for proceedings for a protective order in the absence of a guardianship or conservatorship, twenty-two dollars. If there is more than one ward listed in a petition for appointment of a guardian or conservator or both, only one filing fee shall be assessed. Two dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges. While such guardianship or conservatorship is pending, the court shall receive five dollars for filing and recording each report. When the appointment of a custodian as provided for in the Nebraska Uniform Transfers to Minors Act is made, the county court shall be entitled to receive a fee of twenty dollars.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 460; Laws 1907, c. 56, § 1, p. 231; Laws 1909, c. 58, § 1, p. 288; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 127; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 286; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 173; Laws 1937, c. 86, § 1, p. 286; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-126; Laws 1945, c. 74, § 4, p. 278; Laws 1949, c. 95, § 1(2), p. 255; Laws 1951, c. 103, § 1, p. 508; Laws 1963, c. 189, § 1, p. 633; Laws 1975, LB 481, § 23; Laws 1982, LB 928, § 33; Laws 1984, LB 492, § 2; Laws 1988, LB 790, § 5; Laws 1989, LB 233, § 5; Laws 1992, LB 907, § 27; Laws 2005, LB 348, § 13.

Cross References

Nebraska Uniform Transfers to Minors Act, see section 43-2701.

33-126.03. County court; inheritance tax proceedings; fees; by whom paid.

In all matters for the determination of inheritance tax under Chapter 77, article 20, the county court shall be entitled to receive fees of twenty-two dollars. Fees under this section shall not be charged if fees have been imposed pursuant to subdivision (1)(b) of section 33-125. Except in cases instituted by the county attorney, such fee shall be paid by the person petitioning for such determination. Two dollars of such fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: R.S.1866, c. 19, § 8, p. 164; Laws 1887, c. 41, § 1, p. 460; Laws 1907, c. 56, § 1, p. 231; Laws 1909, c. 58, § 1, p. 288; R.S.1913, § 2449; Laws 1915, c. 39, § 1, p. 111; Laws 1917, c. 45, § 1, p. 127; Laws 1921, c. 95, § 1, p. 359; C.S.1922, § 2388; Laws 1925, c. 98, § 1, p. 286; C.S.1929, § 33-127; Laws 1931, c. 64, § 1, p. 173; Laws 1937, c. 86, § 1, p. 286; C.S.Supp.,1941, § 33-127; R.S.1943, § 33-126; Laws 1945, c. 74, § 4, p. 278; Laws 1949, c. 95, § 1(3), p. 256; Laws 1959, c. 376, § 1, p. 1316; Laws 1975, LB 481, § 24; Laws 1982, LB 928, § 34; Laws 1984, LB 373, § 3; Laws 1989, LB 233, § 6; Laws 2005, LB 348, § 14.

33-126.06. County court; matters relating to trusts; fees.

The county court shall be entitled to collect the following fees: For the registration of any trust, whether testamentary or not, twenty-two dollars; for each proceeding initiated in county court concerning the administration and distribution of trusts, the declaration of rights, and the

determination of other matters involving trustees and beneficiaries of trusts, twenty-two dollars; for the appointment of a successor trustee, twenty-two dollars; and for filing and recording each report, five dollars. Two dollars of each twenty-two-dollar fee shall be remitted to the State Treasurer for credit to the Nebraska Retirement Fund for Judges.

Source: Laws 1975, LB 481, § 27; Laws 1982, LB 928, § 37; Laws 1989, LB 233, § 9; Laws 2005, LB 348, § 16.

This page left intentionally blank.

CHAPTER 35 – FIRE COMPANIES AND FIREFIGHTERS

ARTICLE 10

DEATH OR DISABILITY

35-1001. Death or disability as a result of cancer; death or disability as a result of certain diseases; prima facie evidence.

(1) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of cancer, including, but not limited to, cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, or prostate systems, evidence which demonstrates that (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of cancer, (b) such firefighter or firefighter-paramedic was exposed to a known carcinogen, as defined on July 19, 1996, by the International Agency for Research on Cancer, while in the service of the fire department, and (c) such carcinogen is reported by the agency to be a suspected or known cause of the type of cancer the firefighter or firefighter-paramedic has, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while in the line of duty for the purposes of sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(2) For a firefighter or firefighter-paramedic who is a member of a paid fire department of a municipality or a rural or suburban fire protection district in this state, including a municipality having a home rule charter or a municipal authority created pursuant to a home rule charter that has its own paid fire department, and who suffers death or disability as a result of a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant *Staphylococcus aureus*, evidence which demonstrates that (a) such firefighter or firefighter-paramedic successfully passed a physical examination upon entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant *Staphylococcus aureus*, and (b) such firefighter or firefighter-paramedic has engaged in the service of the fire department within ten years before the onset of the disease, shall be prima facie evidence that such death or disability resulted from injuries, accident, or other cause while in the line of duty for the purposes of sections 16-1020 to 16-1042, a firefighter's pension plan established pursuant to a home rule charter, and a firefighter's pension or disability plan established by a rural or suburban fire protection district.

(3) The prima facie evidence presumed under this section shall extend to death or disability as a result of cancer as described in this section, a blood-borne infectious disease, tuberculosis, meningococcal meningitis, or methicillin-resistant *Staphylococcus aureus* after the firefighter or firefighter-paramedic separates from his or her service to the fire department if the death or disability occurs within three months after such separation.

(4) For purposes of this section, blood-borne infectious disease means human immunodeficiency virus, acquired immunodeficiency syndrome, and all strains of hepatitis.

Source: Laws 1996, LB 1076, § 45; Laws 2010, LB373, § 2.

CHAPTER 42 – HUSBAND AND WIFE

ARTICLE 11 – SPOUSAL PENSION RIGHTS ACT

- 42-1101. Act, how cited.
- 42-1102. Terms, defined.
- 42-1103. Qualified domestic relations order; requirements.
- 42-1104. Order; payment of benefits; alternate payee.
- 42-1105. Order; form of benefit payment.
- 42-1106. Death of alternate payee; effect.
- 42-1107. Order; surviving spouse; payment option.
- 42-1108. Order; alternate payee; file with board; notice.
- 42-1109. Rules and regulations.
- 42-1110. Qualified domestic relations order; how determined; procedure.
- 42-1111. Director; separate accounting required; when; investment authority.
- 42-1112. Order filed prior to July 19, 1996; applicability.
- 42-1113. Liability.

ARTICLE 11

SPOUSAL PENSION RIGHTS ACT

42-1101. Act, how cited.

Sections 42-1101 to 42-1113 shall be known and may be cited as the Spousal Pension Rights Act.

Source: Laws 1996, LB 1273, § 1.

42-1102. Terms, defined.

For purposes of the Spousal Pension Rights Act:

(1) Alternate payee means a spouse, former spouse, child, or other dependent of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by a statewide public retirement system with respect to such member;

(2) Benefit means an annuity, a pension, a retirement allowance, a withdrawal of accumulated contributions, or an optional benefit accrued or accruing to a member under a statewide public retirement system;

(3) Domestic relations order means a judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, alimony payments, maintenance support, or marital property rights to a spouse, former spouse, child, or other dependent of a member and is made pursuant to a state domestic relations law of this state or another state;

(4) Earliest retirement date means the earlier of (a) the date on which the member is entitled to a distribution under the system or (b) the later of (i) the date that the member attains fifty years of age or (ii) the earliest date that the member could receive benefits under the system if the member separated from service;

(5) Qualified domestic relations order means a domestic relations order which creates or recognizes the existence of an alternate payee's right, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a member under a statewide public

retirement system, which directs the system to disburse benefits to the alternate payee, and which meets the requirements of section 42-1103;

(6) Segregated amounts means the amounts which would have been payable to the alternative payee during the period of time that the qualified status of an order is being determined. Such amounts shall equal the amounts payable for such period if the order had been determined to be a qualified domestic relations order; and

(7) Statewide public retirement system means the Retirement System for Nebraska Counties, the Nebraska Judges Retirement System, the School Retirement System of the State of Nebraska, the Nebraska State Patrol Retirement System, and the State Employees Retirement System of the State of Nebraska.

Source: Laws 1996, LB 1273, § 2; Laws 2004, LB 1097, § 21.

Cross References

Nebraska State Patrol Retirement System, see section 81-2015.
Retirement System for Nebraska Counties, see section 23-2302.
School Retirement System, see section 79-903.
State Employees Retirement System, see section 84-1302.

42-1103. Qualified domestic relations order; requirements.

A domestic relations order is a qualified domestic relations order only if such order or accompanying document:

- (1) Clearly specifies the following:
 - (a) The name, social security number, and last-known mailing address, if any, of the member;
 - (b) The name, social security number, and last-known mailing address, if any, of the alternate payee covered by the order;
 - (c) The statewide public retirement system or systems to which the order applies;
 - (d) The number of payments or period to which such order applies; and
 - (e) The amount or percentage of the member's benefits to be paid by each statewide public retirement system to each alternate payee or the manner in which such amount or percentage is determined;
- (2) Does not require a statewide public retirement system to provide any type or form of benefit, or any option, not otherwise provided under the plan;
- (3) Does not require a statewide public retirement system to provide increased benefits determined on the basis of actuarial value;
- (4) Does not require a statewide public retirement system to pay to an alternate payee benefits which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and
- (5) Does not require the payment of benefits to an alternate payee before the earliest retirement date of a member.

Source: Laws 1996, LB 1273, § 3; Laws 2006, LB 1113, § 37.

42-1104. Order; payment of benefits; alternate payee.

(1) A qualified domestic relations order may provide for the payment of benefits to an alternate payee beginning on or after the member's earliest retirement date but before the member terminates employment. Payment of the benefit to the alternate payee pursuant to a qualified domestic relations order shall commence either on the member's retirement date or on

the first day of the month immediately following the month in which the alternate payee notifies the statewide public retirement system of the election to begin payment, but not prior to the member's earliest retirement date.

(2) If payment begins after the member's earliest retirement date but prior to the member's retirement date, the alternate payee is only entitled to the actuarial equivalent of the alternate payee's share of the member's benefit payable on the member's earliest retirement date or the alternate payee's election date, whichever is later.

Source: Laws 1996, LB 1273, § 4.

42-1105. Order; form of benefit payment.

An alternate payee under a qualified domestic relations order shall receive the form of benefit payment specified in the order or, if not specified, selected by the alternate payee, if such form is a form available to the member and is not a joint and survivor annuity with the alternate payee's subsequent spouse.

Source: Laws 1996, LB 1273, § 5.

42-1106. Death of alternate payee; effect.

If the alternate payee dies prior to receiving any payment of his or her interest in the member's benefit under a qualified domestic relations order, such interest reverts to the member. If the alternate payee dies after commencement of payments of his or her interest, then the alternate payee's beneficiary is entitled to the balance of the payee's interest under the payment option provided by the order or selected by the payee, except a joint and survivor annuity option with the alternate payee and alternate payee's spouse.

Source: Laws 1996, LB 1273, § 6.

42-1107. Order; surviving spouse; payment option.

A qualified domestic relations order may provide that a spouse under a judgment for separate maintenance or a former spouse is considered the surviving spouse under the plan. If the order requires the member to select a payment option with survivorship rights, the Public Employees Retirement Board shall require consent by such spouse for the selection of the annuity option by the member or for any change in the selection of the annuity option by the member. The order may specifically require that the annuity option be a joint and survivor annuity.

Source: Laws 1996, LB 1273, § 7.

42-1108. Order; alternate payee; file with board; notice.

The alternate payee shall file a copy of the domestic relations order involving benefits under a statewide public retirement system with the Public Employees Retirement Board within ninety days after the date that the order was entered. Upon good cause shown, the board may accept an order after ninety days following its entry. Within ten days, the board shall notify in writing the member and alternate payee that the board has received the domestic relations order. Such notice shall include a description of the procedure to determine if the domestic relations order is a qualified domestic relations order under the Spousal Pension Rights Act. The Public Employees Retirement Board shall be held harmless by the alternate payee and the member for

any amounts paid in violation of an order prior to the date on which the order is filed with the board.

Source: Laws 1996, LB 1273, § 8; Laws 1998, LB 1191, § 41.

42-1109. Rules and regulations.

The Public Employees Retirement Board shall adopt and promulgate rules and regulations to establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such orders. Such procedures shall allow an alternate payee to designate a representative for receipt of copies of notices.

Source: Laws 1996, LB 1273, § 9.

42-1110. Qualified domestic relations order; how determined; procedure.

(1) The Public Employees Retirement Board, or the board's designee, shall determine, within a reasonable period of time after receiving a domestic relations order, if the order is a qualified domestic relations order under the Spousal Pension Rights Act. The board may determine that an order is not qualified for the following reasons:

- (a) The order fails to fulfill all the requirements under section 42-1103;
- (b) The order requires the board to act contrary to the statutory provisions of the statewide public retirement system; or
- (c) The order requires payment to the alternate payee in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse.

(2) Failure to file an order within ninety days after its entry shall not be the basis for determining that an order is not a qualified domestic relations order.

(3) Within seven days after making the determination, the board or its designee shall notify the alternate payee and the member whether the domestic relations order is a qualified domestic relation order under the act. If the order is not a qualified domestic relations order, the notice shall specify the basis for such determination.

(4) A determination by the board or its designee that a domestic relations order is not a qualified domestic relations order does not prohibit a member or an alternate payee from filing an amended order with the board.

Source: Laws 1996, LB 1273, § 10.

42-1111. Director; separate accounting required; when; investment authority.

(1) During the period of time that a determination, by the board, its designee, or a court of competent jurisdiction, is being made as to whether a domestic relations order is a qualified domestic relations order, the director of the statewide public retirement systems shall separately account for the segregated amounts.

(2) If a member of the statewide public retirement systems participates in a defined contribution account, the member shall maintain investment authority over the entire account until the order is determined to be a qualified domestic relations order, but upon such determination, the alternate payee shall receive investment authority over the alternate payee's share of the account.

(3) If within the eighteen-month period the order is determined to be a qualified domestic relations order, the director of the statewide public retirement systems shall pay the segregated amounts plus interest to the alternate payee or payees entitled thereto.

(4) If within the eighteen-month period the order is determined not to be a qualified domestic relations order or the qualified status of the order is not resolved, the director of the statewide public retirement systems shall pay the segregated amounts plus interest to the member or other beneficiaries entitled thereto.

(5) If the determination that the order is a qualified domestic relations order is made after the eighteen-month period, the order will be applied prospectively only.

(6) For purposes of this section, the eighteen-month period begins on the date that the first payment would be required under the domestic relations order.

Source: Laws 1996, LB 1273, § 11; Laws 2003, LB 451, § 17.

42-1112. Order filed prior to July 19, 1996; applicability.

A domestic relations order filed with the Public Employees Retirement Board prior to July 19, 1996, shall be deemed a qualified domestic relations order under the Spousal Pension Rights Act if the statewide public retirement system is making payments under the order on July 19, 1996, and such order conforms to section 414(p)(11) of the Internal Revenue Code.

Source: Laws 1996, LB 1273, § 12.

42-1113. Liability.

The member and alternate payee shall hold the statewide public retirement system and its fiduciaries harmless from any liabilities which arise from (1) treating a domestic relations order as being, or not being, a qualified domestic relations order, or (2) taking action pursuant to section 42-1111. The system's obligation to the member and each alternate payee shall be discharged to the extent of any payment made pursuant to the Spousal Pension Rights Act.

Source: Laws 1996, LB 1273, § 13.

This page left intentionally blank.

CHAPTER 48 – LABOR

ARTICLE 1 – WORKERS’ COMPENSATION

PART IV - NEBRASKA WORKERS’ COMPENSATION COURT

48-155.01. Judges; appointment of substitute; compensation.

ARTICLE 6 – EMPLOYMENT SECURITY

48-609. Personnel; powers of commissioner; bond or insurance; retirement system.

ARTICLE 14 – DEFERRED COMPENSATION

48-1401. Political subdivisions; exception; deferred compensation plan; provisions; investment.

ARTICLE 1

WORKERS’ COMPENSATION

PART IV

NEBRASKA WORKERS’ COMPENSATION COURT

48-155.01. Judges; appointment of acting judge; compensation.

(1) The Governor may, by single order, appoint a qualified person meeting the eligibility requirements of section 48-153.01 to serve as acting judge of the Nebraska Workers' Compensation Court. Such appointment shall be for a period of two years. In determining whether a person is qualified to serve as acting judge of the compensation court, the Governor shall consider the person's knowledge of the law, experience in the legal system, intellect, capacity for fairness, probity, temperament, and industry. The acting judge shall be subject to call by the presiding judge of the compensation court, who may assign the acting judge to temporary duty in order to (a) sit in the compensation court to relieve a congested docket of the court or to prevent the docket from becoming congested or (b) sit for a judge of the court who may be incapacitated or absent for any reason. An acting judge appointed and assigned pursuant to this section shall possess the same powers and be subject to the duties, restrictions, and liabilities as are prescribed by law respecting judges of the compensation court, except that an acting judge is not prohibited from practicing law as provided in section 7-111.

(2) The acting judge shall receive for each day of temporary duty an amount equal to one-twentieth of the monthly salary he or she would receive if he or she were a regularly appointed judge of the compensation court and shall be reimbursed for his or her expenses while on temporary duty at the same rate as provided in sections 81-1174 to 81-1177. Within fifteen days following completion of a temporary duty assignment, the acting judge shall submit to the presiding judge of the compensation court a request for payment or reimbursement for services rendered and expenses incurred during such temporary duty assignment. Upon receipt of such request, the presiding judge shall endorse on the request that the services were performed and expenses incurred pursuant to an assignment of the presiding judge of the compensation court and file such request with the proper authority for payment.

(3) The acting judge shall not pay into the Nebraska Retirement Fund for Judges nor be eligible for retirement benefits under the Judges Retirement Act.

Source: Laws 1959, c. 226, § 1, p. 792; Laws 1981, LB 204, § 79; Laws 1986, LB 811, § 85; Laws 1994, LB 833, § 27; Laws 2004, LB 1097, § 22; Laws 2005, LB 238, § 13.

Cross References

Judges Retirement Act, see section 24-701.01.

ARTICLE 6

EMPLOYMENT SECURITY

48-609. Personnel; powers of commissioner; bond or insurance; retirement system.

Subject to other provisions of the Employment Security Law, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under such law. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of such law. Employees handling money or signing warrants under such law shall be bonded or insured as required by section 11-201. The commissioner may pay the share of the premium from the Employment Security Administration Fund. The commissioner shall classify positions under such law and shall establish salary schedules and minimum personnel standards for the positions so classified. He or she shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and except for temporary appointments of not to exceed six months in duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations. The commissioner shall adopt, promulgate, and enforce fair and reasonable rules and regulations for appointments, promotions, and demotions based upon ratings of efficiency and fitness and for terminations for cause.

The commissioner may provide for a contributory retirement system for the employees of the department employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, or let a contract for such purpose with an insurance company licensed in Nebraska, and pay the employer's share of such system or contract from the Employment Security Administration Fund as long as this fund is wholly financed from Title III of the Social Security Act or from other federal sources. The employee's contribution to any such plan shall be deducted from his or her salary. Any person employed by the department after June 30, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.

Source: Laws 1937, c. 108, § 11, p. 391; Laws 1939, c. 56, § 8, p. 246; C.S.Supp.,1941, § 48-711; R.S.1943, § 48-609; Laws 1961, c. 240, § 1, p. 715; Laws 1978, LB 653, § 10; Laws 1984, LB 747, § 3; Laws 1985, LB 339, § 10; Laws 1987, LB 272, § 1; Laws 1989, LB 29, § 1; Laws 2004, LB 884, § 21.

Cross References

State Employees Retirement Act, see section 84-1331.

ARTICLE 14

DEFERRED COMPENSATION

48-1401. Political subdivisions; exception; deferred compensation plan; provisions; investment.

(1) Any county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, may enter into an agreement to defer a portion of any individual's compensation derived from such county, municipality, or other political subdivision, instrumentality, or agency to a future period in time pursuant to section 457 of the Internal Revenue Code. Such deferred compensation plan shall be voluntary and shall be available to all regular employees and elected officials.

(2) The compensation to be deferred may never exceed the total compensation to be received by the individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

(3) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries by the county, municipality, or other political subdivision, instrumentality, or agency until such time as payments are made under the terms of the deferred compensation plan.

(4) The county, municipality, or other political subdivision, instrumentality, or agency shall designate its treasurer or an equivalent official, including the State Treasurer, to be the custodian of the funds and securities of the deferred compensation plan.

(5) The county, municipality, or other political subdivision, instrumentality, or agency may invest the compensation to be deferred under an agreement in or with: (a) Annuities; (b) mutual funds; (c) banks; (d) savings and loan associations; (e) trust companies qualified to act as fiduciaries in this state; (f) an organization established for the purpose of administering public employee deferred compensation retirement plans and authorized to do business in the State of Nebraska; or (g) investment advisers as defined in the federal Investment Advisers Act of 1940.

(6) The deferred compensation program shall exist and serve in addition to, and shall not be a part of, any existing retirement or pension system provided for state, county, municipal, or other political subdivision, instrumentality, or agency employees, or any other benefit program.

(7) Any compensation deferred under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(8) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such individual.

(9) The state, county, municipality, or other political subdivision, instrumentality, or agency shall not be responsible for any investment results entered into by the individual in the deferred compensation agreement.

(10) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable.

(11) Nothing contained in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(12) If a county has not established a deferred compensation plan pursuant to this section, each individual may require that the county enter into an agreement with the individual to defer a portion of such individual's compensation and place it under the management and supervision of the state deferred compensation plan created pursuant to sections 84-1504 to 84-1506. If such an agreement is made, the county shall designate the State Treasurer as custodian of such deferred compensation funds and such deferred compensation funds shall become a part of the trust administered by the Public Employees Retirement Board pursuant to sections 84-1504 to 84-1506.

(13) For purposes of this section, individual means (a) any person designated by the county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, as a permanent part-time or full-time employee of the county, municipality, or other political subdivision, instrumentality, or agency and (b) a person under contract providing services to the county, municipality, or other political subdivision, instrumentality, or agency of the State of Nebraska, except any agency subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered into a contract with such county, municipality, political subdivision, instrumentality, or agency to have compensation deferred prior to August 28, 1999.

Source: Laws 1977, LB 328, § 1; Laws 1997, LB 623, § 11; Laws 1999, LB 703, § 8.

CHAPTER 50 – LEGISLATURE

ARTICLE 4 – LEGISLATIVE COUNCIL

- 50-416.01. Nebraska Retirement Systems Committee; members.
- 50-417. Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.
 - 50-417.02. Act, how cited.
 - 50-417.03. Terms, defined.
 - 50-417.04. Law enforcement officers retirement plans survey; purpose; report; actuarial survey.
 - 50-417.05. Political subdivisions and state; provide information; confidentiality.
 - 50-417.06. State and political subdivisions; liability.
- 50-438. Legislative Council Retirement Study Fund; created; use; transfers; investment.

ARTICLE 4

LEGISLATIVE COUNCIL

50-416.01. Nebraska Retirement Systems Committee; members.

The Legislature shall select five of its members who shall serve, together with the chairperson of the Appropriations Committee, as the Nebraska Retirement Systems Committee. The Nebraska Retirement Systems Committee shall be a standing committee of the Legislature. The chairperson and members shall be chosen in the same manner as chairpersons and members of the other standing committees of the Legislature.

Source: Laws 1989, LB 189, § 1.

50-417. Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.

The Nebraska Retirement Systems Committee shall study any legislative proposal, bill, or amendment, other than an amendment proposed by the Committee on Enrollment and Review, affecting any public retirement system, existing or proposed, established by the State of Nebraska or any political subdivision thereof and report the results of such study to the Legislature, which report shall, when applicable, include an actuarial analysis and cost estimate and the recommendation of the committee regarding passage of any bill or amendment. To assist it in the performance of such duties, the committee may consult with and utilize the services of any officer, department, or agency of the state and may from time to time engage the services of a qualified and experienced actuary. In the absence of any report from such committee, the Legislature shall consider requests from groups seeking to have retirement plans established for them and such other proposed legislation as is pertinent to existing retirement systems.

Source: Laws 1959, c. 243, § 2, p. 832; Laws 1989, LB 189, § 2.

50-417.02. Act, how cited.

Sections 50-417.02 to 50-417.06 shall be known and may be cited as the Law Enforcement Officers Retirement Survey Act.

Source: Laws 2007, LB328, § 12.

50-417.03. Terms, defined.

For purposes of the Law Enforcement Officers Retirement Survey Act:

- (1) Committee means the Nebraska Retirement Systems Committee of the Legislature;
- (2) Law enforcement officer means any police officer, sheriff, and deputy sheriff employed by a political subdivision and any conservation officer employed by the state;
- (3) Political subdivision means any political subdivision of this state which employs police officers, sheriffs, or deputy sheriffs, but does not include a city of the metropolitan class, a city of the primary class, or a county containing a city of the metropolitan class; and
- (4) Retirement system means the Nebraska Public Employees Retirement Systems.

Source: Laws 2007, LB328, § 13.

50-417.04. Law enforcement officers retirement plans survey; purpose; report; actuarial survey.

(1) The retirement system shall conduct a survey of the retirement plans currently in place for law enforcement officers throughout Nebraska. The retirement system shall conduct the survey and issue a report to the committee no later than October 1, 2007.

(2) At the time that the report is provided to the committee, information which supports the report shall be provided to any firm employed to conduct an actuarial survey from the information gathered by the retirement system upon the firm's request. The information provided shall not include any personal information such as the name or social security number of law enforcement officers.

(3) The survey shall include, but not be limited to, the following information:

- (a) What types of retirement plans are in place for law enforcement officers; and
- (b) Any other information which the retirement system or the committee deems necessary.

(4) The retirement system shall create, in consultation with the committee, a method to receive the materials required for the survey. The method shall utilize a unique identifier for each law enforcement officer, each political subdivision, and the state agency responding.

(5) The purpose of the survey is to conduct a review of the many retirement plans throughout Nebraska for law enforcement officers and to assist an actuarial firm in determining the cost to implement a defined benefit retirement plan with benefits capped at various levels between sixty and eighty percent of pay with costs separately determined for cities of the first class, cities of the second class, villages, counties, and the state.

Source: Laws 2007, LB328, § 14.

50-417.05. Political subdivisions and state; provide information; confidentiality.

Each political subdivision and the state shall provide the retirement system with such information as the retirement system deems necessary and appropriate to conduct the review required under section 50-417.04. The material to be obtained by the retirement system may include, but not be limited to, the following concerning law enforcement officers employed by the political subdivision or the state:

- (1) Names;
- (2) Dates of birth;
- (3) Dates of hire;

- (4) Taxable earnings for the prior fiscal year;
- (5) Years of service;
- (6) Gender;
- (7) Whether or not the law enforcement officer is enrolled in a retirement plan;
- (8) The type of plan the law enforcement officer is enrolled in, the required employee contribution percentage, and the employer contribution percentage, along with an indication if it is a fixed percentage or a variable contribution rate. If the law enforcement officer is enrolled in a defined contribution plan, the political subdivision or state shall also disclose the account balance attributable to employer contributions and employee contributions, excluding any balance due to rollovers from another qualified plan or attributable to voluntary employee contributions; and
- (9) Any other information that the retirement system or the committee deems important to the conduct of the survey.

Any material received by the retirement system shall be considered confidential and shall not be disclosed to a third party except as provided in subsection (2) of section 50-417.04.

Source: Laws 2007, LB328, § 15.

50-417.06. State and political subdivisions; liability.

Neither the state nor any political subdivision shall be held liable for providing information requested or be responsible for the payment of the actuarial survey under the Law Enforcement Officers Retirement Survey Act.

Source: Laws 2007, LB328, § 16.

50-438. Legislative Council Retirement Study Fund; created; use; transfers; investment.

There is hereby created the Legislative Council Retirement Study Fund. The fund shall consist of money appropriated to it by the Legislature and transfers made pursuant to subdivision (2)(f) of section 84-1503. Money in the fund shall only be used for a comprehensive study of the retirement systems listed in subdivision (1)(a) of section 84-1503. Any money remaining in the fund eighteen months after the date of transfer shall be transferred by the State Treasurer back to the retirement systems for credit to the various retirement funds. Any money in the Legislative Council Retirement Study Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1992, LB 672, § 34; Laws 1994, LB 1066, § 41; Laws 1998, LB 1191, § 42.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

This page left intentionally blank.

CHAPTER 55 – MILITIA

ARTICLE 1

MILITARY CODE

55-161. Military leave of absence; rights of officer or employee.

(1) The parts of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Chapter 43, listed in subdivisions (a) through (j) of this subsection or any other parts referred to by such parts, in existence and effective as of January 1, 2001, are adopted as Nebraska law. This section shall be applicable to all persons employed in the State of Nebraska and shall include all officers and permanent employees, including teachers employed on a one-year contract basis and elected officials, of the state or of any of its agencies or political subdivisions. The Legislature hereby adopts:

- (a) Section 4301(a) - Purposes;
- (b) Section 4302 - Relation to other law and plans or agreements;
- (c) Section 4303(2),(4),(7) through (13),(15), and (16) and those portions of subparagraph (3) not relating to employment in a foreign country - Definitions;
- (d) Section 4304 - Character of service;
- (e) Section 4311 - Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited;
- (f) Section 4312 - Reemployment rights of persons who serve in the uniformed services;
- (g) Section 4313 with the exception of that portion of subparagraph (a) dealing with reemployment of federal employees - Reemployment positions;
- (h) Section 4316 - Rights, benefits, and obligations of persons absent from employment for service in a uniformed service;
- (i) Section 4317 - Health plans; and
- (j) Section 4318 - Employee pension benefit plans.

(2) This section applies to all members performing duty in active service of the state.

(3) The proper appointing authority or employer may make a temporary appointment to fill any vacancy created by the absence of an officer or employee pursuant to this section. Such officer or employee shall not be discharged from his or her former or new position without justifiable cause within one year after reinstatement.

(4) The Commissioner of Labor shall enforce this section.

(5) The Adjutant General shall perform duties assigned to the Secretary of Defense, Secretary of Veterans Affairs, or Secretary of Labor in the portions of 38 U.S.C. Chapter 43 adopted under this section.

Source: Laws 1951, c. 183, § 1, p. 686; Laws 1953, c. 189, § 1, p. 609; R.R.S.1943, § 55-156.02; Laws 1969, c. 459, § 59, p. 1600; Laws 1969, c. 751, § 8, p. 2828; Laws 1972, LB 1510, § 1; Laws 2002, LB 722, § 4.

This page left intentionally blank.

CHAPTER 60 – MOTOR VEHICLES

ARTICLE 13 – WEIGHING STATIONS

- 60-1303. (Operative date January 1, 2005.) Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations; Carrier Enforcement Cash Fund; created; use; investment.
- 60-1304. Carrier enforcement officers; transfer; retirement options.

ARTICLE 13

WEIGHING STATIONS

60-1303. Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations.

(1) The Nebraska State Patrol is hereby designated as the agency to operate the weighing stations and portable scales and to perform carrier enforcement duties.

(2)(a) On and after July 20, 2002, officers of the Nebraska State Patrol appointed to operate the weighing stations and portable scales and to perform carrier enforcement duties shall be known as the carrier enforcement division. The Superintendent of Law Enforcement and Public Safety shall appoint officers of the Nebraska State Patrol to the carrier enforcement division, including officers as prescribed in sections 81-2001 to 81-2009, and carrier enforcement officers as prescribed in sections 60-1301 to 60-1309.

(b) The employees within the Nebraska State Patrol designated to operate the weighing stations and portable scales and to perform carrier enforcement duties before July 20, 2002, and not authorized to act under subdivisions (1) through (8) of section 81-2005 shall be known as carrier enforcement officers.

(3) All carrier enforcement officers shall be bonded or insured as required by section 11-201. Premiums shall be paid from the money appropriated for the construction, maintenance, and operation of the state weighing stations.

(4) All employees of the Nebraska State Patrol who are carrier enforcement officers and who are not officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall be members of the State Employees Retirement System of the State of Nebraska. Officers of the Nebraska State Patrol who are carrier enforcement officers on July 20, 2002, who subsequently become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009, and who elect to remain members of the State Employees Retirement System of the State of Nebraska shall continue to participate in the State Employees Retirement System of the State of Nebraska. Carrier enforcement officers shall not receive any expense allowance as provided for by section 81-2002.

(5) The Nebraska State Patrol and the Department of Roads shall have the duty, power, and authority to contract with one another for the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties to ensure that there is adequate personnel in the carrier enforcement division to carry out the duties specified in sections 60-1301 to 60-1309. Through June 30, 2005, the number of full-time equivalent positions funded pursuant to such contract shall be limited to eighty-eight officers, including carrier enforcement officers as prescribed in sections 60-1301 to 60-1309 and officers of the Nebraska State Patrol as prescribed in sections 81-2001 to 81-2009 assigned to the carrier

enforcement division. Pursuant to such contract, command of the personnel involved in such carrier enforcement operations shall be with the Nebraska State Patrol. The Department of Roads may use any funds at its disposal for its financing of such carrier enforcement activity in accordance with such contract as long as such funds are used only to finance those activities directly involved with the duties specified in sections 60-1301 to 60-1309. The Nebraska State Patrol shall account for all appropriations and expenditures related to the staffing and operation of weighing stations and portable scales and the performance of carrier enforcement duties in a budget program that is distinct and separate from budget programs used for non-carrier-enforcement-division-related activities.

(6) The Nebraska State Patrol may adopt, promulgate, and enforce rules and regulations consistent with statutory provisions related to carrier enforcement necessary for (a) the collection of fees, as outlined in sections 60-3,177 and 60-3,179 to 60-3,182 and the International Fuel Tax Agreement Act, (b) the inspection of licenses and permits required under the motor fuel laws, and (c) weighing and inspection of buses, motor trucks, truck-tractors, semitrailers, trailers, and towed vehicles.

Source: Laws 1955, c. 145, § 3, p. 406; Laws 1978, LB 653, § 21; Laws 1985, LB 395, § 5; Laws 1991, LB 627, § 7; Laws 1994, LB 1066, § 47; Laws 1996, LB 1218, § 15; Laws 2002, LB 470, § 2; Laws 2003, LB 408, § 2; Laws 2004, LB 884, § 32; Laws 2004, LB 983, § 2; Laws 2005, LB 274, § 253; Laws 2007, LB322, § 10.

Cross References

International Fuel Tax Agreement Act, see section 66-1401.

60-1304. Carrier enforcement officers; transfer; retirement options.

(1) Carrier enforcement officers described in subdivision (2)(b) of section 60-1303 who, on or after July 20, 2002, are transferred to the Nebraska State Patrol and become officers of the Nebraska State Patrol with the powers and duties prescribed in sections 81-2001 to 81-2009 shall, within ninety days of transfer, elect to participate in the Nebraska State Patrol Retirement System or elect to remain members of the State Employees Retirement System of the State of Nebraska.

(2) An officer who elects to become a member of the Nebraska State Patrol Retirement System pursuant to this section shall (a) receive eligibility and vesting credit pursuant to subsection (2) of section 81-2016 for his or her years of participation in the State Employees Retirement System of the State of Nebraska, (b) be vested in the employer account with the State Employees Retirement System of the State of Nebraska regardless of his or her period of participation in the State Employees Retirement System, and (c) be treated for all other purposes of the Nebraska State Patrol Retirement Act as a new member of the Nebraska State Patrol Retirement System.

(3) Transferring participation from the State Employees Retirement System of the State of Nebraska to the Nebraska State Patrol Retirement System pursuant to this section does not constitute a termination for purposes of the State Employees Retirement Act.

Source: Laws 2002, LB 470, § 4.

Cross References

Nebraska State Patrol Retirement Act, see section 81-2014.01.

CHAPTER 68 – PUBLIC ASSISTANCE

ARTICLE 6 – SOCIAL SECURITY

- 68-601. Social security; policy.
- 68-602. Terms, defined.
- 68-603. Agreement with federal government; state agency; approval of Governor.
- 68-604. Agreement with federal government; instrumentality jointly created with other state.
- 68-605. Contributions by state employees; amount.
- 68-606. Contribution by state employees; collection.
- 68-607. Contribution by state employees; adjustments.
- 68-608. Coverage by political subdivisions; plan; modification; approval by state agency.
- 68-609. Coverage by political subdivisions; refusal, amendment, or termination of plan; notice; hearing.
- 68-610. Coverage by political subdivisions; amount; payment.
- 68-611. Coverage by political subdivisions; delinquent payments; penalty; collection.
- 68-620. Cities and villages; special levy; addition to levy limitations; contribution to state agency.
- 68-621. Terms, defined.
- 68-622. Referendum; persons eligible to vote; Governor; powers.
- 68-623. Referendum; how conducted.
- 68-624. Referendum; completion; certification; notice; contents.
- 68-625. Referendum; state agency; prepare plan; modification of state agreement.
- 68-626. Referendum; state agency; forms; make available; aid political subdivisions.
- 68-627. Referendum; supervision.
- 68-629. Referendum; Governor; appointment of agency to conduct; cost; payment.
- 68-630. Political subdivisions; delinquency in payment; manner of collection.
- 68-631. Metropolitan utilities district; social security; employees; separate group; referendum; effect.

ARTICLE 6

SOCIAL SECURITY

68-601. Social security; policy.

(1) In order to extend to the employees of the state and its political subdivisions and to the dependents and survivors of such employees the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the Legislature, subject to the limitations of sections 68-601 to 68-631, that such steps be taken as to provide such protection to employees of the State of Nebraska and its political subdivisions on as broad a basis as is permitted under the act.

(2) In conformity with the policy of the Congress of the United States of America, it is hereby declared to be the policy of the State of Nebraska that the protection afforded employees in positions covered by retirement systems on the date the state agreement is made applicable to service performed in such positions or receiving periodic benefits under such retirement systems at such time will not be impaired as a result of making the agreement so applicable or as a result of legislative or executive action taken in anticipation or in consequence thereof and that the benefits provided by the Social Security Act and made available to employees of the State of Nebraska and of political subdivisions thereof or instrumentalities jointly created by the state and any other state or states, who are or may be members of a retirement system, shall be supplementary to the benefits provided by such retirement system.

Source: Laws 1951, c. 297, § 1, p. 977; Laws 1955, c. 264, § 1, p. 812; Laws 1990, LB 820, § 1; Laws 2000, LB 1216, § 8; Laws 2010, LB684, § 1.

Annotations

A member of a county mental health board, appointed pursuant to statute, is an "officer of the state or a political subdivision thereof" and, as such, is an employee of the State of Nebraska for the purposes of the Social Security Act. *Sullivan v. Hajny*, 210 Neb. 481, 315 N.W.2d 443 (1982).

68-602. Terms, defined.

For purposes of sections 68-601 to 68-631, unless the context otherwise requires:

(1) Wages shall mean all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that wages shall not include that part of such remuneration which, even if it were for employment within the meaning of the Federal Insurance Contributions Act, would not constitute wages within the meaning of the act;

(2) Employment shall mean any service performed by an employee in the employ of the State of Nebraska or any political subdivision thereof for such employer except (a) service which, in the absence of an agreement entered into under sections 68-601 to 68-631, would constitute employment as defined in the Social Security Act or (b) service which under the act may not be included in an agreement between the state and the Secretary of Health and Human Services entered into under sections 68-601 to 68-631. Service which under the act may be included in an agreement only upon certification by the Governor in accordance with section 218(d)(3) of the act shall be included in the term employment if and when the Governor issues, with respect to such service, a certificate to the Secretary of Health and Human Services pursuant to subsection (2) of section 68-624;

(3) Employee shall include an officer of the state or a political subdivision thereof;

(4) State agency shall mean the Director of Administrative Services;

(5) Secretary of Health and Human Services shall include any individual to whom the Secretary of Health and Human Services has delegated any functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions and, with respect to any action taken prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom such administrator had delegated any such function;

(6) Political subdivision shall include an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is essentially legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision;

(7) Social Security Act shall mean the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the Social Security Act, including regulations and requirements issued pursuant thereto, as such act has been amended or recodified to December 25, 1969, and may from time to time hereafter be amended or recodified; and

(8) Federal Insurance Contributions Act shall mean Chapter 21, subchapters A, B, and C of the Internal Revenue Code, and the term employee tax shall mean the tax imposed by section 3101 of such code.

Source: Laws 1951, c. 297, § 2, p. 978; Laws 1955, c. 264, § 2, p. 813; Laws 1969, c. 536, § 1, p. 2181; Laws 1977, LB 194, § 1; Laws 1984, LB 933, § 2; Laws 1990, LB 820, § 2; Laws 1995, LB 574, § 57; Laws 2000, LB 1216, § 9; Laws 2010, LB684, § 2.

Annotations

A member of a county mental health board, appointed pursuant to statute, is an "officer of the state or a political subdivision thereof" and, as such, is an employee of the State of Nebraska for the purposes of the Social Security Act. *Sullivan v. Hajny*, 210 Neb. 481, 315 N.W.2d 443 (1982).

68-603. Agreement with federal government; state agency; approval of Governor.

The state agency, with the approval of the Governor, is hereby authorized to enter, on behalf of the State of Nebraska, into an agreement with the Secretary of Health and Human Services, consistent with the terms and provisions of sections 68-601 to 68-631, for the purpose of extending the benefits of the federal old age and survivors' insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute employment. The state agency, with the approval of the Governor, is further authorized to enter, on behalf of the State of Nebraska, into such modifications and amendments to such agreement with the Secretary of Health and Human Services as shall be consistent with the terms and provisions of sections 68-601 to 68-631 if such modification or amendment is necessary or desirable to secure the benefits and exemptions allowable to the State of Nebraska or any political subdivision thereof or to any employee of the State of Nebraska or any political subdivision thereof provided by the Social Security Act, the Federal Insurance Contributions Act, or the employee tax. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and Secretary of Health and Human Services shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

(1) Benefits will be provided for employees whose services are covered by the agreement and their dependents and survivors on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state will pay to the Secretary of the Treasury of the United States, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes which would be imposed by the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of the Federal Insurance Contributions Act;

(3) Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified in the agreement, but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services is entered into, except that if a political subdivision made reports and payments for social security coverage of its employees to the Internal Revenue Service under the Federal Insurance Contributions Act in the mistaken belief that such action provided coverage for the employees, such agreement shall be effective as of the first day of the first calendar quarter for which such reports were erroneously filed;

(4) All services which constitute employment and are performed in the employ of the state by employees of the state shall be covered by the agreement;

(5) All services which constitute employment, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under sections 68-608 to 68-611 shall be covered by the agreement;

(6) As modified, the agreement shall include all services described in either subdivision (4) or (5) of this section or both of such subdivisions and performed by individuals to whom section 218(c)(3)(c) of the Social Security Act is applicable and shall provide that the service of any such individual shall continue to be covered by the agreement in case he or she thereafter becomes eligible to be a member of a retirement system; and

(7) As modified, the agreement shall include all services described in either subdivision (4) or (5) of this section or both of such subdivisions and performed by individuals in positions covered by a retirement system with respect to which the Governor has issued a certificate to the Secretary of Health and Human Services pursuant to subsection (2) of section 68-624.

Source: Laws 1951, c. 297, § 3(1), p. 979; Laws 1955, c. 264, § 3, p. 814; Laws 1969, c. 536, § 2, p. 2183; Laws 1979, LB 576, § 1; Laws 1984, LB 933, § 3; Laws 1990, LB 820, § 3; Laws 2000, LB 1216, § 10; Laws 2010, LB684, § 3.

68-604. Agreement with federal government; instrumentality jointly created with other state.

Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (1) to enter into an agreement with the Secretary of Health and Human Services whereby the benefits of the federal old age and survivors' insurance system shall be extended to employees of such instrumentality, (2) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under section 68-605 if they were covered by an agreement made pursuant to section 68-603, and (3) to make payments to the Secretary of the Treasury of the United States in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such an agreement shall, to the extent practicable, be consistent with the terms and provisions of section 68-603 and other provisions of sections 68-601 to 68-631.

Source: Laws 1951, c. 297, § 3(2), p. 980; Laws 1955, c. 264, § 4, p. 816; Laws 1984, LB 933, § 4; Laws 1990, LB 820, § 4; Laws 2000, LB 1216, § 11; Laws 2010, LB684, § 4.

68-605. Contributions by state employees; amount.

Every employee of the state whose services are covered by an agreement entered into under sections 68-603 and 68-604 shall be required to pay for the period of such coverage, contributions, with respect to wages, as defined in section 68-602, equal to the amount of tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the employee's retention in the service of the state, or his or her entry upon such service, after the enactment of sections 68-601 to 68-631.

Source: Laws 1951, c. 297, § 4(1), p. 980; Laws 1955, c. 264, § 5, p. 817; Laws 1987, LB 3, § 1; Laws 2000, LB 1216, § 12; Laws 2010, LB684, § 5.

68-606. Contribution by state employees; collection.

The contribution imposed by section 68-605 shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

Source: Laws 1951, c. 297, § 4(2), p. 981.

68-607. Contribution by state employees; adjustments.

If more or less than the correct amount of the contribution imposed by section 68-605 is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

Source: Laws 1951, c. 297, § 4(3), p. 981.

68-608. Coverage by political subdivisions; plan; modification; approval by state agency.

Unless otherwise provided for by sections 68-601 to 68-631, each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision and is hereby further authorized to submit for approval by the state agency any modification or amendment to any then existing plan if such modification or amendment is necessary or desirable to secure the benefits and exemptions allowable to such political subdivisions thereof or to any employee of the political subdivision in conformity with Title II of the act. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan or such plan as amended is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless: (1) It is in conformity with the requirements of the act and with the agreement entered into under sections 68-603 and 68-604; (2) it provides that all services which constitute employment and are performed in the employ of the political subdivision by employees thereof will be covered by the plan; (3) it specifies the source or sources from which the funds necessary to make the payments required by subsection (1) of section 68-610 and by section 68-611 are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose; (4) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan; (5) it provides that the political subdivision will make such reports in such form and containing such information as the state agency may from time to time require and will comply with such provisions as the state agency or the Secretary of Health and Human Services may from time to time find necessary to assure the correctness and verification of such reports; and (6) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the act.

Source: Laws 1951, c. 297, § 5(1), p. 981; Laws 1955, c. 264, § 6, p. 817; Laws 1969, c. 536, § 3, p. 2184; Laws 1984, LB 933, § 5; Laws 1990, LB 820, § 5; Laws 2000, LB 1216, § 13; Laws 2010, LB684, § 6.

68-609. Coverage by political subdivisions; refusal, amendment, or termination of plan; notice; hearing.

The state agency shall not finally refuse to approve a plan submitted by a political subdivision under section 68-608, nor any proposed amendment to such plan, and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby, nor with respect to the employees of such a political subdivision who are members of a retirement system, until such political subdivision has proposed and adopted a method that is acceptable to the members concerned of protecting the retirement rights and expectancies of such members.

Source: Laws 1951, c. 297, § 5(2), p. 982; Laws 1955, c. 264, § 7, p. 818; Laws 1969, c. 536, § 4, p. 2186.

68-610. Coverage by political subdivisions; amount; payment.

(1) Each political subdivision as to which a plan has been approved under sections 68-608 to 68-611 or prepared under section 68-625 shall be required to pay for the period of such coverage, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under sections 68-603 and 68-604.

(2) Each political subdivision required to make payments under section 68-609 is authorized, in consideration of the employee's retention in or entry upon employment after enactment of sections 68-601 to 68-631, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his or her wages not exceeding the amount of tax which would be imposed by the Federal Insurance Contributions Act if such services constituted employment within the meaning of the act and to deduct the amount of such contribution from his or her wages as and when paid. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

Source: Laws 1951, c. 297, § 5(3), p. 982; Laws 1955, c. 264, § 8, p. 819; Laws 1990, LB 820, § 6; Laws 2000, LB 1216, § 14; Laws 2010, LB684, § 7.

68-611. Coverage by political subdivisions; delinquent payments; penalty; collection.

Delinquent payments due under subsection (1) of section 68-610, plus one-half the amount of the delinquent payment, may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other money payable to such subdivision by any department or agency of the state.

Source: Laws 1951, c. 297, § 5(4), p. 983; Laws 1953, c. 236, § 1, p. 816.

68-620. Cities and villages; special levy; addition to levy limitations; contribution to state agency.

Notwithstanding any tax levy limitations contained in any other law or city home rule charter, when any city or village of this state elects to accept the provisions of sections 68-601 to 68-631 relating to old age and survivors insurance and enters into a written agreement with the state agency as provided in such sections, the city or village shall levy a tax, in addition to all other taxes, in order to defray the cost of such city or village in meeting the obligations arising by reason of such written agreement, and the revenue raised by such special levy shall be used for no other purpose.

Source: Laws 1951, c. 296, § 1, p. 976; Laws 1955, c. 264, § 14, p. 821; Laws 1971, LB 667, § 1; Laws 1979, LB 187, § 181; Laws 1990, LB 820, § 10; Laws 2000, LB 1216, § 17; Laws 2010, LB684, § 8.

68-621. Terms, defined.

(1) A referendum group, as referred to in sections 68-621 to 68-630, shall consist of the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering such employees, except that: (a) The employees of the University of Nebraska shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the School Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Correctional Services and the

Department of Health and Human Services, and employees subordinate to the State Board of Education, shall constitute a referendum group; and (d) all employees of school districts of the State of Nebraska, county superintendents, and county school administrators, who are or may be members of the School Retirement System of the State of Nebraska, shall constitute a single referendum group.

(2) The managing authority of a political subdivision or educational institution shall be the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-631 may be applicable to county superintendents and county school administrators, managing authority shall mean the board of county commissioners or county supervisors of the county in which the county superintendent was elected or with which the county school administrator contracted.

(3) Eligible employees, as referred to in sections 68-621 to 68-630, shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.

(4) State agreement, as referred to in sections 68-621 to 68-630, shall mean the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

Source: Laws 1955, c. 264, § 15, p. 821; Laws 1969, c. 537, § 1, p. 2187; Laws 1973, LB 563, § 6; Laws 1988, LB 802, § 6; Laws 1996, LB 1044, § 297; Laws 1999, LB 272, § 20; Laws 2000, LB 1216, § 18; Laws 2010, LB684, § 9.

68-622. Referendum; persons eligible to vote; Governor; powers.

(1) All employees of the State of Nebraska or any political subdivision thereof or any instrumentality jointly created by this state and any other state or states who have heretofore been excluded from receiving or qualifying for benefits under Title II of the Social Security Act because of membership in a retirement system may, when sections 68-621 to 68-630 have been complied with, vote at a referendum upon the question of whether service in positions covered by such retirement system should be excluded from or included under the state agreement, except that if such a referendum has been conducted and certified in accordance with section 218(d)(3) of the Social Security Act, as amended in 1954, prior to May 18, 1955, then no further referendum shall be required, but this shall not prohibit the conducting of such further referendum.

(2) The Governor may authorize a referendum and designate any agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under sections 68-601 to 68-631.

Source: Laws 1955, c. 264, § 16, p. 822; Laws 1990, LB 820, § 11; Laws 2000, LB 1216, § 19; Laws 2010, LB684, § 10.

68-623. Referendum; how conducted.

Such referendum shall comply with the conditions set out in section 218(d)(3) of the Social Security Act, and: (1) It shall be by secret written ballot upon the question of whether service in positions covered by such retirement system should be excluded from or included under the state agreement; (2) an opportunity to vote in such referendum shall be given, and shall be limited, to eligible employees; (3) not less than ninety days' notice of such referendum shall be given to all such employees; and (4) such referendum shall be conducted under the supervision of the Governor, or an agency or individual designated by him.

Source: Laws 1955, c. 264, § 17, p. 823.

68-624. Referendum; completion; certification; notice; contents.

(1) Upon completion of such referendum, the agency or individual designated by the Governor to supervise such referendum shall certify the result thereof to the Governor and shall further provide the Governor with such proof as the Governor may require that the conduct of the referendum met the requirements set forth in section 68-623.

(2) Upon receipt of the certificate mentioned in subsection (1) of this section and the additional proof submitted therewith, the Governor shall, if the result of such referendum is favorable to the inclusion of service covered by the retirement system in question under the state agreement, prepare and submit to the Secretary of Health and Human Services the certificate required by section 218(d)(3) of the Social Security Act and shall further notify the state agency forthwith of the result of such referendum, whether such result is favorable or unfavorable to such inclusion.

(3) The state agency shall, within seven days after the receipt of notice of the result of any such referendum as provided for in subsection (2) of this section, give notice thereof to each managing authority, as defined in subsection (2) of section 68-621, whose employees, or some of whose employees, are included in the referendum group, as defined in subsection (1) of section 68-621, participating in such referendum. Such notice shall include a designation of the employees subordinate to such managing authority affected by such referendum and shall be given to such managing authorities by prepaid United States mail by either registered or certified letter addressed to such managing authority with a return receipt requested.

Source: Laws 1955, c. 264, § 18, p. 823; Laws 1957, c. 242, § 50, p. 861; Laws 1984, LB 933, § 7.

68-625. Referendum; state agency; prepare plan; modification of state agreement.

If, upon referendum, a majority of the eligible employees included in a referendum group which is defined in section 68-621 vote in favor of including service in positions included in such group under the state agreement, the state agency shall, within ninety days after the mailing of notice of the result of such referendum, prepare a plan for extending the benefits of Title II of the Social Security Act to such employees. Such plan shall meet the requirements of section 68-608 and shall inform the managing authority or authorities whose employees are included in such group of the provisions of such plan. Upon completion of such plan, the state agency shall apply for a modification of the state agreement to make it applicable to services performed by the employees of the state or of such political subdivision or educational institution eligible for inclusion under such agreement. The state agency may prepare such applications for modification to cover one or more such plans as it deems advisable, except that the state agency shall not delay application for such modification more than six months after the preparation of

any plan as set forth in this section. The state agency may require any such managing authority to furnish any information necessary for the preparation of such plan by the state agency.

Source: Laws 1955, c. 264, § 19, p. 824; Laws 1988, LB 802, § 7.

68-626. Referendum; state agency; forms; make available; aid political subdivisions.

The state agency shall prepare and make available for the use of the state, its political subdivisions, and instrumentalities of the state and any other state or states, forms of notices, ballots, and any other forms necessary for the conduct of the referendum provided for in sections 68-621 to 68-630, and shall aid in the completion and preparation of such instruments by the officers of referendum groups and shall provide advice and assistance to officers of the state, political subdivisions thereof, and instrumentalities of the state and other states jointly, relative to the preparation for and conduct of such referendums, and relative to the preparation and submission of plans for the extension of benefits under Title II of the Social Security Act to the employees thereof.

Source: Laws 1955, c. 264, § 20, p. 825.

68-627. Referendum; supervision.

The Governor or some agency or individual designated by him or her shall, at such time or times and places and in such manner as the Governor or such agency or individual shall determine, conduct and supervise referendums as provided by sections 68-621 to 68-630 among the eligible employees included in the referendum groups referred to in section 68-621.

Source: Laws 1955, c. 264, § 21, p. 825; Laws 1988, LB 802, § 8.

68-629. Referendum; Governor; appointment of agency to conduct; cost; payment.

Upon written request made by the managing authority of any referendum group, other than those referendum groups mentioned in section 68-621, and delivered to the Governor, the Governor, shall, within fifteen days after the receipt of such request, appoint the managing authority, or such other agency or individual, as he may designate, to conduct a referendum as provided by the provisions of sections 68-621 to 68-630 among the eligible employees included in such referendum group within four months of the date of such appointment. The cost of such a referendum shall be paid by the managing authority making the request.

Source: Laws 1955, c. 264, § 23, p. 826.

68-630. Political subdivisions; delinquency in payment; manner of collection.

In addition to other remedies provided for the collection or recovery of delinquent payments due under section 68-610, the state agency may, in the event of any such delinquency, notify the county treasurer of the appropriate county to withhold payment to the delinquent political subdivision of any funds in the hands of such county treasurer to which such delinquent political subdivision would otherwise be entitled. The notice referred to shall be sent to the county treasurer by certified or registered mail, and a copy of such notice shall be sent by ordinary mail to the secretary of the delinquent political subdivision. The county treasurer shall thereafter withhold payments in the manner provided in this section until notified by the state agency that the delinquency has been corrected.

Source: Laws 1955, c. 264, § 24, p. 826; Laws 1987, LB 93, § 17.

68-631. Metropolitan utilities district; social security; employees; separate group; referendum; effect.

Sections 68-601 to 68-631 and any amendments thereto shall, except as otherwise provided in this section, be applicable to metropolitan utilities districts and employees and appointees of metropolitan utilities districts. The state agency contemplated in such sections is authorized to enter, on behalf of the State of Nebraska, into an agreement with any authorized agent of the United States Government for the purpose of extending the benefits of the Federal Old Age and Survivors' Insurance system, as amended by Public Law 761, approved September 1, 1954, to the appointees and employees of each metropolitan utilities district, and all of the appointees and employees covered by a contributory retirement plan are hereby declared to be a separate group for the purposes of referendum and subsequent coverage. Metropolitan utilities districts are hereby declared to be political subdivisions as defined in section 68-602, and the Governor is authorized to appoint the board of directors of any metropolitan utilities district as the agency designated by him or her to supervise any referendum required to be conducted under the Social Security Act and is authorized to make any certifications required by the act to be made to the Secretary of Health and Human Services.

Source: Laws 1955, c. 25, § 2, p. 118; Laws 1984, LB 933, § 8; Laws 1990, LB 820, § 12; Laws 2000, LB 1216, § 20; Laws 2010, LB684, § 11.

CHAPTER 70 – POWER DISTRICTS AND CORPORATIONS

ARTICLE 11

RETAIL ELECTRIC SERVICE

70-1104. Public power districts; municipal operation; employees' rights respected.

Any municipality assuming the management of the distribution system of any public power district under the provisions of sections 70-1101 to 70-1103 shall take over and employ all of the employees of the district theretofore operating such property on the same salary, terms and conditions as their previous employment, including their rights of seniority, pension and retirement plan without prejudice to any of such rights.

Source: Laws 1963, c. 398, § 5, p. 1271.

This page left intentionally blank.

CHAPTER 71 – PUBLIC HEALTH AND WELFARE

ARTICLE 16 – LOCAL HEALTH SERVICES

(b) LOCAL PUBLIC HEALTH DEPARTMENTS

- 71-1631. Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.
- 71-1631.01. Local boards of health; rules and regulations; violations; penalty.
- 71-1631.02. Local boards of health; retirement plan; reports.

ARTICLE 16

LOCAL HEALTH SERVICES

(b) LOCAL PUBLIC HEALTH DEPARTMENTS

71-1631. Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.

Except as provided in subsection (4) of section 71-1630, the board of health of each county, district, or city-county health department organized under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power set forth in this section. The board may elect such other officers as it may deem necessary and may adopt and promulgate such rules and regulations for its own guidance and for the government of such health department as may be necessary, not inconsistent with sections 71-1626 to 71-1636. The board of health shall, with the approval of the county board and the municipality, whenever a city is a party in such a city-county health department:

(1) Select the health director of such department who shall be (a) well-trained in public health work though he or she need not be a graduate of an accredited medical school, but if he or she is not such a graduate, he or she shall be assisted at least part time by at least one medical consultant who shall be a licensed physician, (b) qualified in accordance with the state personnel system, and (c) approved by the Department of Health and Human Services;

(2) Hold an annual meeting each year, at which meeting officers shall be elected for the ensuing year;

(3) Hold meetings quarterly each year;

(4) Hold special meetings upon a written request signed by two of its members and filed with the secretary;

(5) Provide suitable offices, facilities, and equipment for the health director and assistants and their pay and traveling expenses in the performance of their duties, with mileage to be computed at the rate provided in section 81-1176;

(6) Publish, on or soon after the second Tuesday in July of each year, in pamphlet form for free distribution, an annual report showing (a) the condition of its trust for each year, (b) the sums of money received from all sources, giving the name of any donor, (c) how all money has been expended and for what purpose, and (d) such other statistics and information with regard to the work of such health department as may be of general interest;

(7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services;

(8) Make all necessary sanitary and health investigations and inspections;

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

(10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services, to arrest the progress of the same;

(11) Distribute free as the local needs may require all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or purchased for public health purposes by the county board;

(12) Upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health;

(13) Fix the salaries of all employees, including the health director. Such city-county health department may also establish an independent pension plan, retirement plan, or health insurance plan or, by agreement with any participating city or county, provide for the coverage of officers and employees of such city-county health department under such city or county pension plan, retirement plan, or health insurance plan. Officers and employees of a county health department shall be eligible to participate in the county pension plan, retirement plan, or health insurance plan of such county. Officers and employees of a district health department formed by two or more counties shall be eligible to participate in the county retirement plan unless the district health department establishes an independent pension plan or retirement plan for its officers or employees;

(14) Establish fees for the costs of all services, including those services for which third-party payment is available; and

(15) In addition to powers conferred elsewhere in the laws of the state and notwithstanding any other law of the state, implement and enforce an air pollution control program under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with the state air pollution control regulations.

Source: Laws 1943, c. 152, § 6, p. 558; R.S.1943, § 71-1631; Laws 1953, c. 249, § 1, p. 852; Laws 1955, c. 275, § 1, p. 871; Laws 1963, c. 401, § 1, p. 1286; Laws 1967, c. 449, § 3, p. 1394; Laws 1969, c. 151, § 5, p. 713; Laws 1972, LB 1497, § 6; Laws 1973, LB 285, § 1; Laws 1979, LB 198, § 2; Laws 1981, LB 204, § 120; Laws 1992, LB 860, § 3; Laws 1992, LB 1257, § 74; Laws 1993, LB 623, § 2; Laws 1996, LB 1011, § 28; Laws 1996, LB 1044, § 571; Laws 1997, LB 185, § 4; Laws 2006, LB 1019, § 6; Laws 2007, LB296, § 481.

71-1631.01. Local boards of health; rules and regulations; violations; penalty.

Any person violating any rule or regulation, authorized by the provisions of either subdivision (7) or (9) of section 71-1631, shall be guilty of a Class III misdemeanor, and each day's violation shall be considered a separate offense.

Source: Laws 1955, c. 275, § 2, p. 872; Laws 1969, c. 151, § 7, p. 717; Laws 1977, LB 39, § 161.

71-1631.02. Local boards of health; retirement plan; reports.

(1) Beginning December 31, 1998, and each year thereafter, the health director of a board of health with an independent retirement plan established pursuant to section 71-1631 and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each independent defined contribution plan, a full description of investment policies and options available to plan participants; and
- (h) For each independent defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If an independent plan contains no current active participants, the health director may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, a board of health with an independent retirement plan established pursuant to section 71-1631 shall cause to be prepared a quadrennial report and the health director shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such independent retirement plan established pursuant to section 71-1631. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1998, LB 1191, § 43; Laws 1999, LB 795, § 12.

This page left intentionally blank.

CHAPTER 72 – PUBLIC LANDS, BUILDINGS, AND FUNDS

ARTICLE 12 – INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

- 72-1237. Nebraska Investment Council; created; members; appointment; term; vacancy; immunity.
- 72-1238. Nebraska Investment Council; members; qualifications.
- 72-1239. Nebraska Investment Council; purpose; members; meetings; compensation.
- 72-1239.01. Nebraska Investment Council; duties and responsibilities.
- 72-1243. State investment officer; investment and reinvestment of funds; duties; council and Public Employees Retirement Board; analysis required; plan; contents.

ARTICLE 12

INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

72-1237. Nebraska Investment Council; created; members; appointment; term; vacancy; immunity.

The Nebraska Investment Council is created. For purposes of the Nebraska State Funds Investment Act, council means the Nebraska Investment Council. The council shall consist of five members, appointed by the Governor with the approval of the Legislature, and the State Treasurer and the director of the Nebraska Public Employees Retirement Systems as nonvoting, ex officio members. One of the appointed members shall be designated chairperson by the Governor.

Prior to September 1, 2006, each of the appointed members of the council shall serve for a term of five years and may be removed by the Governor for cause after notice and an opportunity to be heard. The term of any appointed member shall be extended until the date on which his or her successor's appointment is effective. Beginning September 1, 2006, each of the appointed members of the council shall serve for a term of five years that begins on January 1 and may be removed by the Governor for cause after notice and an opportunity to be heard. Such term shall be extended until the date on which his or her successor's appointment is effective. For members serving on September 1, 2006, and whose terms would otherwise end on September 18, such terms shall be extended until the following December 31, or until the date on which his or her successor's appointment is effective. A member may be reappointed. A successor shall be appointed in the same manner as provided for the members first appointed, and in case of a vacancy caused by death, resignation, or otherwise, the Governor shall appoint a qualified person to fill the vacancy for the unexpired term.

No member of the council shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violation of law, for actions relating to his or her duties as a member of the council.

Source: Laws 1969, c. 584, § 1, p. 2350; Laws 1991, LB 368, § 1; Laws 1991, LB 549, § 20; Laws 1996, LB 847, § 18; Laws 2002, LB 407, § 17; Laws 2006, LB 1019, § 7.

72-1238. Nebraska Investment Council; members; qualifications.

(1) Prior to July 1, 2005, the appointed members of the council shall have at least ten years of experience in the financial affairs of a public or private organization or have at least five years of experience in the field of investment management or analysis. For members appointed on or after July 1, 2005, the appointed members of the council shall have at least seven years of experience in the field of investment management or analysis or have at least twelve years of experience in the financial management of a public or private organization. There is a preference for members who are appointed to have experience in investment management or analysis.

(2) The members serving on July 1, 2005, shall serve for the remainder of their five-year terms which will be extended until the date on which the successor's appointment is effective.

Source: Laws 1969, c. 584, § 2, p. 2350; Laws 1996, LB 847, § 19; Laws 2005, LB 503, § 5.

72-1239. Nebraska Investment Council; purpose; members; meetings; compensation.

The purpose of the council is to formulate and establish such policies as it may deem necessary and proper which shall govern the methods, practices, and procedures followed by the state investment officer for the investment or reinvestment of state funds and funds described in section 83-133 and the purchase, sale, or exchange of securities as provided by the Nebraska State Funds Investment Act. The council shall meet from time to time as directed by the Governor or the chairperson or as requested by the state investment officer. The members of the council, except the State Treasurer and the director of the Nebraska Public Employees Retirement Systems, shall be paid seventy-five dollars per diem. The members shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties as members as provided in sections 81-1174 to 81-1177.

Source: Laws 1969, c. 584, § 3, p. 2350; Laws 1981, LB 204, § 145; Laws 1985, LB 335, § 1; Laws 1991, LB 368, § 2; Laws 1996, LB 847, § 20; Laws 1997, LB 4, § 1; Laws 2005, LB 503, § 6.

72-1239.01. Nebraska Investment Council; duties and responsibilities.

(1)(a) The appointed members of the Nebraska Investment Council shall have the responsibility for the investment management of the assets of the retirement systems administered by the Public Employees Retirement Board as provided in section 84-1503 and the assets of the Nebraska educational savings plan trust created pursuant to sections 85-1801 to 85-1814. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of the retirement systems and of the Nebraska educational savings plan trust and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of the retirement systems and of the Nebraska educational savings plan trust solely in the interests of the members and beneficiaries of the retirement systems or the interests of the participants and beneficiaries of the Nebraska educational savings plan trust, as the case may be, for the exclusive purposes of providing benefits to members, members' beneficiaries, participants, and participants' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law.

(2)(a) The appointed members of the Nebraska Investment Council shall have the responsibility for the investment management of the assets of state funds. The appointed members shall be deemed fiduciaries with respect to the investment of the assets of state funds

and shall be held to the standard of conduct of a fiduciary specified in subsection (3) of this section. The nonvoting, ex officio members of the council shall not be deemed fiduciaries.

(b) As fiduciaries, the appointed members of the council and the state investment officer shall discharge their duties with respect to the assets of state funds solely in the interests of the citizens of the state within the limitations and according to the powers, duties, and purposes prescribed by law.

(3) The appointed members of the council shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the assets of the retirement systems, the Nebraska educational savings plan trust, and state funds so as to minimize risk of large losses, unless in light of such circumstances it is clearly prudent not to do so. No assets of the retirement systems or the Nebraska educational savings plan trust shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

Source: Laws 1996, LB 847, § 21; Laws 2002, LB 407, § 18; Laws 2003, LB 574, § 25.

72-1243. State investment officer; investment and reinvestment of funds; duties; council; analysis required; plan; contents.

(1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2) The council shall have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503. By March 15 of each year, the analysis shall be presented to the board and the Nebraska Retirement Systems Committee. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By March 15 of each year, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, and an organizational structure of the council's office.

Source: Laws 1969, c. 584, § 7, p. 2351; Laws 1971, LB 53, § 7; Laws 1985, LB 335, § 2; Laws 1991, LB 549, § 21; Laws 1996, LB 847, § 24; Laws 2005, LB 503, § 7.

This page left intentionally blank.

CHAPTER 77 – REVENUE AND TAXATION

ARTICLE 7 -- DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION

77-701. Property assessment division; established; Property Tax Administrator; powers and duties; appeal rights.

ARTICLE 13 – ASSESSMENT OF PROPERTY

77-1340.02. Transfer of assessment function; transferred employee; retirement rights.

77-1340.05. Transfer of assessment function to county; transferred employee; retirement rights.

ARTICLE 27 -- SALES AND INCOME TAX

(c) INCOME TAX

77-27,119. Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or Legislative Auditor; wrongful disclosure; exception; penalty.

ARTICLE 7

DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION

77-701. Property assessment division; established; Property Tax Administrator; powers and duties; appeal rights.

(1) A division of state government to be known as the property assessment division of the Department of Revenue is established. The Property Tax Administrator shall be the chief administrative officer of the division but shall be under the general supervision of the Tax Commissioner.

(2) The goals and functions of the division shall be to: (a) Execute faithfully the property tax laws of the State of Nebraska; (b) provide for efficient, updated methods and systems of property tax reporting, enforcement, and related activities; and (c) continually seek to improve its system of administration.

(3) All employees, budget requirements, appropriations, encumbrances, and assets and liabilities of the Department of Property Assessment and Taxation for the administration of property valuation and equalization shall be transferred and delivered to the division. The transferred employees shall not lose any accrued benefits or status due to the transfer and shall receive the same benefits as other state employees, including participation in the State Employees Retirement Act.

(4) The Tax Commissioner or Property Tax Administrator may appeal any final decision of a county board of equalization relating to the granting or denying of an exemption of real or personal property to the Tax Equalization and Review Commission. If the Tax Commissioner or Property Tax Administrator files such an appeal, the person, corporation, or organization granted or denied the exemption by the county board of equalization shall be made a party to the appeal and shall be issued a notice of the appeal by the Tax Equalization and Review Commission within thirty days after the appeal is filed. The Tax Commissioner or Property Tax Administrator may appeal any final decision of the Tax Equalization and Review Commission relating to the granting or denying of an exemption of real or personal property or relating to the valuation or equalization of real property.

Source: Laws 1999, LB 36, § 21; Laws 2007, LB334, § 43; Laws 2010, LB877, § 2.

Cross References

Administrative Procedure Act, see section 84-920.
State Employees Retirement Act, see section 84-1331.

ARTICLE 13

ASSESSMENT OF PROPERTY

77-1340.02. Transfer of assessment function; transferred employee; retirement rights.

(1) On the date of employment transfer, all transferred employees shall immediately have the right to participate in the State Employees Retirement System of the State of Nebraska and shall have any retirement funds transferred from the retirement system of the county for which they work to the State Employees Retirement System as follows:

(a) For transferred employees who are transferring from a county which participates in the Retirement System for Nebraska Counties under the County Employees Retirement Act and who participate in such system, the amount transferred shall equal the employee and employer accounts of the transferring employee plus earnings on those amounts during the period of employment with the county; and

(b) For transferred employees who are transferring from a county which has established a separate retirement system pursuant to section 23-1118, the amount transferred shall be calculated as follows:

(i) If the retirement system of the county is a defined benefit system, a benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the county so that the effect on the retirement system of the county will be actuarially neutral; and

(ii) The amount transferred to the State Employees Retirement System shall equal one of the following: If the retirement system of the transferring county is a defined benefit system, an amount equal to the benefit transfer value; if the retirement system of the transferring county is a defined contribution system, the value of the employer and employee accounts of the employee plus earnings on those amounts during the period of employment with the county.

(2) Upon the completion of the transfer of funds pursuant to subsection (1) of this section, the transferred employee shall receive vesting credit for such employee's years of participation in the retirement system of the county from which the employee was transferred.

(3) For purposes of this section, employee means a county assessor and employees of the county assessor's office transferred to the state pursuant to section 77-1340.

Source: Laws 1997, LB 269, § 39.

Note: This section was repealed by Laws 2009, LB121, section 15, operative on July 1, 2013.

Cross References

County Employees Retirement Act, see section 23-2331.
State Employees Retirement Act, see section 84-1331.

77-1340.05. Transfer of assessment function to county; transferred employee; retirement rights.

(1)(a) On the date of employment transfer, all employees of the Department of Revenue transferred to a county pursuant to section 77-1340 or 77-1340.04 shall immediately have the right to participate in the particular county employees retirement plan and shall have all retirement funds transferred from the State Employees Retirement System of the State of Nebraska.

(b) For transferred employees who are transferring retirement funds, the amount transferred shall equal the employee and employer accounts of the transferring employee plus earnings on those amounts during the period of employment with the state.

(2) Upon the completion of the transfer of funds pursuant to subsection (1) of this section, the transferred employee shall receive vesting credit for such employee's years of participation in the retirement system of the county from which the employee was transferred, if any, plus all years of participation in the State Employees Retirement System. Each employee that was employed by the department after the assessment function was transferred from the county shall receive vesting credit for such employee's years of participation in the State Employees Retirement System.

Source: Laws 2009, LB121, § 9.

ARTICLE 27

SALES AND INCOME TAX

(c) INCOME TAX

77-27,119. Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or Legislative Auditor; wrongful disclosure; exception; penalty.

(1) The Tax Commissioner shall administer and enforce the income tax imposed by sections 77-2714 to 77-27,135, and he or she is authorized to conduct hearings, to adopt and promulgate such rules and regulations, and to require such facts and information to be reported as he or she may deem necessary to enforce the income tax provisions of such sections, except that such rules, regulations, and reports shall not be inconsistent with the laws of this state or the laws of the United States. The Tax Commissioner may for enforcement and administrative purposes divide the state into a reasonable number of districts in which branch offices may be maintained.

(2)(a) The Tax Commissioner may prescribe the form and contents of any return or other document required to be filed under the income tax provisions. Such return or other document shall be compatible as to form and content with the return or document required by the laws of the United States. The form shall have a place where the taxpayer shall designate the high school district in which he or she lives and the county in which the high school district is headquartered. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure compliance with this requirement.

(b) The State Department of Education, with the assistance and cooperation of the Department of Revenue, shall develop a uniform system for numbering all school districts in the

state. Such system shall be consistent with the data processing needs of the Department of Revenue and shall be used for the school district identification required by subdivision (a) of this subsection.

(c) The proper filing of an income tax return shall consist of the submission of such form as prescribed by the Tax Commissioner or an exact facsimile thereof with sufficient information provided by the taxpayer on the face of the form from which to compute the actual tax liability. Each taxpayer shall include such taxpayer's correct social security number or state identification number and the school district identification number of the school district in which the taxpayer resides on the face of the form. A filing is deemed to occur when the required information is provided.

(3) The Tax Commissioner, for the purpose of ascertaining the correctness of any return or other document required to be filed under the income tax provisions, for the purpose of determining corporate income, individual income, and withholding tax due, or for the purpose of making an estimate of taxable income of any person, shall have the power to examine or to cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters and may by summons require the attendance of the person responsible for rendering such return or other document or remitting any tax, or any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his or her information, with power to administer oaths or affirmations to such person or persons.

(4) The time and place of examination pursuant to this section shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons.

(5) No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

(6) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Tax Commissioner, any officer or employee of the Tax Commissioner, any person engaged or retained by the Tax Commissioner on an independent contract basis, any person who pursuant to this section is permitted to inspect any report or return or to whom a copy, an abstract, or a portion of any report or return is furnished, any employee of the State Treasurer or the Department of Administrative Services, or any other person to divulge, make known, or use in any manner the amount of income or any particulars set forth or disclosed in any report or return required except for the purpose of enforcing sections 77-2714 to 77-27,135. The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Tax Commissioner in an action or proceeding under the provisions of the tax law to which he or she is a party or on behalf of any party to any action or proceeding under such sections when the reports or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing in this section shall be construed (a) to prohibit the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, personal representatives, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) to prohibit the inspection by the Attorney

General, other legal representatives of the state, or a county attorney of the report or return of any taxpayer who brings an action to review the tax based thereon, against whom an action or proceeding for collection of tax has been instituted, or against whom an action, proceeding, or prosecution for failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) to prohibit furnishing to the Nebraska Workers' Compensation Court the names, addresses, and identification numbers of employers, and such information shall be furnished on request of the court, (e) to prohibit the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, (f) to prohibit the disclosure of information pursuant to section 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure to the Public Employees Retirement Board of the addresses of individuals who are members of the retirement systems administered by the board, and such information shall be furnished to the board solely for purposes of its administration of the retirement systems upon written request, which request shall include the name and social security number of each individual for whom an address is requested, (h) to prohibit the disclosure of information to the Department of Labor necessary for the administration of the Employment Security Law, the Contractor Registration Act, or the Employee Classification Act, (i) to prohibit the disclosure to the Department of Motor Vehicles of tax return information pertaining to individuals, corporations, and businesses determined by the Department of Motor Vehicles to be delinquent in the payment of amounts due under agreements pursuant to the International Fuel Tax Agreement Act, and such disclosure shall be strictly limited to information necessary for the administration of the act, or (j) to prohibit the disclosure under section 42-358.08, 43-512.06, or 43-3327 to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Health and Human Services of an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child, spousal, or medical support. Information so obtained shall be used for no other purpose. Any person who violates this subsection shall be guilty of a felony and shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned not more than five years, or be both so fined and imprisoned, in the discretion of the court and shall be assessed the costs of prosecution. If the offender is an officer or employee of the state, he or she shall be dismissed from office and be ineligible to hold any public office in this state for a period of two years thereafter.

(7) Reports and returns required to be filed under income tax provisions of sections 77-2714 to 77-27,135 shall be preserved until the Tax Commissioner orders them to be destroyed.

(8) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Secretary of the Treasury of the United States or his or her delegates or the proper officer of any state imposing an income tax, or the authorized representative of either such officer, to inspect the income tax returns of any taxpayer or may furnish to such officer or his or her authorized representative an abstract of the return of income of any taxpayer or supply him or her with information concerning an item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer, but such permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the Tax Commissioner of this state as the officer charged with the administration of the income tax imposed by sections 77-2714 to 77-27,135.

(9) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue

Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(10)(a) Notwithstanding the provisions of subsection (6) of this section, the Tax Commissioner shall, upon written request by the Auditor of Public Accounts or the Legislative Performance Audit Committee, make tax returns and tax return information open to inspection by or disclosure to officers and employees of the Auditor of Public Accounts or Legislative Performance Audit Section employees for the purpose of and to the extent necessary in making an audit of the Department of Revenue pursuant to section 50-1205 or 84-304. The Auditor of Public Accounts or Legislative Performance Audit Section shall statistically and randomly select the tax returns and tax return information to be audited based upon a computer tape provided by the Department of Revenue which contains only total population documents without specific identification of taxpayers. The Tax Commissioner shall have the authority to approve the statistical sampling method used by the Auditor of Public Accounts or Legislative Performance Audit Section. Confidential tax returns and tax return information shall be audited only upon the premises of the Department of Revenue. All audit workpapers pertaining to the audit of the Department of Revenue shall be stored in a secure place in the Department of Revenue.

(b) No officer or employee of the Auditor of Public Accounts or Legislative Performance Audit Section employee shall disclose to any person, other than another officer or employee of the Auditor of Public Accounts or Legislative Performance Audit Section employee whose official duties require such disclosure or as provided in subsections (2) and (3) of section 50-1213, any return or return information described in the Nebraska Revenue Act of 1967 in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(c) Any person who violates the provisions of this subsection shall be guilty of a Class IV felony and, in the discretion of the court, may be assessed the costs of prosecution. The guilty officer or employee shall be dismissed from employment and be ineligible to hold any position of employment with the State of Nebraska for a period of two years thereafter. For purposes of this subsection, officer or employee shall include a former officer or employee of the Auditor of Public Accounts or former Legislative Performance Audit Section employee.

(11) For purposes of subsections (10) through (13) of this section:

(a) Tax returns shall mean any tax or information return or claim for refund required by, provided for, or permitted under sections 77-2714 to 77-27,135 which is filed with the Tax Commissioner by, on behalf of, or with respect to any person and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to or part of the filed return;

(b) Return information shall mean:

(i) A taxpayer's identification number and (A) the nature, source, or amount of his or her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing or (B) any other data received by, recorded by, prepared by, furnished to, or collected by the Tax Commissioner with respect to a return or the determination of the existence or possible existence of liability or the amount of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense; and

(ii) Any part of any written determination or any background file document relating to such written determination; and

(c) Disclosures shall mean the making known to any person in any manner a return or return information.

(12) The Auditor of Public Accounts or the Legislative Auditor of the Legislative Performance Audit Section shall (a) notify the Tax Commissioner in writing thirty days prior to the beginning of an audit of his or her intent to conduct an audit, (b) provide an audit plan, and (c) provide a list of the tax returns and tax return information identified for inspection during the audit.

(13) The Auditor of Public Accounts or the Legislative Performance Audit Section shall, as a condition for receiving tax returns and tax return information: (a) Subject employees involved in the audit to the same confidential information safeguards and disclosure procedures as required of Department of Revenue employees; (b) establish and maintain a permanent system of standardized records with respect to any request for tax returns or tax return information, the reason for such request, and the date of such request and any disclosure of the tax return or tax return information; (c) establish and maintain a secure area or place in the Department of Revenue in which the tax returns, tax return information, or audit workpapers shall be stored; (d) restrict access to the tax returns or tax return information only to persons whose duties or responsibilities require access; (e) provide such other safeguards as the Tax Commissioner determines to be necessary or appropriate to protect the confidentiality of the tax returns or tax return information; (f) provide a report to the Tax Commissioner which describes the procedures established and utilized by the Auditor of Public Accounts or Legislative Performance Audit Section for insuring the confidentiality of tax returns, tax return information, and audit workpapers; and (g) upon completion of use of such returns or tax return information, return to the Tax Commissioner such returns or tax return information, along with any copies.

(14) The Tax Commissioner may permit other tax officials of this state to inspect the tax returns and reports filed under sections 77-2714 to 77-27,135, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(15) The Tax Commissioner shall compile the school district information required by subsection (2) of this section. Insofar as it is possible, such compilation shall include, but not be limited to, the total adjusted gross income of each school district in the state. The Tax Commissioner shall adopt and promulgate such rules and regulations as may be necessary to insure that such compilation does not violate the confidentiality of any individual income tax return nor conflict with any other provisions of state or federal law.

Source: Laws 1967, c. 487, § 119, p. 1628; Laws 1969, c. 694, § 1, p. 2689; Laws 1971, LB 527, § 1; Laws 1971, LB 571, § 1; Laws 1973, LB 526, § 6; Laws 1979, LB 302, § 1; Laws 1981, LB 170, § 7; Laws 1984, LB 962, § 32; Laws 1985, LB 273, § 68; Laws 1985, LB 344, § 8; Laws 1985, LB 345, § 1; Laws 1989, LB 611, § 3; Laws 1990, LB 431, § 1; Laws 1991, LB 549, § 22; Laws 1993, LB 46, § 17; Laws 1993, LB 345, § 72; Laws 1997, LB 129, § 2; Laws 1997, LB 720, § 23; Laws 1997, LB 806, § 3; Laws 2002, LB 989, § 19; Laws 2005, LB 216, § 18; Laws 2005, LB 312, § 15; Laws 2006, LB 588, § 9; Laws 2006, LB 956, § 11; Laws 2008, LB915, § 6; Laws 2010, LB563, § 15; Laws 2010, LB879, § 17.

Cross References

Contractor Registration Act, see section 48-2101.
Employee Classification Act, see section 48-2901.
Employment Security Law, see section 48-601.
International Fuel Tax Agreement Act, see section 66-1401.

Annotations

Nebraska Revenue Act of 1967 was not an unlawful delegation of legislative power to the United States. *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967).

This page left intentionally blank.

CHAPTER 79 – SCHOOLS

ARTICLE 1 -- DEFINITIONS AND CLASSIFICATIONS

79-102. School districts; classification.

ARTICLE 4 -- SCHOOL ORGANIZATION AND REORGANIZATION (b) LEGAL STATUS, FORMATION, AND TERRITORY

79-408. Class IV school district; boundaries; body corporate; powers; retirement plans; restrictions.

ARTICLE 8 -- TEACHERS AND ADMINISTRATORS

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

- 79-854. Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.
- 79-855. Retirement Incentive Plan; eligibility; benefit; costs; allocation.
- 79-856. Staff Development Assistance; eligibility; agreement; contents; costs; allocation.
- 79-857. Allocation of certificated employees; procedure.
- 79-858. Other agreements; responsibility.

ARTICLE 9 – SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

- 79-901. Act, how cited.
- 79-902. Terms, defined.
- 79-903. School retirement system; established; purpose.
- 79-904. School retirement system; administration; retirement board; powers and duties; rules and regulations.
- 79-904.01. Board; power to adjust contributions and benefits.
- 79-905. Retirement board; duties.
- 79-906. Director; records; contents; employer education program.
- 79-907. Statement of information; board; powers and duties.
- 79-908. State Treasurer; duties.
- 79-910. Retirement system; membership; separate employment; effect.
- 79-910.01. Retirement system; participation.
- 79-911. Retirement system; emeritus member; retirement, when.
- 79-912. Retirement system; employees previously electing nonmembership; election to hold membership; effect.
- 79-913. Retirement system; membership; election of nonmembership; when.
- 79-915. Retirement system; membership; nonresident; temporary employees.
- 79-916. Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.
- 79-917. New employee; participation in another governmental plan; how treated.
- 79-918. Current employee; participation in another governmental plan; how treated.
- 79-919. Retirement system; membership; employees of postsecondary schools excluded.
- 79-920. State school official; department employee; retirement system options.
- 79-921. Retirement system; membership; termination; reinstatement; repayment of accumulated contributions; exception.
- 79-922. Retiree; return to employment; effect; waiver of payments.
- 79-923. Reretirement; benefits; how computed.
- 79-924. Credit for prior years of service; payment; rules and regulations; election; provisions applicable.
- 79-925. Retirement system; prior member; repayment authorized; limitation.
- 79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.
- 79-927. Service credit; computation.
- 79-928. Board; verify service record.
- 79-929. Board; issue prior service certificate; modification.

- 79-931. Retirement; when; application.
- 79-932. Retirement; deferment of payment; board; duties.
- 79-933. Retirement; member; amount of allowance.
- 79-933.01. Direct rollover; terms, defined; distributee; powers; board; duties.
- 79-933.02. Retirement system; accept payments and rollovers; limitations; board; duties.
- 79-933.03. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.04. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.05. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.06. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.07. Purchase of service credit; rules and regulations.
- 79-933.08. Purchase of service credit within twelve months of retirement; agreement authorized.
- 79-933.09. Retirement system; accept transfers; limitations; how treated.
- 79-934. Formula annuity retirement allowance; eligibility; formula; payment.
- 79-935. Retirement; increase in benefits; when applicable.
- 79-938. Retirement allowance; method of payment; election.
- 79-939. Retirement system; benefits; paid by retirement board.
- 79-940. Supplemental retirement benefit; determination.
- 79-941. Total monthly benefit, defined; how computed.
- 79-942. Supplemental retirement benefit; how computed.
- 79-943. Supplemental retirement benefit; not applicable; when.
- 79-944. Supplemental retirement benefit; receipt by beneficiary.
- 79-945. Supplemental retirement benefit; receipt by beneficiary; duration.
- 79-946. Retired Teachers Supplementary Benefits Fund; created; termination.
- 79-947. Adjusted supplemental retirement benefit; determination; computation; payment; funding.
- 79-947.01. Benefits; adjustment.
- 79-947.03. Annual benefit adjustment; terms, defined.
- 79-947.04. Annual benefit adjustment; minimum accrual rate.
- 79-947.05. Annual benefit adjustment; calculations.
- 79-948. Retirement benefits; exemption from taxation and legal process; exception.
- 79-949. False or fraudulent actions; prohibited acts; refusal to furnish information; violations; penalties; denial of benefits.
- 79-950. Appeal; procedure.
- 79-951. Retirement; disability; conditions; application.
- 79-952. Retirement; disability; allowance; formula.
- 79-953. Retirement; disability; annual medical examination; refusal; effect.
- 79-954. Retirement; disability; restoration; effect.
- 79-955. Termination of membership; accumulated contributions; return.
- 79-956. Death of member before retirement; contributions; how treated.
- 79-957. Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.
- 79-958. Employee; employer; required deposits and contributions.
- 79-959. Account of member; credit with regular interest.
- 79-960. Employer; deduction; remittances; fees; interest charge.
- 79-962. Contracts of employment; specify subject to provisions of act.
- 79-963. Director; employer and employee; furnish information.
- 79-964. Employer; pay to board; withholding of excess deduction.
- 79-965. Payment of compensation less required deductions; discharge of claims for service.
- 79-966. School Retirement Fund; state deposits; amount; determination.
- 79-966.01. School Retirement Fund; annual actuarial valuations.
- 79-967. Board; determine rates of benefits; adjustments; distribution of gains and savings.
- 79-968. Retirement system; assets; funds; account; investment.
- 79-971. Accumulated contributions; use.
- 79-972.01. School Retirement Fund; created; use.
- 79-973. Contingent Account; created; use.
- 79-974. Expense Fund; created; use.
- 79-976. Investment services; charges; report; state investment officer; duty.
- 79-977. School district expenditures; not exempt from limitations on spending.

- 79-977.01. Limitation of actions.
- 79-977.02. Retirement system contributions, income, property, and rights; how treated.
- 79-977.03. Termination of system or contributions; effect.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-978. Terms, defined.
- 79-978.01. Act, how cited.
- 79-979. Class V school district; employees' retirement system; established.
- 79-980. Employees retirement system; administration; trustees.
- 79-981. Employees retirement system; board of education; rules and regulations; administrator; employees compensation.
- 79-982. Employees retirement system; trustees; meetings; duties.
- 79-983. Employees retirement system; administrator; executive officer.
- 79-984. Employees retirement system; actuary; employment; duties.
- 79-985. Employees retirement system; attorney.
- 79-986. Employees retirement system; school district as treasurer; duties.
- 79-987. Employees retirement system; audit; cost; reports.
- 79-988. Employees retirement system; membership; separate employment; effect.
- 79-988.01. Transfer of funds by the state.
- 79-989. Employees retirement system; board of education; records available.
- 79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.
- 79-991. Employees retirement system; member; prior service credit; how obtained.
- 79-992. Employees retirement system; discontinuance of employment; refunds; reemployment.
- 79-993. Reemployment; repay contributions; limitation; effect.
- 79-994. Employee of another school district; contribution; limitation; effect.
- 79-995. Reemployment; military service; leave of absence; contribution; limitation; effect.
- 79-996. Contributions; how paid; interest.
- 79-997. Employee of educational service unit; contribution; limitation; effect.
- 79-998. Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences.
- 79-999. Employees retirement system; annuity; how credited.
- 79-9,100. Employees retirement system; formula retirement annuity; computation.
- 79-9,101. Employees retirement system; annuity; election; remaining payments.
- 79-9,102. Employees retirement system; annuity benefit; limitations.
- 79-9,103. Annuity payment; cost-of-living adjustment; additional adjustments.
- 79-9,104. Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.
- 79-9,105. Employees retirement system; member; disability; benefits.
- 79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount.
- 79-9,107. Employees retirement system; funds; investment; violations.
- 79-9,108. Employees retirement system; funds; investment manager; duties; board of education; investments; approve or disapprove.
- 79-9,109. Employees retirement system; investments; default of principal or interest; trustees; powers and duties.
- 79-9,110. Employees retirement system; investments; mortgages on real property, when.
- 79-9,111. Employees retirement system; investments; trustees; powers and duties.
- 79-9,113. Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.
- 79-9,114. Employees retirement system; federal Social Security Act; agreement; coverage group.
- 79-9,115. Employees retirement fund; created; use.
- 79-9,116. Applicability of sections.

ARTICLE 10 -- SCHOOL TAXATION, FINANCE, AND FACILITIES --

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

- 79-1003. Terms, defined.
- 79-1017.01. Local system formula resources; amounts included.

- 79-1028. School years prior to 2008-09; applicable allowable growth rate; Class II, III, IV, V, or VI district may exceed; situations enumerated.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1028.03. Retirement aid; calculation.

ARTICLE 1

DEFINITIONS AND CLASSIFICATIONS

79-102. School districts; classification.

School districts in this state are classified as follows:

(1) Class I includes any school district that maintains only elementary grades under the direction of a single school board;

(2) Class II includes any school district embracing territory having a population of one thousand inhabitants or less that maintains both elementary and high school grades under the direction of a single school board;

(3) Class III includes any school district embracing territory having a population of more than one thousand and less than one hundred fifty thousand inhabitants that maintains both elementary and high school grades under the direction of a single school board;

(4) Class IV includes any school district embracing territory having a population of one hundred thousand or more inhabitants with a city of the primary class within the territory of the district that maintains both elementary and high school grades under the direction of a single school board;

(5) Class V includes any school district whose employees participate in a retirement system established pursuant to the Class V School Employees Retirement Act and which embraces territory having a city of the metropolitan class within the territory of the district that maintains both elementary grades and high school grades under the direction of a single school board and any school district with territory in a city of the metropolitan class created pursuant to the Learning Community Reorganization Act and designated as a Class V school district in the reorganization plan; and

(6) Class VI includes any school district in this state that maintains only a high school, or a high school and grades seven and eight or six through eight as provided in section 79-411, under the direction of a single school board.

Source: Laws 1949, c. 256, § 2, p. 691; Laws 1959, c. 379, § 1, p. 1320; Laws 1981, LB 16, § 1; R.S.1943, (1994), § 79-102; Laws 1996, LB 900, § 2; Laws 1997, LB 345, § 6; Laws 1998, LB 629, § 1; Laws 2003, LB 394, § 1; Laws 2005, LB 126, § 8; Laws 2006, LB 1024, § 15; Referendum 2006, No. 422.

Cross References

City of the metropolitan class, population, see section 14-101.

City of the primary class, population, see section 15-101.

Class V School Employees Retirement Act, see section 79-978.01.

Commissioner of Education, assign number to each district, see section 79-307.

Learning Community Reorganization Act, see section 79-4,117.

Annotations

School districts from and to which land may be transferred under provisions of former section 79-403 are defined and classified in this section. *Klecan v. Schmal*, 196 Neb. 100, 241 N.W.2d 529 (1976).

In proceedings for the transfer of land from one district to another, the advantage or disadvantage of the districts is not the deciding issue. *Friesen v. Clark*, 192 Neb. 227, 220 N.W.2d 12 (1974).

Members of school board act in a representative capacity and not as individuals. *Greer v. Chelewski*, 162 Neb. 450, 76 N.W.2d 438 (1956).

Former article 6 district was classified as Class II district. *Fulk v. School District No. 8 of Lancaster County*, 155 Neb. 630, 53 N.W.2d 56 (1952).

District involved was a Class III district. *State ex rel. Shineman v. Board of Education*, 152 Neb. 644, 42 N.W.2d 168 (1950).

ARTICLE 4

SCHOOL ORGANIZATION AND REORGANIZATION

(b) LEGAL STATUS, FORMATION, AND TERRITORY

79-408. Class IV school district; boundaries; body corporate; powers; retirement plans; restrictions.

The territory now or hereafter embraced within each incorporated city of the primary class in the State of Nebraska that is not in part within the boundaries of a learning community, such adjacent territory as now or hereafter may be included therewith for school purposes, and such territory not adjacent thereto as may have been added thereto by law shall constitute a Class IV school district, except that nothing in this section shall be construed to change the boundaries of any school district that is a member of a learning community. A Class IV school district shall be a body corporate and possess all the usual powers of a corporation for public purposes, may sue and be sued, and may purchase, hold, and sell such personal and real estate and contract such obligations as are authorized by law. The powers of a Class IV district include, but are not limited to, the power to adopt, administer, and amend from time to time such retirement, annuity, insurance, and other benefit plans for its present and future employees after their retirement, or any reasonable classification thereof, as may be deemed proper by the board of education. The board of education shall not establish a retirement system for new employees supplemental to the School Retirement System of the State of Nebraska.

The title to all real or personal property owned by such school district shall, upon the organization of the school district, vest immediately in the school district so created. The board of education shall have exclusive control of all property belonging to the school district.

In the discretion of the board of education, funds accumulated in connection with a retirement plan may be transferred to and administered by a trustee or trustees to be selected by the board of education, or if the retirement plan is in the form of annuity or insurance contracts, such funds, or any part thereof, may be paid to a duly licensed insurance carrier or carriers selected by the board of education. Funds accumulated in connection with any such retirement plan, and any other funds of the school district which are not immediately required for current needs or expenses, may be invested and reinvested by the board of education or by its authority in securities of a type permissible either for the investment of funds of a domestic legal reserve life insurance company or for the investment of trust funds, according to the laws of the State of Nebraska.

Source: Laws 1917, c. 225, § 1, p. 550; C.S.1922, § 6610; C.S.1929, § 79-2601; R.S.1943, § 79-2601; Laws 1947, c. 294, § 1(1), p. 907; Laws 1949, c. 256, § 244, p. 772; Laws 1963, c. 489, § 1, p. 1561; Laws 1971, LB

475, § 1; Laws 1988, LB 1142, § 7; R.S.1943, (1994), § 79-901; Laws 1996, LB 900, § 157; Laws 2005, LB 126, § 14; Laws 2006, LB 1024, § 22; Referendum 2006, No. 422.

ARTICLE 8

TEACHERS AND ADMINISTRATORS

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

ARTICLE 8 -- TEACHERS AND ADMINISTRATORS

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

- 79-854. Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.
- 79-856. Retirement Incentive Plan; eligibility; benefit; costs; allocation.
- 79-856. Staff Development Assistance; eligibility; agreement; contents; costs; allocation.
- 79-857. Allocation of certificated employees; procedure.
- 79-858. Other agreements; responsibility.

79-854. Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.

(1) If the unification or reorganization of two or more school districts will involve a reduction in force, all certificated employees from the district or districts involved in the unification or reorganization shall have, except as limited by subsection (2) of this section, the option to: (a) Retire under the Retirement Incentive Plan pursuant to section 79-855; (b) terminate employment and receive Staff Development Assistance pursuant to section 79-856; or (c) remain employed by the district subject to personnel policies and staffing requirements of the unified system or reorganized district or districts. Each certificated employee shall be notified in writing of the proposed unification or reorganization, the number of employees which will be reduced, and the availability of the Retirement Incentive Plan and Staff Development Assistance prior to such unification or reorganization. If the unification or reorganization will involve a reduction in force prior to the effective date of the unification or reorganization, the notification shall be made by March 15 of the school year in effect. If the unification or reorganization will not involve a reduction in force prior to the effective date of the unification or reorganization, the notification shall be made at least thirty calendar days prior to the effective date of the unification or reorganization but in no event later than March 15 of the calendar year in which action on the reduction in force will occur. The employee election to retire under the Retirement Incentive Plan or to terminate employment and receive Staff Development Assistance shall be made within fifteen calendar days after receiving the notification, or those options are waived.

(2) For each unification or reorganization, the number of certificated employees which receive either the Retirement Incentive Plan or Staff Development Assistance shall be limited to the number of certificated employees which are reduced due to the unification or reorganization. If the number of employees electing participation in the Retirement Incentive Plan or Staff Development Assistance exceed the number of employees which will be reduced, selection for participation shall be determined by the date and time of receipt of the employee election. Employee elections which are received first shall be selected, and all certificated employees in all districts involved in the unification or reorganization shall be treated equally in determining such selection.

Source: Laws 1996, LB 1050, § 33; Laws 1998, LB 1219, § 4.

Cross References

Reduction-in-force policy, see sections 79-846 to 79-849.

79-855. Retirement Incentive Plan; eligibility; benefit; costs; allocation.

(1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who are at least fifty-five years of age on the date of unification or reorganization shall be eligible to participate in the Retirement Incentive Plan pursuant to this section if, within fifteen calendar days after receiving notification, the employee signs an agreement to retire effective on or prior to the effective date of the unification or reorganization. To receive a benefit under the Retirement Incentive Plan, a certificated employee must have completed five years of creditable service prior to the effective date of retirement.

(2) A qualified certificated employee who elects retirement under the Retirement Incentive Plan shall receive a benefit in the form of a lump-sum amount, payable in one or two payments. Such payments shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act. The payments to the certificated employee shall equal seven hundred dollars for each year of service with the district and shall not exceed twenty-four thousand five hundred dollars for each certificated employee receiving benefits under this section.

(3) The Retirement Incentive Plan shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(4) Costs of the Retirement Incentive Plan, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003 for that fiscal year. Costs associated with agreements beyond the scope of the Retirement Incentive Plan shall be the sole responsibility of the reorganized district or unified system involved in the agreement.

(5) Payments made to employees pursuant to the Retirement Incentive Plan shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

(6) Participation in an early retirement program, other than the Retirement Incentive Plan, shall not be available to transferring staff for a period of one year after the date of unification or reorganization.

Source: Laws 1996, LB 1050, § 34; Laws 1998, LB 1219, § 5.

79-856. Staff Development Assistance; eligibility; agreement; contents; costs; allocation.

(1) Except as limited by subsection (2) of section 79-854, all certificated employees from a district involved in a unification or reorganization who, within fifteen calendar days after receiving notification of the availability of Staff Development Assistance pursuant to section 79-854, terminate employment voluntarily, contract to waive any reduction-in-force rights pursuant to sections 79-846 to 79-849, and sign a Staff Development Assistance agreement, shall receive one year of Staff Development Assistance. Staff Development Assistance shall be available to employees only prior to allocation of staff pursuant to section 79-857.

(2) Staff Development Assistance shall not be included in the determination of final average compensation pursuant to the School Employees Retirement Act.

(3) The Staff Development Assistance agreement shall specify that:

(a) A stipend equal to fifty percent of annual salary shall be contingent upon enrollment and attendance at a Nebraska state college or the University of Nebraska; or a stipend equal to twenty-five percent of annual salary shall be provided if not enrolled nor in attendance at a Nebraska state college or the University of Nebraska;

(b) The stipend will cease upon attainment of employment of twenty or more hours per week;

(c) The stipend will be paid in the same manner as contract payments for the most recent contract year;

(d) Tuition for two semesters, if applicable, will be paid directly to the Nebraska state college or the University of Nebraska and shall equal resident tuition charges plus fees of such school and will not include costs of books or other instructional materials; and

(e) All reduction-in-force rights pursuant to sections 79-846 to 79-849 are waived by signing the agreement.

(4) Costs of Staff Development Assistance, prior to the allocation of staff, shall be allocated among the reorganized districts or participating districts in a unification based upon the proportion of valuation each reorganized district receives or each participating district contains. Such costs shall not be included in general fund operating expenditures as defined in section 79-1003 for that fiscal year. Costs associated with agreements beyond the scope of Staff Development Assistance shall be the sole responsibility of the reorganized district involved in the agreement.

(5) Payments made to employees pursuant to Staff Development Assistance shall be made by the unified system or according to the reorganization plan and, if not specified in the plan, by the reorganized district receiving the largest valuation.

Source: Laws 1996, LB 1050, § 35; Laws 1998, LB 1219, § 6.

79-857. Allocation of certificated employees; procedure.

(1) For reorganizations involving consolidation of school districts into one or more reorganized districts, staff not electing retirement pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date of reorganization as follows:

(a) All districts involved may enter into an agreement on the allocation of all certificated employees to one or more of the reorganized districts. No certificated employee shall be allocated to more than one district. Such agreement shall be signed by all the districts involved;

(b) All certificated employees from the district or districts who have not been allocated pursuant to subdivision (1)(a) of this section shall be totaled and allocated among the reorganized districts based upon the proportion of students transferring to the reorganized district;

(c) All certificated employees from the district shall be treated equally in the allocation regardless of seniority. Staff shall not be given the option to choose the reorganized district in which to relocate. Random selection shall be utilized to allocate individual employees among all reorganized districts; and

(d) Once the selection and allocation is completed, employees from the district or districts shall retain years of service from the previous district for purposes of seniority. Within each reorganized district, employees from the receiving district shall not have priority over transferring employees. All reduction-in-force laws and policies shall apply.

(2) For unifications, staff not electing retirement pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be allocated prior to the effective date

of the unification in compliance with an agreement signed by all participating districts. Once the selection and allocation is completed, employees shall retain years of service from the participating district for purposes of seniority. All reduction-in-force laws and policies shall apply.

Source: Laws 1996, LB 1050, § 36; Laws 1998, LB 1219, § 7; Laws 2005, LB 126, § 44; Referendum 2006, No. 422.

Cross References

Reduction-in-force policy, see sections 79-846 to 79-849.

79-858. Other agreements; responsibility.

Any agreements other than the Retirement Incentive Plan pursuant to section 79-855 or Staff Development Assistance pursuant to section 79-856 shall be the sole responsibility of the unified system or reorganized district.

Source: Laws 1996, LB 1050, § 37; Laws 1998, LB 1219, § 8.

This page left intentionally blank.

ARTICLE 9

SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

ARTICLE 9 – SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

- 79-901. Act, how cited.
- 79-902. Terms, defined.
- 79-903. School retirement system; established; purpose.
- 79-904. School retirement system; administration; retirement board; powers and duties; rules and regulations.
- 79-904.01. Board; power to adjust contributions and benefits.
- 79-905. Retirement board; duties.
- 79-906. Director; records; contents; employer education program.
- 79-907. Statement of information; board; powers and duties.
- 79-908. State Treasurer; duties.
- 79-909. Auditor of Public Accounts; annual audit; report.
- 79-910. Retirement system; membership; separate employment; effect.
- 79-910.01. Retirement system; participation.
- 79-911. Retirement system; emeritus member; retirement, when.
- 79-912. Retirement system; employees previously electing nonmembership; election to hold membership; effect.
- 79-913. Retirement system; membership; election of nonmembership; when.
- 79-915. Retirement system; membership; nonresident; temporary employees.
- 79-916. Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.
- 79-917. New employee; participation in another governmental plan; how treated.
- 79-918. Current employee; participation in another governmental plan; how treated.
- 79-919. Retirement system; membership; employees of postsecondary schools excluded.
- 79-920. State school official; department employee; retirement system options.
- 79-921. Retirement system; membership; termination; reinstatement; repayment of accumulated contributions; exception.
- 79-922. Retiree; return to employment; effect; waiver of payments.
- 79-923. Reretirement; benefits; how computed.
- 79-924. Credit for prior years of service; payment; rules and regulations; election; provisions applicable.
- 79-925. Retirement system; prior member; repayment authorized; limitation.
- 79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.
- 79-927. Service credit; computation.
- 79-928. Board; verify service record.
- 79-929. Board; issue prior service certificate; modification.
- 79-931. Retirement; when; application.
- 79-932. Retirement; deferment of payment; board; duties.
- 79-933. Retirement; member; amount of allowance.
- 79-933.01. Direct rollover; terms, defined; distributee; powers; board; duties.
- 79-933.02. Retirement system; accept payments and rollovers; limitations; board; duties.
- 79-933.03. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.04. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.05. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.06. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.07. Purchase of service credit; rules and regulations.
- 79-933.08. Purchase of service credit within twelve months of retirement; agreement authorized.
- 79-933.09. Retirement system; accept transfers; limitations; how treated.

- 79-934. Formula annuity retirement allowance; eligibility; formula; payment.
- 79-935. Retirement; increase in benefits; when applicable.
- 79-938. Retirement allowance; method of payment; election.
- 79-939. Retirement system; benefits; paid by retirement board.
- 79-940. Supplemental retirement benefit; determination.
- 79-941. Total monthly benefit, defined; how computed.
- 79-942. Supplemental retirement benefit; how computed.
- 79-943. Supplemental retirement benefit; not applicable; when.
- 79-944. Supplemental retirement benefit; receipt by beneficiary.
- 79-945. Supplemental retirement benefit; receipt by beneficiary; duration.
- 79-946. Retired Teachers Supplementary Benefits Fund; created; termination.
- 79-947. Adjusted supplemental retirement benefit; determination; computation; payment; funding.
- 79-947.01. Benefits; adjustment.
- 79-947.03. Annual benefit adjustment; terms, defined.
- 79-947.04. Annual benefit adjustment; minimum accrual rate.
- 79-947.05. Annual benefit adjustment; calculations.
- 79-948. Retirement benefits; exemption from taxation and legal process; exception.
- 79-949. False or fraudulent actions; prohibited acts; refusal to furnish information; violations; penalties; denial of benefits.
- 79-950. Appeal; procedure.
- 79-951. Retirement; disability; conditions; application.
- 79-952. Retirement; disability; allowance; formula.
- 79-953. Retirement; disability; annual medical examination; refusal; effect.
- 79-954. Retirement; disability; restoration; effect.
- 79-955. Termination of membership; accumulated contributions; return.
- 79-956. Death of member before retirement; contributions; how treated.
- 79-957. Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.
- 79-958. Employee; employer; required deposits and contributions.
- 79-959. Account of member; credit with regular interest.
- 79-960. Employer; deduction; remittances; fees; interest charge.
- 79-962. Contracts of employment; specify subject to provisions of act.
- 79-963. Director; employer and employee; furnish information.
- 79-964. Employer; pay to board; withholding of excess deduction.
- 79-965. Payment of compensation less required deductions; discharge of claims for service.
- 79-966. School Retirement Fund; state deposits; amount; determination.
- 79-966.01. School Retirement Fund; annual actuarial valuations.
- 79-967. Board; determine rates of benefits; adjustments; distribution of gains and savings.
- 79-968. Retirement system; assets; funds; account; investment.
- 79-971. Accumulated contributions; use.
- 79-972.01. School Retirement Fund; created; use.
- 79-973. Contingent Account; created; use.
- 79-974. Expense Fund; created; use.
- 79-976. Investment services; charges; report; state investment officer; duty.
- 79-977. School district expenditures; not exempt from limitations on spending.
- 79-977.01. Limitation of actions.
- 79-977.02. Retirement system contributions, income, property, and rights; how treated.
- 79-977.03. Termination of system or contributions; effect.

79-901. Act, how cited.

Sections 79-901 to 79-977.03 shall be known and may be cited as the School Employees Retirement Act.

Source: Laws 1991, LB 549, § 23; Laws 1993, LB 292, § 1; Laws 1994, LB 833, § 29; Laws 1995, LB 501, § 4; Laws 1996, LB 700, § 6; Laws 1996, LB 847, § 28; R.S.Supp.,1995, § 79-1501.01; Laws 1996, LB 900, § 536; Laws 1996, LB 1076, § 14; Laws 1997, LB 724, § 2; Laws 1998, LB 532, § 5; Laws 1998, LB 1191, § 44; Laws 2002, LB 407, § 21.

79-902. Terms, defined.

For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide

compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees and temporary employees shall not be considered school employees;

(11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(12) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(14) Retirement board or board means the Public Employees Retirement Board;

(15) Retirement system means the School Retirement System of the State of Nebraska;

(16) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(17) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(18) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(19) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(21) State deposit means the deposit by the state in the retirement system on behalf of any member;

(22) State school official means the Commissioner of Education and his or her professional staff who are required by law or by the State Department of Education to hold a certificate as such term is defined in section 79-807;

(23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(26) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed an application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than ninety days prior to the effective date of the member's initial benefit;

(27) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(28) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(30)(a) Final average compensation means the sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six.

(b) If a member has such compensation for less than thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all months by the total number of months of his or her creditable service therefor.

(c) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

(31) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(32) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the School Employees Retirement Act;

(33) Initial benefit means the retirement benefit calculated at the time of retirement;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (vii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

(c) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993.

(d)(i) In the determination of compensation for members on or after July 1, 2002, through June 30, 2005, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless (A) the member experienced a substantial change in employment position or (B) the excess compensation occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both; and

(B) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(e)(i) In the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with

the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in employment position, (B) as verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35)(a)(iv) of this section.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both;

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by the lesser of seven percent of the member's preceding plan year's compensation base or the member's actual annual compensation increase during the preceding plan year; and

(C) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer. The employer shall notify the board of the date on which such a termination has occurred. A member shall not be deemed to have terminated employment if the member subsequently provides service to any employer participating in the retirement system provided for in the School Employees Retirement Act within one hundred eighty calendar days after ceasing employment unless such service:

- (a) Is voluntary or substitute service provided on an intermittent basis; or
- (b) Is as provided in subsection (2) of section 79-920.

A member shall not be deemed to have terminated employment if the board determines that a purported termination was not a bona fide separation from service with the employer;

(37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(38) Substitute employee means a person hired by a public school as a temporary employee to assume the duties of regular employees due to the temporary absence of the regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for fifteen or more hours per week. An employee hired as described in this subdivision to provide service for less than fifteen hours per week but who provides service for

an average of fifteen hours or more per week in each calendar month of any three calendar months of a plan year shall immediately commence contributions and shall be deemed a regular employee; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee and who is hired to provide service for a limited period of time to accomplish a specific purpose or task. When such specific purpose or task is complete, the employment of such temporary employee shall terminate and in no case shall the temporary employment period exceed one year in duration.

Source: Laws 1945, c. 219, § 1, p. 638; R.S.Supp.,1947, § 79-2901; Laws 1949, c. 256, § 435, p. 840; Laws 1953, c. 315, § 1, p. 1042; Laws 1961, c. 410, § 1, p. 1229; Laws 1963, c. 469, § 7, p. 1506; Laws 1963, c. 495, § 1, p. 1580; Laws 1965, c. 530, § 1, p. 1663; Laws 1965, c. 531, § 1, p. 1671; Laws 1967, c. 546, § 2, p. 1798; Laws 1969, c. 584, § 84, p. 2396; Laws 1969, c. 735, § 1, p. 2773; Laws 1971, LB 987, § 16; Laws 1975, LB 50, § 1; Laws 1984, LB 971, § 1; Laws 1985, LB 350, § 1; Laws 1986, LB 325, § 1; Laws 1986, LB 311, § 14; Laws 1987, LB 549, § 1; Laws 1988, LB 551, § 10; Laws 1988, LB 1170, § 1; Laws 1989, LB 506, § 9; Laws 1991, LB 549, § 24; Laws 1992, LB 1001, § 32; Laws 1994, LB 833, § 28; Laws 1996, LB 700, § 5; Laws 1996, LB 847, § 27; R.S.1943, (1994), § 79-1501; Laws 1996, LB 900, § 537; Laws 1996, LB 1076, § 13; Laws 1996, LB 1273, § 23; Laws 1997, LB 347, § 26; Laws 1997, LB 623, § 12; Laws 1997, LB 624, § 16; Laws 1997, LB 724, § 3; Laws 1998, LB 1191, § 45; Laws 1999, LB 272, § 91; Laws 1999, LB 538, § 1; Laws 1999, LB 674, § 3; Laws 2000, LB 1192, § 9; Laws 2001, LB 408, § 13; Laws 2002, LB 407, § 22; Laws 2003, LB 451, § 18; Laws 2005, LB 329, § 2; Laws 2005, LB 364, § 8; Laws 2005, LB 503, § 8; Laws 2006, LB 1019, § 8; Laws 2010, LB950, § 11.

Cross References

Public Employees Retirement Board, see sections 84-1501 to 84-1513.
Spousal Pension Rights Act, see section 42-1101.
Wage and Hour Act, see section 48-1209.

Annotations

Statutory plan of retirement complete within itself is provided. *Ledwith v. Bankers Life Ins. Co.*, 156 Neb. 107, 54 N.W.2d 409 (1952).

79-903. School retirement system; established; purpose.

A school retirement system is hereby established for the purpose of providing retirement allowances or other benefits for the school employees of the State of Nebraska as provided in the School Employees Retirement Act. It shall have the powers and privileges of a corporation, insofar as may be necessary to carry out the provisions of the act, shall be known as the School Retirement System of the State of Nebraska, and by such name shall transact all business as provided in the act.

Source: Laws 1945, c. 219, § 2, p. 640; R.S.Supp.,1947, § 79-2902; Laws 1949, c. 256, § 436, p. 842; Laws 1967, c. 486, § 41, p. 1530; Laws 1969, c. 584, § 85, p. 2400; Laws 1969, c. 735, § 2, p. 2777; Laws 1971, LB 987, § 17; Laws 1991, LB 549, § 25; R.S.1943, (1994), § 79-1502; Laws 1996, LB 900, § 538.

Cross References

For retirement system for employees of Class V school districts, see the Class V School Employees Retirement Act, section 79-978.01.

79-904. School retirement system; administration; retirement board; powers and duties; rules and regulations.

The general administration of the School Retirement System of the State of Nebraska, except the investment of funds, is hereby vested in the retirement board. The board shall, by a majority vote of its members, adopt bylaws and adopt and promulgate rules and regulations, from time to time, to carry out the School Employees Retirement Act. The board shall perform such other duties as may be required to execute the provisions of the act.

Source: Laws 1945, c. 219, § 3, p. 640; R.S.Supp.,1947, § 79-2903; Laws 1949, c. 256, § 437, p. 842; Laws 1967, c. 486, § 42, p. 1530; Laws 1969, c. 584, § 86, p. 2400; Laws 1971, LB 987, § 18; Laws 1991, LB 549, § 26; Laws 1995, LB 369, § 5; Laws 1996, LB 847, § 29; R.S.Supp.,1995, § 79-1503; Laws 1996, LB 900, § 539.

79-904.01. Board; power to adjust contributions and benefits.

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the School Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 30.

79-905. Retirement board; duties.

The retirement board shall:

- (1) Determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;
- (2) Adopt rules and regulations for the management of the board;
- (3) Prescribe the form in which employers report contributions, hours worked by school employees, payroll information, and other information necessary to carry out the board's duties;
- (4) Keep a complete record of all proceedings taken at any meeting of the board;
- (5) Employ a director and other assistance as may be necessary in the performance of its duties; and
- (6) Obtain actuarial services pursuant to subdivision (2)(e) of section 84-1503.

Source: Laws 1967, c. 546, § 3, p. 1801; Laws 1969, c. 584, § 87, p. 2401; Laws 1991, LB 549, § 27; Laws 1995, LB 502, § 2; R.S.Supp.,1995, § 79-1503.01; Laws 1996, LB 900, § 540; Laws 1998, LB 1191, § 46; Laws 2000, LB 1192, § 10.

79-906. Director; records; contents; employer education program.

(1) The director in charge of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the School Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various employers and state departments and agencies and the holder of the records shall comply with a request by the

director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) If a member's compensation for a plan year exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base, then the employer shall, within ninety days of the end of a plan year, provide information indicating to the director that the member's compensation has exceeded seven percent of the compensation base. Such information shall be provided in an accurate and verifiable form as specified by the director.

(3) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Source: Laws 1991, LB 549, § 28; R.S.1943, (1994), § 79-1503.02; Laws 1996, LB 900, § 541; Laws 2000, LB 1192, § 11; Laws 2005, LB 364, § 9; Laws 2005, LB 503, § 9.

79-907. Statement of information; board; powers and duties.

(1)(a) On or before October 1, 2001, and at least every two years thereafter, the retirement board shall send to each contributing member of the retirement system by first-class mail, a statement of creditable service, reported salary, and other such information as is determined by the director of the Nebraska Public Employees Retirement Systems to be necessary in calculating the member's retirement benefit.

(b) If the member requests a modification or correction of his or her statement of information, the member shall provide documentation to the board supporting such modification or correction and provide clear and convincing evidence that the statement is in error. The board shall, within sixty days after receipt of the documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement shall be modified or corrected. If the board determines that the member has provided clear and convincing evidence, the board shall modify or correct the statement. If the board determines that the member has not provided clear and convincing evidence, the board shall deny the modification or correction. In either case, the board shall notify the member. The member may appeal the decision of the board pursuant to section 79-950.

(c) The board has an ongoing fiduciary duty to modify or correct a member's statement if the board discovers an error in the information it has on record. A modification or correction shall be made within sixty days after the error is brought to the attention of the board.

(2) The board shall adopt and promulgate rules and regulations and prescribe the necessary forms to carry out this section.

Source: Laws 1998, LB 1191, § 47; Laws 2000, LB 1192, § 12; Laws 2004, LB 961, § 1; Laws 2005, LB 144, § 1.

79-908. State Treasurer; duties.

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers signed by a person authorized by the retirement board. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the funds in his or her custody belonging to the retirement system.

Source: Laws 1945, c. 219, § 6, p. 641; R.S.Supp.,1947, § 79-2906; Laws 1949, c. 256, § 440, p. 843; R.S.1943, (1994), § 79-1506; Laws 1996, LB 900, § 543; Laws 1997, LB 623, § 13.

79-909. Auditor of Public Accounts; annual audit; report.

The Auditor of Public Accounts shall make an annual audit of the retirement system and an annual report to the Clerk of the Legislature of its condition. Each member of the Legislature shall receive a copy of such report by making a request for it to the Auditor of Public Accounts. Expenses of the audit shall be paid from the Expense Fund.

Source: Laws 1945, c. 219, § 8, p. 641; R.S.Supp.,1947, § 79-2908; Laws 1949, c. 256, § 442, p. 843; Laws 1967, c. 546, § 4, p. 1802; Laws 1971, LB 987, § 20; Laws 1979, LB 322, § 38; R.S.1943, (1994), § 79-1508; Laws 1996, LB 900, § 544.

79-910. Retirement system; membership; separate employment; effect.

(1) The membership of the retirement system shall be composed of (a) all persons who have an account in the School Retirement Fund, (b) all school employees who on or after July 1, 2002, must participate in the retirement system pursuant to section 79-910.01 and who have begun participation in the retirement system, and (c) emeritus members. The membership of the retirement system does not include persons described in sections 79-915 and 79-919 who are specifically excluded from membership in the retirement system.

(2) The membership of the retirement system also includes any person who prior to July 1, 2002, qualified for membership as follows: (a) All persons who become school employees after September 1, 1945, except those specifically excluded under sections 79-916 and 79-919, shall become members as soon as they become senior school employees, as senior school employee was defined in section 79-902 prior to July 1, 2002; (b) senior school employees on July 1, 1945, except those specifically excluded in sections 79-916 and 79-919, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and (c) emeritus members.

(3) Any school employee who qualifies for membership in the retirement system pursuant to subsection (1) or (2) of this section may not be disqualified from membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

Source: Laws 1945, c. 219, § 9, p. 642; R.S.Supp.,1947, § 79-2909; Laws 1949, c. 256, § 443, p. 844; Laws 1951, c. 291, § 1, p. 964; Laws 1953, c. 315, § 2, p. 1045; Laws 1976, LB 30, § 1; Laws 1976, LB 673, § 2; Laws 1977, LB 349, § 1; Laws 1979, LB 391, § 5; Laws 1987, LB 549, § 2; R.S.1943, (1994), § 79-1509; Laws 1996, LB 900, § 545; Laws 1997, LB 624, § 17; Laws 2002, LB 407, § 23.

79-910.01. Retirement system; participation.

(1) Each person employed by a public school who is a school employee and who is qualified to participate in the retirement system shall participate in the retirement system.

(2) Public schools shall ensure that all school employees who qualify for participation pursuant to this section shall begin annual participation on July 1 of each plan year or upon such

person's date of hire, if later than July 1, and that all required deposits are made on behalf of such employees.

Source: Laws 2002, LB 407, § 26; Laws 2010, LB950, § 12.

79-911. Retirement system; emeritus member; retirement, when.

Any emeritus member may retire upon his or her application to the retirement board, to be effective upon the termination of his or her employment in any public school or in any position covered by the retirement system.

Source: Laws 1953, c. 315, § 3, p. 1046; R.S.1943, (1994), § 79-1509.01; Laws 1996, LB 900, § 546; Laws 2000, LB 1192, § 13.

79-912. Retirement system; employees previously electing nonmembership; election to hold membership; effect.

All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who had previously elected not to be included in the retirement system pursuant to section 79-910 may, after January 1, 1978, and prior to July 1, 1978, file with the retirement board an election to be included in the membership of the retirement system, but such employees shall be treated as new employees and no service credit shall be granted for the years the employees elected out of the retirement system.

Source: Laws 1977, LB 349, § 2; Laws 1991, LB 549, § 29; R.S.1943, (1994), § 79-1509.02; Laws 1996, LB 900, § 547.

79-913. Retirement system; membership; election of nonmembership; when.

All school employees not required to hold a certificate, diploma, or credentials to practice in a professional capacity who are employed after January 1, 1978, and prior to July 1, 1978, shall have until June 30, 1978, to file with the retirement board an election not to be included in the membership of the retirement system established pursuant to the School Employees Retirement Act. The election shall be in writing on forms prescribed by the retirement board, and any person so electing waives all rights within the system except to a refund of his or her accumulated contributions. All such employees employed on or after July 1, 1978, shall become members of such retirement system as soon as they are employed and shall not have a right to elect out of such retirement system.

Source: Laws 1977, LB 349, § 3; R.S.1943, (1994), § 79-1509.03; Laws 1996, LB 900, § 548.

79-915. Retirement system; membership; requirements.

(1) Persons residing outside of the United States and engaged temporarily as school employees in the State of Nebraska shall not become members of the retirement system.

(2) On and after July 1, 2010, no school employee shall be authorized to participate in the retirement system provided for in the School Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

Source: Laws 1945, c. 219, § 11, p. 642; R.S.Supp.,1947, § 79-2911; Laws 1949, c. 256, § 445, p. 845; R.S.1943, (1994), § 79-1511; Laws 1996, LB 900, § 550; Laws 2010, LB950, § 13.

79-916. Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.

(1)(a) Beginning July 1, 2002, and until June 30, 2004, the board shall transfer the actuarial value of the service annuity liability accrued within the prior fiscal year of the employees who serve a Class V school district and participate in the retirement system established pursuant to the Class V School Employees Retirement Act upon receipt of a certification from the school district as to the number of employees who have accrued a service annuity benefit for such fiscal year. Upon receipt of the certification, the board shall cause to be transferred to the funds of the retirement system of which such employees are members the actuarial value, as determined pursuant to section 79-966.01, of the service annuities to be paid by the state for the years of service thus certified in the same amount and basis as provided for members of the School Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of actuarial value to the Class V School Employees Retirement System shall be in lieu of the payment of the service annuity to which such employees would be otherwise entitled. The Class V school district which such employees serve shall furnish to the retirement board all information required by the retirement board regarding service records of its employees.

(b) On July 1, 2004, the board shall transfer from the School Retirement Fund to the Service Annuity Fund an amount equal to the funded ratio of the retirement system which is equal to the market value of the retirement system assets divided by the actuarial accrued liability of the retirement system, times the actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Such actuarial accrued liability shall be determined for each employee on a level dollar basis. On or before July 1 of each fiscal year thereafter, the state shall deposit into the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity, as determined pursuant to section 79-966.01, as of the end of the previous fiscal year of the employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act. Based on the fiscal year of the retirement system established pursuant to the Class V School Employees Retirement Act, the administrator of such system shall provide all membership information needed for the actuary engaged by the retirement board to determine the normal cost and the amortization payment of the unfunded actuarial accrued liability, as determined pursuant to section 79-966.01, to be paid by the state to the Service Annuity Fund each fiscal year as required by this subdivision.

(c) At the time of retirement of any employee who is a member of the retirement system established pursuant to the Class V School Employees Retirement Act, the retirement board shall, upon receipt of a certification of the administrator of such retirement system of the name, identification number, date of birth, retirement date, last date of employment, type of retirement, and number of years of service credited to such eligible employee at the date of retirement, transfer to such retirement system from the Service Annuity Fund the actuarial accrued liability of the service annuity to be paid by the state to the eligible employee for the years of service thus certified as provided for members of the School Employees Retirement System of the State of Nebraska under sections 79-933 and 79-952. Such transfer of the actuarial accrued liability to the retirement system established pursuant to the Class V School Employees Retirement Act shall be in lieu of the payment of the service annuity to which the employee would be entitled.

(d) The Service Annuity Fund is created. The fund shall consist of the amounts paid by the state and transferred from the School Retirement Fund pursuant to this section to pay the service annuity to be paid by the state to employees who are members of the retirement system

established pursuant to the Class V School Employees Retirement Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) In addition to the transfer of the actuarial accrued liability of the service annuity to be paid by the state, the state shall also transfer to the funds of the Class V school district's retirement system an amount determined by multiplying the compensation of all members of such retirement system by the percent specified in subsection (2) of section 79-966 for determining the amount of the state's payment to the School Retirement Fund. The transfer shall be made annually on or before July 1 of each fiscal year.

Source: Laws 1945, c. 219, § 12, p. 642; R.S.Supp.,1947, § 79-2912; Laws 1949, c. 256, § 446, p. 845; Laws 1951, c. 292, § 1, p. 970; Laws 1965, c. 530, § 2, p. 1667; Laws 1967, c. 547, § 2, p. 1810; Laws 1967, c. 546, § 5, p. 1802; Laws 1969, c. 735, § 3, p. 2777; Laws 1971, LB 987, § 21; Laws 1984, LB 457, § 1; Laws 1987, LB 549, § 3; Laws 1988, LB 1170, § 2; Laws 1991, LB 549, § 30; R.S.1943, (1994), § 79-1512; Laws 1996, LB 900, § 551; Laws 1997, LB 623, § 14; Laws 1998, LB 1191, § 48; Laws 2002, LB 407, § 24; Laws 2004, LB 1097, § 23.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

79-917. New employee; participation in another governmental plan; how treated.

Within the first thirty days of employment, a school employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as defined in the Nebraska governmental plan in which the credit was earned. Such credit shall not be included as years of service in the benefit calculation. The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

Source: Laws 1995, LB 501, § 5; R.S.Supp.,1995, § 79-1514.10; Laws 1996, LB 900, § 552; Laws 2000, LB 1192, § 14; Laws 2002, LB 407, § 25.

79-918. Current employee; participation in another governmental plan; how treated.

For one year after September 9, 1995, any school employee employed on or before September 9, 1995, may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time or a part-time employee as described in section 79-902. Such credit shall not be included as years of service in the benefit calculation.

Source: Laws 1995, LB 501, § 6; R.S.Supp.,1995, § 79-1514.11; Laws 1996, LB 900, § 553.

79-919. Retirement system; membership; employees of postsecondary schools excluded.

Any person who is employed by the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors shall not come under the provisions of the School Employees Retirement Act.

Source: Laws 1945, c. 219, § 13, p. 643; R.S.Supp.,1947, § 79-2913; Laws 1949, c. 256, § 447, p. 845; Laws 1971, LB 987, § 22; Laws 1991, LB 549, § 31; R.S.1943, (1994), § 79-1513; Laws 1996, LB 900, § 554; Laws 1996, LB 1076, § 15.

79-920. State school official; department employee; retirement system options.

(1) An individual who was, prior to July 19, 1980, a state school official and did not become a member of the State Employees Retirement System of the State of Nebraska pursuant to the State Employees Retirement Act may, within sixty days after September 1, 1986, elect to become a member of such system. An individual so electing shall pay the contributions required by such system when the service and minimum age requirements have been met.

(2)(a) An individual (i) who is or was previously a school employee or who was employed in an out-of-state or a Class V school district, (ii) who becomes employed by the State Department of Education after July 1, 1989, and (iii) who is a state school official may file with the retirement board within thirty days after employment an election to become or remain a member of the School Retirement System of the State of Nebraska. Employees electing not to participate in the School Retirement System shall participate in the State Employees Retirement System of the State of Nebraska.

(b) An individual shall be required to participate in the State Employees Retirement System if (i) the individual terminated employment from a public school participating in the School Retirement System and retired pursuant to the School Employees Retirement Act and (ii) the employment by the State Department of Education began or will begin within one hundred eighty days after terminating employment from the school.

(3) An employee electing not to be covered by the School Retirement System of the State of Nebraska under this section shall not be subject to section 79-957 but shall be allowed to retain his or her accumulated contribution in the system and continue to become vested in the state's accumulated contribution as well as the State Employees Retirement System of the State of Nebraska according to the following:

(a) The years of participation in the School Retirement System of the State of Nebraska before an election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with the service requirements provided under section 79-931; and

(b) The years of participation in the School Retirement System of the State of Nebraska before the election is made plus the years of participation in the State Employees Retirement System of the State of Nebraska after the election is made shall both be credited toward compliance with section 84-1321.

Source: Laws 1980, LB 818, § 2; Laws 1986, LB 325, § 13; Laws 1986, LB 311, § 22; Laws 1989, LB 506, § 12; R.S.1943, (1994), § 79-1565; Laws 1996, LB 900, § 555; Laws 1997, LB 623, § 15; Laws 2010, LB950, § 14.

Cross References

State Employees Retirement Act, see section 84-1331.

79-921. Retirement system; membership; termination; reinstatement; repayment of accumulated contributions; exception.

(1) The membership of any person in the retirement system shall cease only if he or she (a) withdraws his or her accumulated contributions under section 79-955, (b) retires on a school or formula or disability retirement allowance, or (c) dies.

(2) The retirement board shall reinstate to membership, with the same status as when such membership ceased, a school employee who has withdrawn his or her accumulated contributions under the following conditions:

(a) If he or she again becomes an employee and if such employee chooses within three years after rejoining the system to repay, within five years after the date on which he or she rejoins the retirement system or prior to termination of employment, whichever is first, to the retirement board part or all of the amount he or she has withdrawn plus interest which would have accrued on that amount under the retirement system; or

(b) If, more than three years after again becoming an employee and rejoining the system but prior to termination of employment, he or she chooses to repay part or all of the amount he or she has withdrawn, plus an amount equal to the actuarial assumed rate of return for the period repaid. Payment must be completed within five years after electing to repay or prior to termination, whichever is earlier.

(3) Prior creditable service shall be restored in proportion to the amounts repaid. A member's prior creditable service shall be fully restored only if the member has repaid all accumulated withdrawals in accordance with either subdivision (2)(a) or (2)(b) of this section, as applicable. Repayment may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization. If the school employee chooses not to repay such withdrawals with interest, the school employee shall enter the system as a new member with no prior rights.

Source: Laws 1945, c. 219, § 14, p. 643; R.S.Supp.,1947, § 79-2914; Laws 1949, c. 256, § 448, p. 845; Laws 1969, c. 735, § 4, p. 2778; Laws 1986, LB 311, § 16; Laws 1986, LB 325, § 2; R.S.1943, (1994), § 79-1514; Laws 1996, LB 900, § 556; Laws 1996, LB 1076, § 16; Laws 1997, LB 623, § 16; Laws 1997, LB 624, § 18; Laws 1999, LB 703, § 9; Laws 2001, LB 408, § 14; Laws 2004, LB 1097, § 24.

79-922. Retiree; return to employment; effect; waiver of payments.

(1) Commencing on September 13, 1997, a beneficiary retired under the School Employees Retirement Act who returns to employment as a school employee, except for members retired under sections 79-951 to 79-954, shall continue receiving retirement benefits and shall be treated for all purposes of the act as a new school employee. A new member account shall be created for such school employee, and the member shall make contributions to such new account and shall receive service credit only for future service commencing from the date of reemployment.

(2) A person receiving a retirement benefit may accept employment in a postsecondary school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, a community college board of governors for any community college area established by section 85-1504, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

Source: Laws 1985, LB 350, § 3; Laws 1991, LB 549, § 32; R.S.1943, (1994), § 79-1514.01; Laws 1996, LB 900, § 557; Laws 1996, LB 1076, § 17; Laws 1997, LB 624, § 19; Laws 1998, LB 1191, § 49.

79-923. Reretirement; benefits; how computed.

Until July 1, 1985, if a member of the retirement system retires, again becomes a school employee and a member of the retirement system, and then reretires, the member's benefit upon reretirement shall consist of his or her original retirement benefit and the additional benefit

earned as a result of employment following prior retirement. The original benefit shall be reinstated and shall continue in the same amount and in the same form or option as was previously elected. The additional benefit earned shall be computed as follows:

(1) A benefit shall be calculated based on the member's total service and compensation record and the statutes in effect at the time of reretirement. This benefit shall not be reduced for early retirement and shall be calculated under the life-only option;

(2) The member's original retirement benefit shall be calculated under the life-only option without any adjustments for early retirement, deferred retirement, or election of optional forms; and

(3) The additional benefit earned shall be the excess, if any, of the benefit calculated in subdivision (1) of this section over the benefit calculated in subdivision (2) of this section, adjusted if necessary to reflect early retirement or the election of an optional form other than the life-only option.

Source: Laws 1985, LB 350, § 2; R.S.1943, (1994), § 79-1514.02; Laws 1996, LB 900, § 558.

79-924. Credit for prior years of service; payment; rules and regulations; election; provisions applicable.

The retirement board shall adopt and promulgate rules and regulations to allow for lump-sum or installment payments for school employees who elect to buy credit for prior years of service under sections 79-921, 79-933.03 to 79-933.06, and 79-933.08. Any person who elects to buy credit for prior years of service on an installment basis may be charged reasonable service costs, shall be credited with those prior years of service only as the money is actually received by the retirement system, and shall have paid to the retirement system all installments prior to the commencement of a retirement annuity.

Source: Laws 1986, LB 325, § 6; Laws 1990, LB 819, § 1; R.S.1943, (1994), § 79-1514.05; Laws 1996, LB 900, § 559; Laws 1996, LB 1076, § 18; Laws 1997, LB 724, § 4.

79-925. Retirement system; prior member; repayment authorized; limitation.

Any person who is now a school employee or becomes a school employee and who had elected out of the retirement system between July 1, 1945, and October 1, 1945, and subsequently elected into the retirement system may elect to repay the retirement system for any number of years of service for which he or she would have contributed had he or she not elected out of the retirement system. The amount to be repaid shall not exceed the amount of the contributions which would have been paid into the retirement system based on the compensation and years of service as a school employee as verified by school officials plus the interest which would have accrued on the amount under the retirement system. This section shall not apply to school employees who retire prior to January 1, 1987.

Source: Laws 1987, LB 549, § 4; Laws 1991, LB 549, § 33; R.S.1943, (1994), § 79-1514.06; Laws 1996, LB 900, § 560.

79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.

(1) Under such rules and regulations as the retirement board adopts and promulgates, each person who was a school employee at any time prior to the establishment of the retirement system and who becomes a member of the retirement system shall, within two years after becoming a member, file a detailed statement of all service as a school employee rendered by

him or her prior to the date of establishment of the retirement system. In order to qualify for prior service credit toward a service annuity, a school employee, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, must have completed four years of service on a part-time or full-time basis during the five calendar years immediately preceding July 1, 1945, or have completed eighteen years out of the last twenty-five years prior to July 1, 1945, full time or part time, and two years out of the five years immediately preceding July 1, 1945, full time or part time, or such school employee must complete, unless temporarily out of service for further professional education, for service in the armed forces, or for temporary disability, four years of service within the five calendar years immediately following July 1, 1945. In order to qualify for prior service credit toward a service annuity, a school employee who becomes a member of the School Retirement System of the State of Nebraska on or before September 30, 1951, or from July 1, 1945, to the date of becoming a member shall have been continuously employed in a public school in Nebraska operating under any other regularly established retirement or pension system.

(2) Any person who, after having served or signing a contract to serve as a school employee, entered into and served or enters into and serves in the armed forces of the United States during a declared emergency or was drafted under a federal mandatory draft law into the armed forces of the United States during a time of peace, as described and prescribed under such rules and regulations as the retirement board adopts and promulgates, and who, within three calendar years after honorable discharge or honorable separation from active duty or within one year from the date of completion of training provided in the federal Servicemen's Readjustment Act of 1944 or the federal Veterans Readjustment Assistance Act of 1952, became or becomes a school employee shall be credited, in determining benefits due such member from the retirement system, for a maximum of five years of the time actually served in the armed forces as if such person had been a school employee throughout such time.

(3) Under such rules and regulations as the retirement board adopts and promulgates, any school employee who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan. The employer shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

(4) Retirement benefits for persons who have retired prior to April 18, 1992, shall not be affected by changes made to this section which become effective on such date.

Source: Laws 1945, c. 219, § 15, p. 643; R.S.Supp.,1947, § 79-2915; Laws 1949, c. 256, § 449, p. 845; Laws 1951, c. 291, § 2, p. 965; Laws 1953, c. 316, § 1, p. 1048; Laws 1975, LB 236, § 1; Laws 1992, LB 1001, § 33; Laws 1996, LB 847, § 30; R.S.1943, (1994), § 79-1515; Laws 1996, LB 900, § 561; Laws 1998, LB 1191, § 50.

79-927. Service credit; computation.

(1) The board shall grant service credit pursuant to this section on an annual basis to members who participate during each fiscal year.

(2) For a member who is subject to the wage and hour provisions of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq., as such sections existed on January 1, 2002, service credit shall be calculated as follows:

(a) For each year during which a member provides compensated service to one or more school districts for one thousand or more hours, the member shall be credited one year of service credit; and

(b) For each year during which a member provides less than one thousand hours of compensated service to one or more school districts, the member shall be credited one one-thousandth of a year's service credit for each hour worked.

(3) For a member who is exempt from the wage and hour provisions of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 201 et seq., as such sections existed on January 1, 2002, service credit shall be calculated as follows:

(a) Full-time service rendered for the regular school year in one or more public schools shall be equivalent to one year's service;

(b) Part-time service in one or more public schools shall be credited as individual years of fractional employment in proportion to the ratio the part-time service bears to the amount of time considered to be full-time service for the plan year; and

(c) If a member is employed for less than the full plan year, the member shall be granted a fractional year of service credit calculated pursuant to subdivision (a) or (b) of this subsection for only that portion of the plan year the member was employed.

(4) The board may adopt and promulgate rules and regulations for the granting of service credit in accordance with this section, but in no case shall more than one year of service be granted for all service in one plan year.

Source: Laws 1945, c. 219, § 16, p. 644; R.S.Supp.,1947, § 79-2916; Laws 1949, c. 256, § 450, p. 846; Laws 1971, LB 987, § 23; Laws 1986, LB 546, § 1; Laws 1991, LB 549, § 34; R.S.1943, (1994), § 79-1516; Laws 1996, LB 900, § 562; Laws 2002, LB 407, § 27.

79-928. Board; verify service record.

Subject to the restrictions in the School Employees Retirement Act and to such rules and regulations as the retirement board may adopt, the retirement board shall verify, as soon as practicable after the filing of statements of service, the service claimed in the statements.

Source: Laws 1945, c. 219, § 17, p. 644; R.S.Supp.,1947, § 79-2917; Laws 1949, c. 256, § 451, p. 846; R.S.1943, (1994), § 79-1517; Laws 1996, LB 900, § 563.

79-929. Board; issue prior service certificate; modification.

Upon verification of the statements of service, the retirement board shall issue prior service certificates stating, for each member with a valid claim, the length of service in this state, rendered prior to the day of the establishment of the retirement system, with which the member is credited on the basis of his or her proof of service. Any member may, within one year from the date of issuance or modification of such certificate, request the retirement board to modify or correct his or her prior service certificate.

Source: Laws 1945, c. 219, § 18, p. 644; R.S.Supp.,1947, § 79-2918; Laws 1949, c. 256, § 452, p. 847; Laws 1951, c. 293, § 1, p. 972; R.S.1943, (1994), § 79-1518; Laws 1996, LB 900, § 564.

79-931. Retirement; when; application.

(1) Upon filing a retirement application with the retirement system, a member who has completed thirty-five years of creditable service may retire at any age, a member who has completed at least five years of (a) creditable service plus (b) eligibility and vesting credit and is at least sixty years of age may retire, or a member who is at least sixty-five years of age upon termination may retire.

(2) Upon filing a retirement application with the retirement system, a member may retire upon termination if the member is at least fifty-five years of age, has acquired the equivalent of one-half year of service as a public school employee under the retirement system following July

1, 1997, and was a school employee on or after March 4, 1998, and the sum of the member's attained age and creditable service totals eighty-five.

Source: Laws 1945, c. 219, § 21, p. 645; R.S.Supp.,1947, § 79-2921; Laws 1949, c. 256, § 454, p. 847; Laws 1987, LB 549, § 5; Laws 1989, LB 506, § 10; R.S.1943, (1994), § 79-1520; Laws 1996, LB 900, § 566; Laws 1996, LB 1076, § 19; Laws 1998, LB 822, § 1.

79-932. Retirement; deferment of payment; board; duties.

(1) Payment of any benefit provided under the retirement system may not be deferred later than April 1 of the year following the year in which the member has both attained at least age seventy and one-half years and terminated his or her employment with the school system.

(2) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the School Employees Retirement Act.

Source: Laws 1945, c. 219, § 22, p. 645; R.S.Supp.,1947, § 79-2922; Laws 1949, c. 256, § 455, p. 847; Laws 1951, c. 291, § 3, p. 966; Laws 1969, c. 735, § 5, p. 2779; Laws 1975, LB 44, § 1; Laws 1979, LB 391, § 6; Laws 1981, LB 463, § 1; Laws 1982, LB 287, § 4; Laws 1986, LB 311, § 17; Laws 1987, LB 296, § 3; Laws 1987, LB 549, § 6; R.S.1943, (1994), § 79-1521; Laws 1996, LB 900, § 567; Laws 2003, LB 451, § 19.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

79-933. Retirement; member; amount of allowance.

(1) Upon retirement under section 79-931, a member or emeritus member shall receive a school retirement allowance which shall consist of the sum of: (a) A savings annuity which shall be the actuarial equivalent, as determined by the retirement board, of the member's accumulated contributions at the time of his or her retirement or, in the case of an emeritus member, the savings annuity fixed by the retirement board at the time of his or her original retirement; and (b) a service annuity to be paid by the State of Nebraska.

(2) The amount of any individual service annuity for (a) a full-time school employee hired on or before April 1, 1988, who retires with thirty-five or more years of service or who retires under the provisions of disability retirement, (b) a full-time school employee who provided compensated service after April 1, 1988, but prior to July 19, 1996, if the service annuity commences on or after the member's sixty-fifth birthday, who retires with thirty-five or more years of service or who retires under the provisions of disability retirement, or (c) an emeritus member shall be three dollars and fifty cents per month for each year of creditable service commencing with his or her retirement on or after May 19, 1981. For employees not enumerated in subdivision (a) or (b) of this subsection or for employees hired on or after July 19, 1996, if the service annuity commences prior to the member's sixty-fifth birthday, it shall be on an actuarially reduced basis. Each school employee or emeritus member who retired before July 1, 1973, and who is receiving a service annuity as of that date shall have such service annuity adjusted by the increase in the cost of living as determined by the difference between the Consumer Price Index for Urban Wage Earners and Clerical Workers from the date the service annuity commenced and July 1, 1973, except that such annuity shall not exceed three dollars and fifty cents monthly per year of service based on the same number of years of service that is

currently being used to determine his or her service annuity. Such increased service annuity shall commence on July 1, 1973.

Source: Laws 1945, c. 219, § 23, p. 645; R.S.Supp.,1947, § 79-2923; Laws 1949, c. 256, § 456, p. 847; Laws 1951, c. 291, § 4, p. 966; Laws 1953, c. 315, § 4, p. 1046; Laws 1959, c. 382, § 6, p. 1326; Laws 1959, c. 414, § 1, p. 1387; Laws 1963, c. 495, § 2, p. 1383; Laws 1965, c. 531, § 2, p. 1674; Laws 1967, c. 546, § 6, p. 1803; Laws 1969, c. 735, § 6, p. 2779; Laws 1973, LB 445, § 1; Laws 1981, LB 248, § 1; Laws 1981, LB 369, § 2; Laws 1986, LB 325, § 5; Laws 1986, LB 311, § 18; Laws 1987, LB 549, § 7; Laws 1991, LB 549, § 35; R.S.1943, (1994), § 79-1522; Laws 1996, LB 900, § 568; Laws 1996, LB 1076, § 20; Laws 2008, LB1147, § 8.

79-933.01. Direct rollover; terms, defined; distributee; powers; board; duties.

(1) For purposes of this section and section 79-933.02:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 31; Laws 2002, LB 407, § 28.

79-933.02. Retirement system; accept payments and rollovers; limitations; board; duties.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08 if the contributions do not exceed the amount of payment required for the service credits purchased by the member pursuant to such sections and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a)

of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 32; Laws 1997, LB 623, § 17; Laws 1997, LB 724, § 5; Laws 2002, LB 407, § 29.

79-933.03. Contributing member; credit for service in other schools; limitation; procedure; payment.

(1) Under such rules and regulations as the board shall adopt and promulgate, a contributing member under contract or employed on July 19, 1996, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by a school retirement system established pursuant to section 79-979, if such member files an application for service credit within three years of membership or reinstatement in the School Retirement System of the State of Nebraska and makes payment into the retirement system of an amount equal to the required deposits he or she would have paid had he or she been employed in this state by a school covered by the School Retirement System of the State of Nebraska, plus the interest which would have accrued on such amount. Payment must be completed within five years of membership or reinstatement in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to subsection (1) of this section to the extent that the member does not receive credit for such service.

(3) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this

state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

Source: Laws 1996, LB 1076, § 22; Laws 1997, LB 623, § 18; Laws 1998, LB 1191, § 51; Laws 1999, LB 703, § 10.

79-933.04. Contributing member; credit for leave of absence; limitation; procedure; payment.

(1) For contributing members under contract or employed on July 19, 1996, and under such rules and regulations as the board shall adopt and promulgate, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on such leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on compensation at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member has paid into the retirement system an amount equal to the sum of the deductions from his or her compensation and any contribution which the school district would have been required to make had he or she continued to receive compensation at the level received immediately prior to the leave of absence with such deposits plus interest which would have accrued on such deposits to be paid as the retirement board may direct within five years of his or her return to membership in the retirement system, or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence and must apply for such credit within three years of the return to membership in the retirement system.

Source: Laws 1996, LB 1076, § 23; Laws 1997, LB 623, § 19; Laws 1999, LB 703, § 11.

79-933.05. Contributing member; credit for service in other schools; limitation; procedure; payment.

(1) A contributing member may purchase service credit for not to exceed ten years of creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-979. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years after making the election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-979 in excess of the time he or she has been in service as a school employee in this state of a school covered by the School Retirement System of the State of Nebraska. The board shall refund to the member the payments made pursuant to this section to the extent that the member does not receive credit for such service.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) A member who purchases service credit pursuant to this section shall provide such documentation as the board may require to prove that the member has forfeited the receipt of any benefits from the retirement system of the public school in another state or a school in this state covered by a retirement system established pursuant to section 79-979 for the creditable service rendered in such school.

Source: Laws 1996, LB 1076, § 24; Laws 1997, LB 623, § 20; Laws 1998, LB 1191, § 52; Laws 1999, LB 703, § 12; Laws 2001, LB 408, § 15.

79-933.06. Contributing member; credit for leave of absence; limitation; procedure; payment.

(1) Any contributing member may purchase service credit for time he or she was on a leave of absence authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination of employment, and retirement benefits. The amount to be paid by the member for such service credit shall equal the actuarial cost to the School Retirement System of the State of Nebraska for allowing such additional service credit to the employee. Payment shall be completed within five years after such member's election to purchase service credit or prior to termination of employment, whichever occurs first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(2) Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. Such leave shall not exceed four years in length, and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after termination of the leave of absence.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

Source: Laws 1996, LB 1076, § 25; Laws 1997, LB 623, § 21; Laws 1999, LB 703, § 13; Laws 2001, LB 408, § 16; Laws 2002, LB 407, § 30.

79-933.07. Purchase of service credit; rules and regulations.

The board shall adopt and promulgate rules and regulations for the purchase of service credit, which shall include, but not be limited to, the method for determining actuarial cost and interest requirements for payments other than one lump-sum payment.

Source: Laws 1996, LB 1076, § 26.

79-933.08. Purchase of service credit within twelve months of retirement; agreement authorized.

(1) An employer and a school employee who has completed at least five years of creditable service plus eligibility and vesting credit may by agreement made in contemplation of retirement, to be effective within twelve months of the agreement, purchase service credit for such employee for not to exceed five years of creditable service. Such an agreement may be executed up to twelve months prior to the employee's retirement date. The agreement shall specify whether the school employee shall pay for the service credits, whether the employer shall pay for the service credits, or whether both the employee and employer shall share the cost of the service credits. Such service credits shall be purchased for an amount equal to the actuarial cost to the retirement system for allowing such additional service credit to the employee.

(2) Payment for such service credits shall be completed prior to the employee's termination of employment date and may be made through direct payment, installment payments, or an irrevocable deduction authorization. If payments are made on an installment basis, interest shall be charged at the rate of regular interest.

(3) Compensation for the period of service purchased shall not be included in determining the member's final average compensation.

(4) The retirement board shall credit funds collected pursuant to this section to the Contingent Account pending the employee's retirement. If the employee does not retire within twelve months after the signing of the agreement made pursuant to this section, such funds shall be refunded, excluding interest earned, and the employee shall not be given credit for the service credit attempted to be purchased.

Source: Laws 1997, LB 724, § 1; Laws 1999, LB 703, § 14.

79-933.09. Retirement system; accept transfers; limitations; how treated.

The retirement system may accept as payment for purchases of service credit or withdrawn amounts made pursuant to the School Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such credit or amounts. The amount transferred shall not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 31.

79-934. Formula annuity retirement allowance; eligibility; formula; payment.

(1) In lieu of the school retirement allowance provided by section 79-933, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-931 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-933.

(2) Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the service annuity provided by section 79-933 by

(a) one and one-quarter percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, (b) one and one-half percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, (c) one and sixty-five hundredths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, (d) one and seventy-three hundredths percent of his or her final average compensation for a member actively employed as a public school employee under the retirement system or under contract with an employer on or after June 5, 1993, (e) one and eight-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1995, and was employed as a public school employee under the retirement system or under contract with an employer on or after April 10, 1996, (f) one and nine-tenths percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1998, and was employed as a public school employee under the retirement system or under contract with an employer on or after April 29, 1999, or (g) two percent of his or her final average compensation for a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 2000, who was employed as a public school employee under the retirement system or under contract with an employer on or after May 2, 2001, and who has not retired prior to May 2, 2001. Subdivision (2)(f) of this section shall not apply to a member who is retired prior to April 29, 1999. Subdivision (2)(g) of this section shall not apply to a member who is retired prior to May 2, 2001.

(3) If the annuity begins on or after the sixty-fifth birthday of a member, the annuity shall not be reduced. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty or more years of creditable service and is at least sixty years of age, the annuity shall not be reduced. If the annuity begins prior to the sixtieth birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall be actuarially reduced on the basis of age sixty-five. If the annuity begins on or after the sixtieth birthday of the member and the member has completed at least a total of five years of (a) creditable service plus (b) eligibility and vesting credit but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of creditable service would have totaled ninety or three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday, whichever provides the greater annuity.

(4) For retirements on or after March 4, 1998, if the annuity begins at a time when the sum of the member's attained age and creditable service totals eighty-five and the member is at least fifty-five years of age, the annuity shall not be reduced. This subsection shall only apply to a member who has acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1997, and who was a school employee on or after March 4, 1998. This subsection shall not apply to a member who is retired prior to March 4, 1998.

(5) Except as provided in section 42-1107, the normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated

until sixty monthly payments have been made. Except as provided in section 42-1107, a member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-938.

(6) All formula annuities shall be paid from the School Retirement Fund.

Source: Laws 1967, c. 546, § 7, p. 1804; Laws 1969, c. 736, § 1, p. 2785; Laws 1975, LB 50, § 2; Laws 1981, LB 248, § 2; Laws 1982, LB 609, § 1; Laws 1984, LB 457, § 2; Laws 1986, LB 546, § 2; Laws 1986, LB 325, § 7; Laws 1987, LB 549, § 8; Laws 1988, LB 160, § 1; Laws 1988, LB 1170, § 3; Laws 1991, LB 549, § 36; Laws 1993, LB 292, § 2; Laws 1996, LB 700, § 9; R.S.1943, (1994), § 79-1522.01; Laws 1996, LB 900, § 569; Laws 1996, LB 1050, § 7; Laws 1996, LB 1076, § 21; Laws 1996, LB 1273, § 24; Laws 1998, LB 822, § 2; Laws 1999, LB 674, § 4; Laws 2001, LB 711, § 2; Laws 2002, LB 407, § 32.

79-935. Retirement; increase in benefits; when applicable.

No provision of section 79-916, 79-934, 79-958, 79-960, or 79-966 which would result in an increase in benefits that would have been payable prior to July 1, 1984, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1984.

No provision of section 79-934, 79-957, 79-958, or 79-960 which would result in an increase in benefits that would have been payable prior to July 1, 1986, shall apply to any person until that person has acquired the equivalent of one-half year of service or more as a school employee under the retirement system following July 1, 1986.

No provision of section 79-934, 79-957, 79-958, or 79-960 which would result in an increase in benefits that would have been payable prior to April 1, 1988, shall apply to any person unless he or she is employed on such date and has acquired five hundred sixteen or more hours as a school employee under the retirement system during or after fiscal year 1987-88.

Source: Laws 1984, LB 457, § 7; Laws 1986, LB 325, § 8; Laws 1988, LB 160, § 2; R.S.1943, (1994), § 79-1522.02; Laws 1996, LB 900, § 570.

79-938. Retirement allowance; method of payment; election.

At any time before the retirement date a member may elect to receive his or her school retirement allowance or disability retirement allowance under any optional form specified in the group annuity contract, if one exists, or under any optional form permitted by the retirement board, if no group annuity contract exists. Such optional annuity shall be the actuarial equivalent of the normal form of the annuity.

Source: Laws 1945, c. 219, § 31, p. 648; R.S.Supp.,1947, § 79-2931; Laws 1949, c. 256, § 464, p. 850; Laws 1951, c. 291, § 5, p. 967; Laws 1967, c. 546, § 8, p. 1806; Laws 1969, c. 735, § 9, p. 2781; R.S.1943, (1994), § 79-1530; Laws 1996, LB 900, § 573.

79-939. Retirement system; benefits; paid by retirement board.

All benefits under the retirement system shall be paid as directed by the retirement board. Except as provided in section 79-916, no member shall receive a retirement benefit from the retirement system covering years for which he or she is being paid a benefit under the Class V School Employees Retirement Act.

Source: Laws 1967, c. 546, § 18, p. 1809; Laws 1969, c. 584, § 90, p. 2401; R.S.1943, (1994), § 79-1557; Laws 1996, LB 900, § 574; Laws 1997, LB 623, § 24; Laws 1998, LB 497, § 1.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-940. Supplemental retirement benefit; determination.

Commencing September 1, 1980, the retirement board shall determine a supplemental retirement benefit for each person who is retired from the School Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by the Class V School Employees Retirement Act with twenty-five or more years of creditable service as of July 1, 1980. The computation and payment to persons shall be determined with the funds available as of January 1, 1981. Any person who would have been eligible for the supplemental retirement benefits provided under this section if this section and sections 79-942 to 79-944 had been operative on January 1, 1981, but who did not, during the months of January and February 1981, receive such benefits shall be entitled to an accumulated payment for such months to be made in March 1981.

Source: Laws 1980, LB 228, § 1; Laws 1981, LB 141, § 1; R.S.1943, (1994), § 79-1558; Laws 1996, LB 900, § 575; Laws 1998, LB 497, § 2.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-941. Total monthly benefit, defined; how computed.

For purposes of sections 79-940 to 79-946, unless the context otherwise requires, total monthly benefit means the benefit that would have been received under a monthly life annuity with no refund or death benefit option even though a different option, as provided in section 79-938, has been selected. The total monthly benefit shall be computed as if the person had retired at age sixty-five or at the actual age of retirement, whichever is later.

Source: Laws 1980, LB 228, § 2; R.S.1943, (1994), § 79-1559; Laws 1996, LB 900, § 576.

79-942. Supplemental retirement benefit; how computed.

For each person who qualifies under sections 79-940 to 79-946, the retirement board shall determine the value of the total monthly benefit being received from the School Retirement System of the State of Nebraska or from the retirement system for Class V districts as provided by the Class V School Employees Retirement Act. From one hundred fifty-five dollars, the retirement board shall subtract the total monthly benefit. Such difference, if positive, shall be the supplemental benefit and shall be paid to the retired person each month until July 1, 2004, from the Retired Teachers Supplementary Benefits Fund and on and after July 1, 2004, from the School Retirement Fund, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person.

Source: Laws 1980, LB 228, § 3; Laws 1981, LB 141, § 2; R.S.1943, (1994), § 79-1560; Laws 1996, LB 900, § 577; Laws 1998, LB 497, § 3; Laws 2004, LB 1097, § 25.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-943. Supplemental retirement benefit; not applicable; when.

Section 79-942 shall not apply to any retired person who receives a service annuity less than the amount provided in sections 79-933 and 79-938.

Source: Laws 1980, LB 228, § 4; Laws 1981, LB 141, § 3; R.S.1943, (1994), § 79-1561; Laws 1996, LB 900, § 578.

79-944. Supplemental retirement benefit; receipt by beneficiary.

If a beneficiary is receiving the annuity provided through the School Retirement System of the State of Nebraska or through the retirement system for Class V districts as provided by the Class V School Employees Retirement Act, the supplemental benefit shall be the benefit that would be computed under section 79-942 had the deceased retired person still been alive. The beneficiary will continue to receive the supplemental benefit until the expiration of the annuity option selected by the member.

Source: Laws 1980, LB 228, § 5; Laws 1981, LB 141, § 4; R.S.1943, (1994), § 79-1562; Laws 1996, LB 900, § 579; Laws 1998, LB 497, § 4.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-945. Supplemental retirement benefit; receipt by beneficiary; duration.

If a retiree eligible for the supplemental benefit under section 79-942 dies subsequent to July 19, 1980, the beneficiary shall be entitled to the supplemental benefit until the expiration of the annuity option selected by the retired member.

Source: Laws 1980, LB 228, § 6; R.S.1943, (1994), § 79-1563; Laws 1996, LB 900, § 580.

79-946. Retired Teachers Supplementary Benefits Fund; created; termination.

(1) The Retired Teachers Supplementary Benefits Fund is created. The fund shall be administered by the retirement board. This fund shall be considered an express obligation of the state. The appropriation for such fund shall be determined by the retirement board as of January 1 of each odd-numbered year and included in the biennial budget to be adopted by the regular session of the Legislature held in each odd-numbered year.

(2) On June 30, 2004, the Retired Teachers Supplementary Benefits Fund shall terminate and all assets of the fund shall be transferred to the School Retirement Fund. All obligations of the Retired Teachers Supplementary Benefits Fund shall be paid thereafter from the School Retirement Fund. The appropriation to provide supplementary benefits to retired teachers shall be determined as provided in subsection (1) of this section and shall be made to the School Retirement Fund in the same manner and amounts as had been made to the Retired Teachers Supplementary Retirement Fund.

Source: Laws 1980, LB 228, § 7; Laws 1986, LB 258, § 22; R.S.1943, (1994), § 79-1564; Laws 1996, LB 900, § 581; Laws 2004, LB 1097, § 26.

79-947. Adjusted supplemental retirement benefit; determination; computation; payment; funding.

(1) Commencing October 1, 1988, the retirement board shall determine an adjusted supplemental retirement benefit to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement for each person who is retired from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act with twenty-five or more years of creditable service as of October 1, 1988.

(2) For each person who qualifies under subsection (1) of this section, the retirement board shall determine the value of the total monthly benefit being received from the School Retirement System of the State of Nebraska or from the retirement system for Class V school districts as provided by the Class V School Employees Retirement Act and the supplemental

benefit provided by section 79-942 if applicable. From two hundred fifty dollars, the board shall subtract the total monthly benefit. Such difference, if positive, shall be the adjusted supplemental retirement benefit and shall be paid to the retired person each month, except that if this difference is less than five dollars, a minimum payment of five dollars per month shall be made to such person. The adjusted supplemental retirement benefit shall be paid to a retired person during his or her life.

(3) The retirement board may buy a paid-up annuity for a retired person which guarantees the adjusted supplemental retirement benefit provided under this section.

(4) The adjusted supplemental retirement benefit provided under this section shall be funded from the Contingent Account but only from such income that is attributable to employer and employee contributions.

Source: Laws 1988, LB 1170, § 21; R.S.1943, (1994), § 79-1566; Laws 1996, LB 900, § 582; Laws 1998, LB 497, § 5; Laws 2002, LB 407, § 33.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-947.01. Benefits; adjustment.

(1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted so that the purchasing power of the benefit being paid is not less than seventy-five percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by seventy-five percent. In any year in which applying the adjustment provided in subsection (2) of this section results in a benefit which would be less than seventy-five percent of the purchasing power of the initial benefit as calculated above, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year. In all other years, the adjustment provided under subsection (2) of this section shall be provided. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Except as provided in subsection (1) of this section:

(a) Beginning July 1, 2000, and until July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two percent; and

(b) Beginning July 1, 2001, the current benefit to a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two and one-half percent.

(3) The state shall contribute to the Annuity Reserve Fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2012-13 fiscal year, the annual

level dollar payment certified by the board shall equal 81.7873 percent of six million eight hundred ninety-five thousand dollars.

(4) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

(5) In addition to the adjustments provided in subsections (1), (2), and (4) of this section, the current benefit to a member or beneficiary of such member, and for which the first payment was dated on or before June 30, 2007, shall be subject to adjustment of the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), or (4) of this section or (b) eighty-five percent of the annuity which results when the original annuity that was paid to the member or beneficiary, before any cost-of-living adjustments under this section, is adjusted by the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the period between the commencement date of the annuity and June 30, 2007.

Source: Laws 1996, LB 700, § 7; Laws 1999, LB 674, § 5; Laws 2001, LB 711, § 3; Laws 2004, LB 1097, § 27; Laws 2007, LB596, § 1; Laws 2008, LB1147, § 9; Laws 2010, LB950, § 15.

79-947.03. Annual benefit adjustment; terms, defined.

For purposes of this section and sections 79-947.04 and 79-947.05:

(1) Eligible retiree means (a) a member or a beneficiary who has been receiving a retirement benefit for at least five years, which member had at least twenty-five years of creditable service; (b) a member who has been receiving a disability retirement allowance for at least five years pursuant to section 79-952; or (c) a beneficiary who has been receiving a death benefit pursuant to section 79-956 for at least five years, and which member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by section 79-947.04;

(2) Monthly accrual rate means the eligible retiree's total monthly benefit divided by the number of years of creditable service earned by the retiree or deceased member; and

(3) Total monthly benefit means the total benefit received by an eligible retiree pursuant to the School Employees Retirement Act, previous adjustments made pursuant to section 79-947.05, or any other provision of Nebraska law which grants a benefit or cost-of-living increase within the act, but total monthly benefit does not include sums received by an eligible retiree from federal sources.

Source: Laws 1998, LB 532, § 6.

79-947.04. Annual benefit adjustment; minimum accrual rate.

The minimum accrual rate is eighteen dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the National Consumer Price Index for Urban

Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Source: Laws 1998, LB 532, § 7; Laws 1999, LB 703, § 15; Laws 2008, LB1147, § 10.

79-947.05. Annual benefit adjustment; calculations.

(1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 79-947.04 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1998, LB 532, § 8; Laws 1999, LB 703, § 16.

79-948. Retirement benefits; exemption from taxation and legal process; exception.

The right of a person to an annuity, an allowance, or any optional benefit under the School Employees Retirement Act, any other right accrued or accruing to any person or persons under such act, the various funds and account created thereby, and all the money, investments, and income thereof shall be exempt from any state, county, municipal, or other local tax, shall

not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall not be assignable except to the extent that such annuity, allowance, or benefit is subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1945, c. 219, § 53, p. 655; R.S.Supp.,1947, § 79-2953; Laws 1949, c. 256, § 486, p. 857; Laws 1969, c. 735, § 15, p. 2783; Laws 1971, LB 987, § 30; Laws 1986, LB 311, § 20; Laws 1988, LB 1170, § 19; Laws 1989, LB 506, § 11; Laws 1991, LB 549, § 44; R.S.1943, (1994), § 79-1552; Laws 1996, LB 900, § 583; Laws 1996, LB 1273, § 26; Laws 2002, LB 407, § 34.

Cross References

Spousal Pension Rights Act, see section 42-1101.

79-949. False or fraudulent actions; prohibited acts; refusal to furnish information; violations; penalties; denial of benefits.

(1) Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

(2) Any school employee, member of a school board or board of education, or agent of any employer, who willfully fails or refuses to furnish to the retirement board upon its request and in the manner prescribed by it such information, data, or records, as may be necessary for carrying into effect the School Employees Retirement Act, shall be guilty of a Class V misdemeanor.

Source: Laws 1945, c. 219, § 54, p. 656; R.S.Supp.,1947, § 79-2954; Laws 1949, c. 256, § 487, p. 858; Laws 1971, LB 987, § 31; Laws 1977, LB 39, § 260; Laws 1991, LB 549, § 45; R.S.1943, (1994), § 79-1553; Laws 1996, LB 900, § 584; Laws 1998, LB 1191, § 54.

79-950. Appeal; procedure.

All acts and decisions of the retirement board shall be subject to review, reversal, modification, or approval by the retirement board, on its own motion or on the complaint of a member, under such rules as the retirement board may prescribe. Any teacher or other person, who deems himself or herself aggrieved by any action of the retirement board, may appeal to and have the same reviewed by the retirement board under such rules as the retirement board shall prescribe. Any final order made by the retirement board after review may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1945, c. 219, § 45, p. 653; R.S.Supp.,1947, § 79-2945; Laws 1949, c. 256, § 478, p. 855; Laws 1988, LB 352, § 163; R.S.1943, (1994), § 79-1544; Laws 1996, LB 900, § 585.

Cross References

Administrative Procedure Act, see section 84-920.

79-951. Retirement; disability; conditions; application.

(1) A member shall be retired on account of disability, either upon his or her own application or the application of his or her employer or a person acting in his or her behalf, if a

medical examination, made at the expense of the retirement system and conducted by a competent disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, selected by the retirement board, shows and the physician certifies to the retirement board that the member is unable to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which began while the member was a participant in the plan and which can be expected to result in death or be of a long and indefinite duration. The medical examination may be waived if, in the judgment of the retirement board, extraordinary circumstances exist which preclude substantial gainful activity by the member. Such circumstances shall include hospice placement or similar confinement for a terminal illness or injury.

(2) The member shall have five years from the date he or she terminates employment in a public school located in Nebraska in which to make application for disability retirement benefits if the disability is related to employment in a public school located in Nebraska. If the disability is not related to a public school located in Nebraska, the member shall have one year from the date he or she terminates employment in which to make application for disability retirement benefits. Any application for retirement on account of disability shall be made on a retirement application provided by the retirement system. Upon approval by the board, benefits shall begin on the disability retirement date.

Source: Laws 1945, c. 219, § 24, p. 646; R.S.Supp.,1947, § 79-2924; Laws 1949, c. 256, § 457, p. 848; Laws 1963, c. 495, § 3, p. 1584; Laws 1975, LB 50, § 3; Laws 1987, LB 549, § 9; Laws 1991, LB 549, § 37; R.S.1943, (1994), § 79-1523; Laws 1996, LB 900, § 586; Laws 1996, LB 1076, § 27; Laws 1997, LB 623, § 25; Laws 1998, LB 1191, § 55; Laws 1999, LB 538, § 2; Laws 2000, LB 1192, § 15; Laws 2004, LB 1097, § 28; Laws 2010, LB950, § 16.

79-952. Retirement; disability; allowance; formula.

Upon retirement for disability, a member shall receive a disability retirement allowance which shall consist of a savings annuity and a service annuity computed in the manner specified in section 79-933 or, in lieu thereof, the formula annuity computed in the manner specified in section 79-934 without the reduction to the actuarial equivalent of the formula annuity deferred to the sixty-fifth birthday of the member.

Source: Laws 1945, c. 219, § 25, p. 646; R.S.Supp.,1947, § 79-2925; Laws 1949, c. 256, § 458, p. 848; Laws 1975, LB 50, § 4; R.S.1943, (1994), § 79-1524; Laws 1996, LB 900, § 587.

79-953. Retirement; disability; annual medical examination; refusal; effect.

The retirement board may require any disability beneficiary who has not yet attained the age of sixty-five years to undergo a medical examination once each year. Such an examination shall be made (1) at the place of residence of the beneficiary or other place mutually agreed upon, (2) at the expense of the retirement system, and (3) by a physician, legally authorized to practice medicine under the laws of the state in which he or she practices, designated by the retirement board. If any disability beneficiary who has not yet attained the age of sixty-five years willfully refuses to submit to at least one such medical examination in any fiscal year, his or her allowance may be discontinued until his or her withdrawal of such refusal. If such refusal continues for one year, his or her rights in and to his or her disability retirement allowance may be revoked by the retirement board.

Source: Laws 1945, c. 219, § 26, p. 647; R.S.Supp.,1947, § 79-2926; Laws 1949, c. 256, § 459, p. 849; R.S.1943, (1994), § 79-1525; Laws 1996, LB 900, § 588; Laws 1997, LB 623, § 26.

79-954. Retirement; disability beneficiary; restoration to active service; effect; retention of allowance; when.

(1) Except as provided in subsection (2) of this section, if a disability beneficiary under the age of sixty-five years is restored to active service as a school employee or if the examining physician certifies that the person is no longer disabled for service as a school employee, the school or disability retirement allowance shall cease. If the beneficiary again becomes a school employee, he or she shall become a member of the retirement system. Any prior service certificate, on the basis of which his or her creditable service was computed at the time of his or her retirement for disability, shall be restored to full force and effect upon his or her again becoming a member of such retirement system.

(2) If a disability beneficiary under the age of sixty-five years obtains employment as a school employee and the examining physician certifies that the beneficiary has a permanent disability, the beneficiary shall retain his or her disability retirement allowance if the beneficiary works fewer than fifteen hours per week.

Source: Laws 1945, c. 219, § 27, p. 647; R.S.Supp.,1947, § 79-2927; Laws 1949, c. 256, § 460, p. 849; R.S.1943, (1994), § 79-1526; Laws 1996, LB 900, § 589; Laws 2009, LB449, § 1.

79-955. Termination of membership; accumulated contributions; return.

Upon termination of employment for any cause other than death or retirement, the retirement board shall, upon the member's demand, terminate his or her membership in the retirement system and cause to be paid to such member the accumulated contributions standing to the credit of his or her individual account in the School Retirement Fund. Any member who attains or has attained membership in another Nebraska state or school retirement system authorized by the Legislature and who elects not to be or remain a member of the School Retirement System of the State of Nebraska shall have his or her accumulated contributions returned to him or her forthwith.

Source: Laws 1945, c. 219, § 28, p. 647; R.S.Supp.,1947, § 79-2928; Laws 1949, c. 256, § 461, p. 849; Laws 1965, c. 532, § 1, p. 1676; Laws 1967, c. 555, § 1, p. 1825; Laws 1969, c. 735, § 7, p. 2780; Laws 1976, LB 30, § 3; Laws 1988, LB 1170, § 4; R.S.1943, (1994), § 79-1527; Laws 1996, LB 900, § 590; Laws 1997, LB 624, § 20; Laws 1998, LB 1191, § 56.

79-956. Death of member before retirement; contributions; how treated.

(1) If a member dies before retirement, his or her accumulated contributions shall be paid to his or her estate, to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107, or to the person he or she has nominated by designation duly executed and filed with the retirement board. Except for payment to an alternative payee pursuant to a qualified domestic relations order, if no legal representative or beneficiary applies for such accumulated contributions within five years following the date of the deceased member's death, the contributions shall be distributed in accordance with the Uniform Disposition of Unclaimed Property Act.

(2) When the deceased member has not less than twenty years of creditable service regardless of age or dies on or after his or her sixty-fifth birthday and leaves a surviving spouse who has been designated as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a one-hundred-percent joint and survivor annuity payable as long as either the member or the

member's spouse should survive and had the member retired (a) on the date of death if his or her age at death is sixty-five years or more or (b) at age sixty-five years if his or her age at death is less than sixty-five years.

(3) When the deceased member who was a school employee on or after May 1, 2001, has not less than five years of creditable service and less than twenty years of creditable service and dies before his or her sixty-fifth birthday and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within twelve months after the death of the member, to receive (a) a refund of the member's contribution account balance with interest plus an additional one hundred one percent of the member's contribution account balance with interest or (b) an annuity payable monthly for the surviving spouse's lifetime which shall be equal to the benefit amount that had accrued to the member at the date of the member's death, commencing when the member would have reached age sixty, or the member's age at death if greater, reduced by three percent for each year payments commence before the member would have reached age sixty-five, and adjusted for payment in the form of a one-hundred-percent joint and survivor annuity.

(4) If the requirements of subsection (2) or (3) of this section are not met, then the beneficiary or the estate, if the member has not filed a statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such member plus regular interest, except that commencing on January 1, 2006, an application for benefits under subsection (2) or (3) of this section shall be deemed to have been timely filed if the application is received by the retirement system within twelve months after the date of the death of the member.

(5) Benefits to which a surviving spouse, beneficiary, or estate of a member shall be entitled pursuant to this section shall commence immediately upon the death of such member.

Source: Laws 1945, c. 219, § 29, p. 648; R.S.Supp.,1947, § 79-2929; Laws 1949, c. 256, § 462, p. 850; Laws 1951, c. 293, § 3, p. 972; Laws 1969, c. 735, § 8, p. 2781; Laws 1975, LB 50, § 5; Laws 1976, LB 645, § 1; Laws 1981, LB 128, § 1; Laws 1986, LB 325, § 9; Laws 1987, LB 549, § 10; Laws 1988, LB 1170, § 5; Laws 1990, LB 903, § 1; Laws 1994, LB 833, § 32; R.S.1943, (1994), § 79-1528; Laws 1996, LB 900, § 591; Laws 1996, LB 1273, § 25; Laws 2000, LB 1192, § 16; Laws 2001, LB 711, § 4; Laws 2003, LB 451, § 20; Laws 2007, LB508, § 2.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

79-957. Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.

Upon termination of employment for any reason other than death, before qualifying for retirement under section 79-931, the retirement board shall, upon request, issue the member a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, regular interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five or after thirty-five years of creditable service, such member shall become eligible to receive the retirement allowance provided in sections 79-933 and 79-934. Any deferred formula annuity provided shall be based on the member's compensation preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member, and if such member has completed at least five but less than thirty-five years of creditable service, such annuity may commence at any time after such member attains the age of sixty years and before

his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section 79-934. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Source: Laws 1945, c. 219, § 30, p. 648; R.S.Supp.,1947, § 79-2930; Laws 1949, c. 256, § 463, p. 850; Laws 1975, LB 56, § 2; Laws 1976, LB 33, § 1; Laws 1986, LB 325, § 10; Laws 1987, LB 549, § 11; Laws 1988, LB 160, § 3; Laws 1991, LB 549, § 38; R.S.1943, (1994), § 79-1529; Laws 1996, LB 900, § 592; Laws 1996, LB 1076, § 28; Laws 1997, LB 624, § 21.

79-958. Employee; employer; required deposits and contributions.

(1) Beginning on September 1, 2006, and ending August 31, 2007, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and eighty-three hundredths percent of compensation. Beginning on September 1, 2007, and ending August 31, 2009, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-eight hundredths percent of compensation. Beginning on September 1, 2009, and ending August 31, 2014, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund eight and twenty-eight hundredths percent of compensation. Beginning on September 1, 2014, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-eight hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

Source: Laws 1945, c. 219, § 32, p. 649; R.S.Supp.,1947, § 79-2932; Laws 1949, c. 256, § 465, p. 851; Laws 1951, c. 291, § 6, p. 968; Laws 1959, c. 414, § 2, p. 1388; Laws 1967, c. 546, § 9, p. 1806; Laws 1971, LB 987, § 24; Laws 1984, LB 457, § 3; Laws 1985, LB 353, § 3; Laws 1986, LB 325, § 11; Laws 1988, LB 160, § 4; Laws 1988, LB 1170, § 6; Laws 1991, LB 549, § 39; Laws 1994, LB 833, § 33; Laws 1995, LB 574, § 80;

Laws 1996, LB 700, § 10; R.S.Supp.,1995, § 79-1531; Laws 1996, LB 900, § 593; Laws 1997, LB 623, § 27; Laws 1998, LB 1191, § 57; Laws 2001, LB 408, § 17; Laws 2002, LB 407, § 35; Laws 2005, LB 503, § 10; Laws 2007, LB596, § 2; Laws 2009, LB187, § 1.

79-959. Account of member; credit with regular interest.

The account of each member in the School Retirement Fund shall be credited with regular interest earned monthly, quarterly, semiannually, or annually as the retirement board may direct.

Source: Laws 1945, c. 219, § 33, p. 649; R.S.Supp.,1947, § 79-2933; Laws 1949, c. 256, § 466, p. 851; Laws 1967, c. 546, § 10, p. 1807; Laws 1969, c. 735, § 10, p. 2781; Laws 1974, LB 905, § 7; Laws 1986, LB 311, § 19; Laws 1988, LB 1170, § 7; R.S.1943, (1994), § 79-1532; Laws 1996, LB 900, § 594.

79-960. Employer; deduction; remittances; fees; interest charge.

Every employer shall deduct and withhold an amount pursuant to section 79-958 from the compensation as a school employee of each member on each payroll period after such school employee becomes a member of the retirement system. The employer shall transmit periodically, as directed by the retirement board and in such form as is approved by the retirement board, such amounts and any other information required by the board. The board shall immediately transmit to the State Treasurer all payments received. The board may charge the employer a late administrative processing fee not to exceed twenty-five dollars if the information and money required by section 79-958 are delinquent or are not timely received by the board. In addition, the board may charge the employer a late fee of thirty-eight thousandths of one percent of the amount required to be submitted pursuant to this section for each day such amount has not been received. The late fee may be used to make a member's account whole for any costs that may have been incurred by the member due to the late receipt of contributions. The board shall charge the employer an amount equal to the interest which would have accrued if the delinquent report causes the employee to lose interest on his or her account. The proceeds of the interest charge shall be used to reimburse the account of each school employee deprived of interest by the delay.

Source: Laws 1945, c. 219, § 34, p. 649; R.S.Supp.,1947, § 79-2934; Laws 1949, c. 256, § 467, p. 851; Laws 1951, c. 291, § 7, p. 969; Laws 1967, c. 546, § 11, p. 1807; Laws 1984, LB 457, § 4; Laws 1986, LB 325, § 12; Laws 1988, LB 160, § 5; Laws 1988, LB 1170, § 8; Laws 1991, LB 549, § 40; Laws 1994, LB 1306, § 3; R.S.1943, (1994), § 79-1533; Laws 1996, LB 900, § 595; Laws 1996, LB 1076, § 29; Laws 1999, LB 272, § 92; Laws 2000, LB 1192, § 17; Laws 2002, LB 407, § 36.

79-962. Contracts of employment; specify subject to provisions of act.

Every contract of employment with a school employee shall specify that it is subject to the provisions of the School Employees Retirement Act.

Source: Laws 1945, c. 219, § 36, p. 650; R.S.Supp.,1947, § 79-2936; Laws 1949, c. 256, § 469, p. 852; R.S.1943, (1994), § 79-1535; Laws 1996, LB 900, § 597; Laws 1997, LB 347, § 27.

79-963. Director; employer and employee; furnish information.

Every employer and school employee shall send to the director of the Nebraska Public Employees Retirement Systems, as specified in section 79-906, upon request and in the manner required by the director, such information as he or she may require (1) for the identification of school employees and (2) for the determination of the membership of the retirement system and the obligations of the employer and school employee to the retirement system.

Source: Laws 1945, c. 219, § 37, p. 650; R.S.Supp.,1947, § 79-2937; Laws 1949, c. 256, § 470, p. 852; Laws 1951, c. 293, § 4, p. 972; Laws 1969, c. 735, § 11, p. 2782; Laws 1988, LB 1170, § 9; Laws 1991, LB 549, § 41; R.S.1943, (1994), § 79-1536; Laws 1996, LB 900, § 598; Laws 2000, LB 1192, § 18; Laws 2002, LB 407, § 37.

79-964. Employer; pay to board; withholding of excess deduction.

Every employer shall pay to the retirement board the required deposits made by every member in the service of such employer. No employer shall, without the consent of the member, withhold or deduct from any member's compensation on any payroll any amount in excess of the required deduction for the period covered by such payroll.

Source: Laws 1956, c. 219, § 38, p. 650; R.S.Supp.,1947, § 79-2938; Laws 1949, c. 256, § 471, p. 852; Laws 1976, LB 30, § 4; R.S.1943, (1994), § 79-1537; Laws 1996, LB 900, § 599.

79-965. Payment of compensation less required deductions; discharge of claims for service.

Notwithstanding any other law, rule, or regulation affecting the salary, pay, compensation, or tenure of any member, payment of such salary, pay, or compensation to such member, less the required deductions provided for in the School Employees Retirement Act, shall be a full and complete discharge and acquittance of all claims for service rendered by such member during the period covered by such payment.

Source: Laws 1945, c. 219, § 39, p. 651; R.S.Supp.,1947, § 79-2939; Laws 1949, c. 256, § 472, p. 853; R.S.1943, (1994), § 79-1538; Laws 1996, LB 900, § 600.

79-966. School Retirement Fund; state deposits; amount; determination.

(1) On the basis of all data in the possession of the retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board shall annually, on or before July 1, determine the state deposit to be made by the state in the School Retirement Fund for that fiscal year. The amount of such state deposit shall be determined pursuant to section 79-966.01. The retirement board shall thereupon certify the amount of such state deposit, and on the warrant of the Director of Administrative Services, the State Treasurer shall, as of July 1 of such year, transfer from funds appropriated by the state for that purpose to the School Retirement Fund the amount of such state deposit.

(2) In addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system for each fiscal year on or after July 1, 1984, until July 1, 2009. For each fiscal year beginning July 1, 2009, until July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to one percent of the compensation of all members of the retirement system. For each fiscal year beginning July 1, 2014, in addition to the state deposits required by subsections (1) and (3) of this section, the state shall deposit in the School Retirement Fund an amount equal to seven-tenths of one percent of the compensation of all members of the retirement system.

(3) In addition to the state deposits required by subsections (1) and (2) of this section, beginning on July 1, 2005, and each fiscal year thereafter, the state shall deposit in the Service Annuity Fund such amounts as may be necessary to pay the normal cost and amortize the unfunded actuarial accrued liability of the service annuity benefit established pursuant to sections 79-933 and 79-952 as accrued through the end of the previous fiscal year of the school

employees who are members of the retirement system established pursuant to the Class V School Employees Retirement Act.

Source: Laws 1945, c. 219, § 41, p. 651; R.S.Supp.,1947, § 79-2941; Laws 1949, c. 256, § 474, p. 853; Laws 1965, c. 530, § 4, p. 1668; Laws 1969, c. 735, § 12, p. 2782; Laws 1971, LB 987, § 25; Laws 1981, LB 248, § 3; Laws 1984, LB 457, § 5; Laws 1988, LB 1170, § 10; R.S.1943, (1994), § 79-1540; Laws 1996, LB 900, § 601; Laws 2002, LB 407, § 39; Laws 2004, LB 1097, § 29; Laws 2009, LB187, § 2.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

79-966.01. School Retirement Fund; annual actuarial valuations.

Beginning July 1, 2002, and each year thereafter, this section shall govern annual actuarial valuations of the School Retirement Fund. In order to determine the additional required deposits by the State of Nebraska, as required by section 79-966, the board shall cause an annual actuarial valuation to be performed that will value the plan assets for the year and ascertain the contributions required for such fiscal year. The actuary for the board shall perform the annual valuation using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. Prior to July 1, 2006, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the School Employees Retirement Act, the actuary shall determine the added contributions required to be paid by the State of Nebraska that constitute the difference between the actuarially required contribution rate and the rate of all other required contributions.

Source: Laws 2002, LB 407, § 38; Laws 2006, LB 1019, § 9.

79-967. Board; determine rates of benefits; adjustments; distribution of gains and savings.

As often as may be necessary, the retirement board shall cause to be made a thorough investigation of the several funds or account of the retirement system for the purpose of determining the rates at which the benefits will be granted. It shall make adjustments in such rates as, upon recommendation of the actuary, may appear to be proper for maintaining solvency of the several funds or account. No revision of rates shall affect adversely the rights of any beneficiary under an application made prior to such revision. The retirement board shall,

from time to time, order and make such distribution of gains and savings to the several funds or account as it may deem equitable.

Source: Laws 1945, c. 219, § 43, p. 652; R.S.Supp.,1947, § 79-2943; Laws 1949, c. 256, § 476, p. 854; Laws 1969, c. 736, § 2, p. 2787; Laws 1988, LB 1170, § 11; R.S.1943, (1994), § 79-1542; Laws 1996, LB 900, § 602; Laws 1998, LB 1191, § 58; Laws 2002, LB 407, § 40.

79-968. Retirement system; assets; funds; account; investment.

All assets of the retirement system shall be credited, according to the purpose for which they are held, to the Expense Fund, to the School Retirement Fund, or to the Contingent Account. Any money in the account or funds available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1945, c. 219, § 46, p. 653; R.S.Supp.,1947, § 79-2946; Laws 1949, c. 256, § 479, p. 855; Laws 1965, c. 530, § 5, p. 1668; Laws 1967, c. 546, § 12, p. 1808; Laws 1969, c. 584, § 88, p. 2401; Laws 1988, LB 1170, § 12; Laws 1993, LB 292, § 4; Laws 1994, LB 1066, § 90; R.S.1943, (1994), § 79-1545; Laws 1996, LB 900, § 603; Laws 2002, LB 407, § 41.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

79-971. Accumulated contributions; use.

The Nebraska Public Employees Retirement Systems shall keep an accounting of the required deposits from the compensation of members collected to provide savings annuities. The accumulated contributions, plus statutorily required accumulated interest, of a member may be returned to him or her upon his or her termination, paid to his or her estate or designated beneficiary in the event of his or her death as provided in section 79-956, or used in the event of his or her retirement to assist in funding his or her school retirement allowance, disability retirement allowance, or formula annuity allowance. Any accumulated contributions forfeited shall be transferred from the School Retirement Fund to the Contingent Account.

Source: Laws 1945, c. 219, § 47, p. 653; R.S.Supp.,1947, § 79-2947; Laws 1949, c. 256, § 480, p. 855; Laws 1969, c. 735, § 14, p. 2783; Laws 1971, LB 987, § 26; Laws 1987, LB 549, § 12; Laws 1988, LB 1170, § 15; R.S.1943, (1994), § 79-1546; Laws 1996, LB 900, § 606; Laws 2002, LB 407, § 43.

79-972.01. School Retirement Fund; created; use.

The School Retirement Fund is created. The required deposits of the employer, the state, and the employees shall be credited to the fund and all savings annuities, service annuities, and formula annuities shall be paid from the fund as provided in the School Employees Retirement Act. Any unexpended balance existing on June 30, 2002, in the School Employers Deposit Account, the Service Annuity Account, the School Employees Savings Account, the Annuity Reserve Account, and the School Employees Retirement System Reserve Fund shall be transferred to the School Retirement Fund.

Source: Laws 2002, LB 407, § 42.

79-973. Contingent Account; created; use.

A Contingent Account is created (1) to facilitate the crediting of regular interest on the amounts in the School Retirement Fund, (2) to fund the adjusted supplemental retirement

benefit provided by section 79-947, and (3) to provide an account to cover any special requirements of the School Retirement Fund or the Expense Fund. All income, interest, and dividends derived from the deposits and investments authorized by the School Employees Retirement Act shall be paid into the Contingent Account. The retirement board may accept gifts, devise, and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from the School Retirement Fund by reason of the lack of a claimant or because of a surplus in any fund or account described in section 79-968, or any other money the disposition of which is not otherwise provided for in the act, shall be credited to the Contingent Account. Any deficit occurring in the School Retirement Fund or in the Expense Fund shall be met by payments to the fund from the Contingent Account. Annually the retirement board shall estimate the amount of money deemed necessary to pay the obligation levied against the Contingent Account, including regular interest. If such amount exceeds the revenue estimated to accrue to the fund for that year, such excess shall be certified to the State Treasurer and shall, on warrant of the Director of Administrative Services, be transferred from funds appropriated by the state for such purpose to the Contingent Account.

Source: Laws 1945, c. 219, § 50, p. 654; R.S.Supp.,1947, § 79-2950; Laws 1949, c. 256, § 483, p. 856; Laws 1965, c. 530, § 8, p. 1669; Laws 1971, LB 987, § 28; Laws 1988, LB 1170, § 17; Laws 1991, LB 549, § 43; Laws 1993, LB 292, § 5; R.S.1943, (1994), § 79-1549; Laws 1996, LB 900, § 608; Laws 2002, LB 407, § 44.

79-974. Expense Fund; created; use.

The Expense Fund is created and is the fund to which shall be credited the proportionate share of administration expense transferred from the Contingent Account at the direction of the retirement board. The Expense Fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the School Employees Retirement Act and necessary in connection with the administration and operation of the retirement system. Annually, as soon after July 1 as is practicable, the retirement board shall estimate the amount of money which is deemed necessary to be paid into the Expense Fund for that fiscal year.

Source: Laws 1945, c. 219, § 51, p. 655; R.S.Supp.,1947, § 79-2951; Laws 1949, c. 256, § 484, p. 857; Laws 1971, LB 987, § 29; Laws 1988, LB 1170, § 18; R.S.1943, (1994), § 79-1550; Laws 1996, LB 900, § 609; Laws 2001, LB 408, § 18; Laws 2005, LB 364, § 10.

79-976. Investment services; charges; report; state investment officer; duty.

Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the retirement board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the retirement board, and the Nebraska Retirement Systems Committee of the Legislature. All money received by the State Treasurer and the retirement board for the retirement system shall be invested by the state investment officer within thirty-one days after receipt.

Source: Laws 1967, c. 546, § 17, p. 1809; Laws 1969, c. 584, § 89, p. 2401; Laws 1986, LB 311, § 21; Laws 1988, LB 1170, § 20; Laws 1991, LB 549, § 46; Laws 1994, LB 1066, § 91; R.S.1943, (1994), § 79-1556; Laws 1996, LB 900, § 611; Laws 2002, LB 407, § 45.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

79-977. School district expenditures; not exempt from limitations on spending.

Any expenditure made by a school district pursuant to sections 79-934, 79-968, and 79-973 as changed by Laws 1993, LB 292, shall be considered a general fund expenditure of the district and shall not be exempt from the growth limitations placed on district spending by the Tax Equity and Educational Opportunities Support Act.

Source: Laws 1993, LB 292, § 6; R.S.1943, (1994), § 79-1567; Laws 1996, LB 900, § 612; Laws 2002, LB 407, § 46.

Cross References

Tax Equity and Educational Opportunities Support Act, see section 79-1001.

79-977.01. Limitation of actions.

Every claim and demand under the School Employees Retirement Act and against the retirement system or the retirement board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 31.

79-977.02. Retirement system contributions, income, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the School Employees Retirement Act.

Source: Laws 1998, LB 1191, § 59.

79-977.03. Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 60.

This page left intentionally blank.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-978. Terms, defined.
- 79-978.01. Act, how cited.
- 79-979. Class V school district; employees' retirement system; established.
- 79-980. Employees retirement system; administration; trustees.
- 79-981. Employees retirement system; board of education; rules and regulations; administrator; employees compensation.
- 79-982. Employees retirement system; trustees; meetings; duties.
- 79-983. Employees retirement system; administrator; executive officer.
- 79-984. Employees retirement system; actuary; employment; duties.
- 79-985. Employees retirement system; attorney.
- 79-986. Employees retirement system; school district as treasurer; duties.
- 79-987. Employees retirement system; audit; cost; reports.
- 79-988. Employees retirement system; membership; separate employment; effect.
- 79-988.01. Transfer of funds by the state.
- 79-989. Employees retirement system; board of education; records available.
- 79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.
- 79-991. Employees retirement system; member; prior service credit; how obtained.
- 79-992. Employees retirement system; discontinuance of employment; refunds; reemployment.
- 79-993. Reemployment; repay contributions; limitation; effect.
- 79-994. Employee of another school district; contribution; limitation; effect.
- 79-995. Reemployment; military service; leave of absence; contribution; limitation; effect.
- 79-996. Contributions; how paid; interest.
- 79-997. Employee of educational service unit; contribution; limitation; effect.
- 79-998. Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences.
- 79-999. Employees retirement system; annuity; how credited.
- 79-9,100. Employees retirement system; formula retirement annuity; computation.
- 79-9,101. Employees retirement system; annuity; election; remaining payments.
- 79-9,102. Employees retirement system; annuity benefit; limitations.
- 79-9,103. Annuity payment; cost-of-living adjustment; additional adjustments.
- 79-9,104. Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.
- 79-9,105. Employees retirement system; member; disability; benefits.
- 79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount.
- 79-9,107. Employees retirement system; funds; investment; violations.
- 79-9,108. Employees retirement system; funds; investment manager; duties; board of education; investments; approve or disapprove.
- 79-9,109. Employees retirement system; investments; default of principal or interest; trustees; powers and duties.
- 79-9,110. Employees retirement system; investments; mortgages on real property, when.
- 79-9,111. Employees retirement system; investments; trustees; powers and duties.
- 79-9,113. Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.
- 79-9,114. Employees retirement system; federal Social Security Act; agreement; coverage group.
- 79-9,115. Employees retirement fund; created; use.
- 79-9,116. Applicability of sections.

79-978. Terms, defined.

For purposes of the Class V School Employees Retirement Act, unless the context otherwise requires:

(1) Retirement system or system means the School Employees' Retirement System of (corporate name of the school district as described in section 79-405) as provided for by the act;

(2) Board means the board of education of the school district;

(3) Trustee means a trustee provided for in section 79-980;

(4) Employee means the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not included in subdivision (4)(a) of this section, hired upon a full-time basis, which basis shall contemplate a workweek of not less than thirty hours;

(5) Member means any employee included in the membership of the retirement system or any former employee who has made contributions to the system and has not received a refund;

(6) Annuitant means any member receiving an allowance;

(7) Beneficiary means any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service means service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the school district. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year. Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the school district. An hour of compensated service shall include any hour for which the member is compensated by the school district during periods where no service is performed due to vacation or approved leave. If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated;

(9) Prior service means service rendered prior to September 1, 1951, for which credit is allowed under section 79-999, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

(10) Creditable service means the sum of the membership service and the prior service, measured in one-tenth-year increments;

(11) Compensation means salary or wages payable by the school district before reduction for contributions picked up under section 414(h) of the Internal Revenue Code, elective contributions made pursuant to section 125 or 403(b) of the code, or amounts not currently includible in income by reason of section 132(f)(4) of the code, subject to the applicable limitations of section 401(a)(17) of the code;

(12) Military service means service in the uniformed services as defined in 38 U.S.C. 4301 et seq., as such provision existed on March 27, 1997;

(13) Accumulated contributions means the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest means interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary

authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during the last preceding fiscal year;

(15) Retirement date means the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date means the end of the month during which the member attains age sixty-five and has completed at least five years of membership service;

(17) Early retirement date means that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance means the total annual retirement benefit payable to a member for service or disability;

(19) Annuity means annual payments, for both prior service and membership service, for life as provided in the Class V School Employees Retirement Act;

(20) Actuarial tables means:

(a) For determining the actuarial equivalent of any annuities other than joint and survivorship annuities, a unisex mortality table using twenty-five percent of the male mortality and seventy-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1994 Group Annuity Mortality Table with a One Year Setback and using an interest rate of eight percent compounded annually;

(21) Actuarial equivalent means the equality in value of the retirement allowance for early retirement or the retirement allowance for an optional form of annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Fiscal year means the period beginning September 1 in any year and ending on August 31 of the next succeeding year;

(23) Primary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of a member; and

(24) Secondary beneficiary means the person or persons entitled to receive or receiving a benefit by reason of the death of all primary beneficiaries prior to the death of the member. If no primary beneficiary survives the member, secondary beneficiaries shall be treated in the same manner as primary beneficiaries.

Source: Laws 1951, c. 274, § 1, p. 910; Laws 1953, c. 308, § 1, p. 1025; Laws 1967, c. 544, § 1, p. 1786; Laws 1976, LB 994, § 1; Laws 1982, LB 131, § 1; Laws 1985, LB 215, § 1; Laws 1987, LB 298, § 5; Laws 1988, LB 1142, § 9; Laws 1988, LB 551, § 2; Laws 1989, LB 237, § 1; Laws 1991, LB 350, § 1; Laws 1992, LB 1001, § 20; Laws 1993, LB 107, § 1; Laws 1995, LB 505, § 1; R.S.Supp., 1995, § 79-1032; Laws 1996, LB 900, § 613; Laws 1997, LB 347, § 28; Laws 1997, LB 623, § 28; Laws 1998, LB 497, § 6; Laws 2000, LB 155, § 1; Laws 2005, LB 364, § 11; Laws 2010, LB950, § 17.

Cross References

For supplemental retirement benefits, see sections 79-940 to 79-947.

79-978.01. Act, how cited.

Sections 79-978 to 79-9,116 shall be known and may be cited as the Class V School Employees Retirement Act.

Source: Laws 1998, LB 497, § 7.

79-979. Class V school district; employees' retirement system; established.

(1) Prior to September 13, 1997, in each Class V school district in the State of Nebraska there is hereby established a separate retirement system for all regular employees of such school district. Such system shall be for the purpose of providing retirement benefits for all regular employees of the school district as provided in the Class V School Employees Retirement Act. The system shall be known as School Employees' Retirement System of (corporate name of the school district as described in section 79-405). All of its business shall be transacted, all of its funds shall be invested, and all of its cash and securities and other property shall be held in trust by such name for the purposes set forth in the act. Such funds shall be kept separate from all other funds of the school district and shall be used for no other purpose.

(2) Except as provided in subsection (3) of this section, if any new Class V school districts are formed after September 13, 1997, such new Class V school district shall elect to become or remain a part of the retirement system established pursuant to the School Employees Retirement Act.

(3) Any new Class V school districts formed pursuant to the Learning Community Reorganization Act shall continue to participate in the retirement system established pursuant to the Class V School Employees Retirement Act if such new Class V school district was formed at least in part by territory that had been in a Class V school district that participated in the retirement system established pursuant to the Class V School Employees Retirement Act.

Source: Laws 1951, c. 274, § 2, p. 912; Laws 1988, LB 1142, § 10; R.S.1943, (1994), § 79-1033; Laws 1996, LB 900, § 614; Laws 1997, LB 623, § 29; Laws 1997, LB 624, § 22; Laws 1998, LB 497, § 8; Laws 2006, LB 1024, § 60.

Cross References

Learning Community Reorganization Act, see section 79-4,117.

School Employees Retirement Act, see section 79-901.

79-980. Employees retirement system; administration; trustees; Class V Retirement System Board.

(1) At any time that the retirement system consists of only one Class V school district, the general administration of the retirement system is hereby vested in the board of education. The board shall appoint, by a majority of all its members, ten trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (a) the superintendent of schools, as ex officio trustee, (b) four members of the retirement system, two from the certificated staff, one from the classified staff, and one from the annuitants, (c) three members of the board of education, and (d) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that trustees who are members of the retirement system or members of the board of education shall be disqualified as trustees immediately upon ceasing to be a member of the retirement system or of the board of education. Each trustee shall be entitled to one vote on the board of trustees, and six trustees

shall constitute a quorum for the transaction of any business. The trustees who are appointed from the board of education and the membership shall be appointed for each fiscal year. The two trustees who are not members of the board of education or of the retirement system shall be appointed for three fiscal years each. The trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01.

(2) At any time that the retirement system consists of more than one Class V school district, the general administration of the retirement system is hereby vested in a Class V Retirement System Board composed of three members of the school board for each participating Class V school district. The board shall appoint, by a majority of all its members, trustees to serve as executive officers to administer the Class V School Employees Retirement Act. Such trustees shall consist of (a) the superintendent of each participating Class V school district, as ex officio trustees, (b) four members of the retirement system, two from the certificated staff, one from the classified staff, and one from the annuitants, (c) three members of the board, and (d) two trustees who are business persons qualified in financial affairs and who are not members of the retirement system. The trustees who are appointed from the board and the membership shall, to the extent feasible, be appointed equally from each participating Class V school district. The trustees shall serve without compensation, but they shall be reimbursed from the funds of the retirement system for expenses that they may incur through service on the board of trustees as provided in sections 81-1174 to 81-1177. A trustee shall serve until a successor qualifies, except that trustees who are members of the retirement system or members of the board shall be disqualified as trustees immediately upon ceasing to be a member of the retirement system or of the board. Each trustee shall be entitled to one vote on the board of trustees, and six trustees shall constitute a quorum for the transaction of any business. The trustees who are appointed from the board and the membership shall be appointed for each fiscal year. The two trustees who are not members of the board or of the retirement system shall be appointed for three fiscal years each. The trustees and the administrator of the retirement system shall administer the retirement system in compliance with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, as defined in section 49-801.01.

Source: Laws 1951, c. 274, § 3, p. 913; Laws 1963, c. 490, § 1, p. 1564; Laws 1979, LB 135, § 1; Laws 1981, LB 204, § 157; Laws 1993, LB 107, § 2; Laws 1995, LB 505, § 2; R.S.Supp., 1995, § 79-1034; Laws 1996, LB 900, § 615; Laws 1998, LB 497, § 9; Laws 2001, LB 711, § 5; Laws 2006, LB 1024, § 61.

79-981. Employees retirement system; board of education or Class V Retirement System Board; rules and regulations; administrator; employees compensation.

The board of education or Class V Retirement System Board shall from time to time establish rules and regulations for the administration of the retirement system and for the transaction of its business and shall appoint an administrator of the retirement system. The board may contract for such medical and other services as shall be required to transact the business of the retirement system. Compensation for all persons employed by the board and all other expenses of the board necessary for the proper and efficient operation of the retirement system shall be paid in such amounts as the board determines and approves.

In addition to such duties and other duties arising out of the Class V School Employees Retirement Act not specifically reserved or assigned to others, the board shall maintain a separate account of each member's contribution, the record of which shall be available to the

member upon request, compile such data as may be necessary for the required actuarial valuation, consider and pass on all applications for annuities or other benefits and have examinations made when advisable of persons receiving disability benefits, and direct and determine all policies necessary in the administration of the act.

Source: Laws 1951, c. 274, § 4, p. 913; Laws 1985, LB 215, § 2; Laws 1991, LB 350, § 2; R.S.1943, (1994), § 79-1035; Laws 1996, LB 900, § 616; Laws 1998, LB 497, § 10; Laws 2001, LB 711, § 6; Laws 2006, LB 1024, § 62.

79-982. Employees retirement system; trustees; meetings; duties.

The trustees shall (1) hold regular meetings annually and such special meetings at such times as may be deemed necessary, and all meetings of the trustees shall be open to the public, (2) keep a record of all the proceedings of such meetings, (3) subject to the approval of the board of education, invest all cash income not required for current payments in securities of the type provided in section 79-9,107 and so reinvest the proceeds from the sale or redemption of investments, and (4) supervise the financial affairs of the retirement system and recommend to the board of education any changes in the administration of the retirement system essential to the actuarial requirements of the fund.

Source: Laws 1951, c. 274, § 5, p. 914; Laws 1955, c. 321, § 1, p. 992; Laws 1979, LB 187, § 242; Laws 1993, LB 107, § 3; R.S.1943, (1994), § 79-1036; Laws 1996, LB 900, § 617; Laws 2001, LB 711, § 7.

79-983. Employees retirement system; administrator; executive officer.

The administrator of the retirement system shall keep the minutes and records of the retirement system, shall be the executive officer in charge of the administration of the detailed affairs of the retirement system, and shall perform such other duties as may be assigned by the board of education, the Class V Retirement System Board, or the trustees.

Source: Laws 1951, c. 274, § 6, p. 915; Laws 1991, LB 350, § 3; R.S.1943, (1994), § 79-1037; Laws 1996, LB 900, § 618; Laws 2006, LB 1024, § 63.

79-984. Employees retirement system; actuary; employment; duties.

The board of education or Class V Retirement System Board shall contract for the services of an actuary who shall be the technical advisor of the board and the trustees on matters regarding the operation of the retirement system. The actuary shall (1) make a general investigation of the operation of the retirement system at least once in every three years, which investigation shall cover mortality, retirement, disability, employment, turnover, interest, and earnable compensation, and (2) recommend tables to be used for all required actuarial calculations. The actuary shall perform such other duties as may be assigned by the board.

Source: Laws 1951, c. 274, § 7, p. 915; R.S.1943, (1994), § 79-1038; Laws 1996, LB 900, § 619; Laws 1998, LB 497, § 11; Laws 2001, LB 711, § 8; Laws 2006, LB 1024, § 64.

79-985. Employees retirement system; attorney.

The attorney for the board of education or Class V Retirement System Board shall be the legal advisor to the trustees.

Source: Laws 1951, c. 274, § 8, p. 915; R.S.1943, (1994), § 79-1039; Laws 1996, LB 900, § 620; Laws 2006, LB 1024, § 65.

79-986. Employees retirement system; school district as treasurer; duties.

The school district, if there is only one Class V school district in the retirement system, or the Class V school district designated by the Class V Retirement System Board, if there is more than one Class V school district in the retirement system, shall act as the treasurer of the system and the official custodian of the cash and securities belonging to the retirement system, shall provide adequate safe deposit facilities for the preservation of such securities, and shall hold such cash and securities subject to the order of the board of education or Class V Retirement System Board.

The school district or designated school district shall receive all items of taxes or cash belonging to the retirement system and shall deposit in banks approved by the board of education or Class V Retirement System Board all such amounts in trust or custodial accounts. Notwithstanding any limitations elsewhere imposed by statute on the location of the retirement system's depository bank, such limitations shall not apply to the use of depository banks for the custody of the system's cash, securities, and other investments. The school district or designated school district, as treasurer of the system, shall make payments for purposes specified in the Class V School Employees Retirement Act. All banks and custodians which receive and hold securities and investments for the retirement system may hold and evidence such securities by book entry account rather than obtaining and retaining the original certificate, indenture, or governing instrument for such security.

Source: Laws 1951, c. 274, § 9, p. 915; Laws 1988, LB 1142, § 11; Laws 1995, LB 505, § 3; Laws 1996, LB 604, § 11; R.S.Supp.,1995, § 79-1040; Laws 1996, LB 900, § 621; Laws 1997, LB 623, § 30; Laws 1998, LB 497, § 12; Laws 2006, LB 1024, § 66.

79-987. Employees retirement system; audit; cost; reports.

(1) An annual audit of the affairs of the retirement system shall be conducted. At the option of the board, such audit may be conducted by a certified public accountant or the Auditor of Public Accounts. The costs of such audit shall be paid from funds of the retirement system. A copy of such audit shall be filed with the Auditor of Public Accounts.

(2) Beginning December 31, 1998, and each December 31 thereafter, the administrator of the retirement system established pursuant to section 79-979 and section 401(a) of the Internal Revenue Code, as defined in section 49-801.01, shall file with the Public Employees Retirement Board an annual report on such system and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature by March 15 of each year. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

- (a) The number of persons participating in the retirement plan;
- (b) The contribution rates of participants in the plan;
- (c) Plan assets and liabilities;
- (d) The names and positions of persons administering the plan;
- (e) The names and positions of persons investing plan assets;
- (f) The form and nature of investments;
- (g) For each defined contribution plan, a full description of investment policies and options available to plan participants; and
- (h) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the administrator may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(3) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the trustees of a retirement system established pursuant to section 79-979 shall cause to be prepared a quadrennial report and the administrator shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 79-979. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Source: Laws 1951, c. 274, § 19, p. 921; Laws 1973, LB 215, § 1; R.S.1943, (1994), § 79-1050; Laws 1996, LB 900, § 622; Laws 1998, LB 1191, § 61; Laws 1999, LB 795, § 13; Laws 2001, LB 711, § 9; Laws 2006, LB 1019, § 10.

79-988. Employees retirement system; membership; separate employment; effect.

(1) Any person who becomes an employee on or after the date of establishment of the retirement system shall become a member of the retirement system upon employment. Contributions by such employee under the Class V School Employees Retirement Act shall begin with the first payroll period after becoming a member, and creditable service shall then begin to accrue.

(2) Any employee who qualifies for membership in the retirement system pursuant to subsection (1) of this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

Source: Laws 1951, c. 274, § 10, p. 916; Laws 1953, c. 308, § 2, p. 1028; Laws 1979, LB 391, § 3; Laws 1982, LB 131, § 2; Laws 1987, LB 298, § 6; R.S.1943, (1994), § 79-1041; Laws 1996, LB 900, § 623; Laws 1997, LB 624, § 23; Laws 1998, LB 497, § 13.

79-988.01. Transfer of funds by the state.

In addition to the transfers pursuant to section 79-916, the state shall transfer to the funds of each retirement system provided for in the Class V School Employees Retirement Act an amount equal to 14.11604 percent of six million eight hundred ninety-five thousand dollars.

Source: Laws 1996, LB 700, § 4; Laws 1998, LB 497, § 14.

79-989. Employees retirement system; board of education; records available.

The board shall have available records showing the name, title, compensation, sex, date of birth, and length of service of each employee entitled to membership in the retirement system and such other information regarding such member as may be necessary for actuarial study and valuation.

Source: Laws 1951, c. 274, § 11, p. 917; R.S.1943, (1994), § 79-1042; Laws 1996, LB 900, § 624.

79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.

(1) Any member who is eligible for reemployment on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., as adopted under section 55-161, or who is eligible for reemployment under section 55-160 may pay to the retirement system after the date of his or her return from active military service, and within the period required by law, not to exceed five years, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the period of military service for which creditable service is desired. If such payment is made, the member shall be entitled to credit for membership service in determining his or her annuity for the period for which contributions have been made and the board shall be responsible for any funding necessary to provide for the benefit which is attributable to this increase in the member's creditable service. The member's payments shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) Under such rules and regulations as the board may prescribe, any member who was away from his or her position while on a leave of absence from such position authorized by the board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for any or all time he or she was on leave of absence. Such time shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be received if such member pays into the retirement system (a) an amount equal to the sum of the deductions from his or her salary for the portion of the leave for which creditable service is desired, (b) any contribution which the school district would have been required to make for the portion of the leave for which creditable service is desired had he or she continued to receive salary at the level received immediately prior to the leave of absence, and (c) regular interest on these combined payments from the date such deductions would have been made to the date of repayment. Such amounts shall be paid as the trustees may direct, through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and the school district over a period not to exceed five years from the date of the termination of his or her leave of absence. Interest on any delayed payment shall be at the rate of regular interest. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary, and if payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this section shall not exceed four years in length, and in order to receive credit for the leave of absence, the member must have returned to employment with the school district within one year after termination of the leave of absence.

(3) Until one year after May 2, 2001, any member currently employed by the school district who resigned from full-time employment with the school district for maternity purposes prior to September 1, 1979, and was reemployed as a full-time employee by the school district before the end of the school year following the school year of such member's resignation may have such absence treated as though the absence was a leave of absence described in subsection (2) of this section. The period of such absence for maternity purposes shall be included in creditable service when determining the member's eligibility for death, disability, termination, and retirement benefits if the member submits satisfactory proof to the board that the prior resignation was for maternity purposes and the member complies with the payment provisions of subsection (2) of this section before the one-year anniversary of May 2, 2001.

Source: Laws 1951, c. 274, § 12, p. 917; Laws 1981, LB 369, § 1; Laws 1982, LB 131, § 3; Laws 1988, LB 551, § 3; Laws 1991, LB 350, § 4; Laws 1992, LB 1001, § 21; Laws 1993, LB 107, § 4; Laws 1995, LB 505, § 4; Laws 1996, LB 847, § 26; R.S.Supp.,1995, § 79-1043; Laws 1996, LB 900, § 625; Laws 1996, LB 1076, § 12; Laws 2001, LB 711, § 10; Laws 2002, LB 722, § 7; Laws 2005, LB 364, § 12; Laws 2010, LB950, § 18.

79-991. Employees retirement system; member; prior service credit; how obtained.

(1) An employee who becomes a member without prior service credit may purchase prior service credit, not to exceed the lesser of ten years or the member's years of membership service, for the period of service the member was employed by a school district or by an educational service unit and which is not used in the calculation of any retirement or disability benefit having been paid, being paid, or payable in the future to such member under any defined benefit retirement system or program maintained by such other school district or educational service unit. The purchase of prior service credit shall be made in accordance with and subject to the following requirements:

(a) A member who desires to purchase prior service credit shall make written application to the administrator of the retirement system that includes all information and documentation determined by the administrator as necessary to verify the member's prior service and qualification to purchase the prior service credit. Such application shall include the member's written authorization for the administrator to request and receive from any of the member's former employers verification of the member's prior service, salary, and other information for determining the member's eligibility to purchase prior service credit. Before prior service credit may be purchased, the administrator shall have received verification of the member's salary in each year with the other school district or educational service unit and confirmation that the prior service to be purchased by the member is not also credited in the calculation of a retirement or disability benefit for such member under another defined benefit retirement system or program. The member's application to purchase prior service credit may be made at any time before the fifth anniversary of the member's membership in the retirement system or, if earlier, the member's termination of employment with the school district;

(b) The member shall pay to the retirement system the total amount he or she would have contributed to the retirement system had he or she been a member of the retirement system during the period for which prior service is being purchased, together with regular interest thereon. Such payment shall be based on the most recent years' salary the member earned in another school district or educational service unit if the salary is verified by the other school district or educational service unit or, if not, the payment shall be based on the member's annual salary at the time he or she became a member;

(c) Payments by the member for the purchase of the prior service credit shall be paid as the trustees may direct through direct payments to the retirement system or on an installment basis pursuant to a binding irrevocable payroll deduction authorization between the member and

the school district over a period not to exceed five years from the date of membership. Interest on delayed payments shall be at the rate of regular interest. In the event the member terminates employment with the school district for any reason before full payment for the prior service has been made, the remaining installments shall be immediately due and payable to the retirement system. Prior service credit may be purchased only in one-tenth-year increments, and if payments are made on an installment basis, the prior service will be credited only as payment has been made to the retirement system. If the prior service to be purchased by the member exceeds the member's membership service at the time of application or any subsequent date, such excess prior service shall be credited to the member only as the member completes and is credited additional membership service, in one-tenth-year increments, notwithstanding the member's payment for such prior service credit. If the member retires or terminates employment before completing sufficient membership service to permit all of the excess prior service that has been purchased by the member to be credited to such member, the retirement system shall refund to the member, or to the member's beneficiary if the member's termination is due to his or her death, the payments that have been made to the retirement system for such uncredited prior service, together with regular interest on such refund; and

(d) The school district shall contribute to the retirement system an amount equal to the amount paid by each member for the purchase of prior service credit at the time such payments are made by such member.

(2) Any member having five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section, may elect to purchase up to a total of five years of additional creditable service under the retirement system, and upon such purchase the member shall be given the same status as though he or she had been a member of the retirement system for such additional number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act. Creditable service may be purchased only in one-tenth-year increments. The amount to be paid to the retirement system for such creditable service shall be equal to the actuarial cost to the retirement system of the increased benefits attributable to such additional creditable service as determined by the retirement system's actuary at the time of the purchase pursuant to actuarial assumptions and methods adopted by the trustees for this purpose. The election to purchase additional creditable service may be made at any time before the member's termination of employment, and all payments for the purchase of such creditable service must be completed within five years after the election or before the member's termination or retirement, whichever event occurs first. Payment shall be made as the trustees may direct through a single payment to the retirement system, on an installment basis, including payments pursuant to a binding irrevocable payroll deduction authorization between the member and the school district, or by such other method approved by the trustees and permitted by law. If payments are made on an installment basis, creditable service will be credited only as payment has been made to the retirement system to purchase each additional one-tenth-year increment. Interest shall be charged on installment payments at the rate of regular interest.

Source: Laws 1951, c. 274, § 14, p. 918; Laws 1953, c. 308, § 3, p. 1029; Laws 1982, LB 131, § 5; Laws 1987, LB 298, § 8; Laws 1988, LB 551, § 4; Laws 1992, LB 1001, § 23; Laws 1993, LB 107, § 5; Laws 1995, LB 505, § 6; R.S.Supp.,1995, § 79-1045; Laws 1996, LB 900, § 626; Laws 1997, LB 624, § 24; Laws 1998, LB 497, § 15; Laws 2005, LB 364, § 13.

79-992. Employees retirement system; discontinuance of employment; refunds; reemployment.

(1) A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, and who severs his or her employment may elect to leave his or her contributions in the retirement system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. Such annuity shall be adjusted in accordance with section 79-9,100. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (a) An amount equal to the accumulated contributions to the retirement system by the member; and (b) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section reenters the service of the district and again becomes a member of the retirement system, he or she may restore any or all money previously received by him or her as a refund, including the regular interest for the period of his or her absence from the district's service, and he or she shall then again receive credit for that portion of service which the restored money represents. Such restoration may be made as the trustees may direct through direct payments to the system or on an installment basis pursuant to a binding irrevocable payroll deduction authorized between the member and the school district over a period of not to exceed five years from the date of reemployment. Interest on delayed payments shall be at the rate of regular interest. Creditable service may be purchased only in one-tenth-year increments, starting with the most recent years' salary.

(2) A retired member who returns to employment as an employee of the school district shall again participate in the retirement system as a new member and shall make contributions to the retirement system commencing upon reemployment. The retirement annuity of a retired member who returns to employment with the school district shall continue to be paid by the retirement system. A retired member who returns to employment as an employee of the school district shall receive creditable service only for service performed after his or her return to employment and in no event shall creditable service which accrues or the compensation paid to the member after such return to employment after retirement increase the amount of the member's original retirement annuity.

(3) Upon termination of the reemployed member, the member shall receive in addition to the retirement annuity which commenced at the time of the previous retirement (a) if the member has accrued five years or more of creditable service after his or her return to employment, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, a retirement annuity as provided in section 79-999 or 79-9,100, as applicable, calculated solely on the basis of creditable service and final average compensation accrued and earned after the member's return to employment after his or her original retirement, and as adjusted to reflect any payment in other than the normal form or (b) if the member has not accrued five years or more of creditable service after his or her return to employment, a refund equal to the member's accumulated contributions which were credited to the member after the member's return to employment. In no event shall the member's creditable service which accrued prior to a previous retirement be considered as part of the member's creditable service after his or her return to employment for any purpose of the Class V School Employees Retirement Act.

(4) In the event a member is entitled to receive a refund of contributions pursuant to subsection (1) or subdivision (3)(b) of this section in an amount greater than one thousand dollars, if the member does not elect to have the refund paid directly to himself or herself or transferred to an eligible retirement plan designated by the member as a direct rollover pursuant to section 79-998, then the refund of contributions shall be paid in a direct rollover to an individual retirement plan designated by the trustees.

Source: Laws 1951, c. 274, § 18, p. 920; Laws 1955, c. 321, § 2, p. 992; Laws 1963, c. 490, § 3, p. 1565; Laws 1967, c. 544, § 3, p. 1789; Laws 1972, LB 1116, § 2; Laws 1982, LB 131, § 8; Laws 1985, LB 215, § 7; Laws 1987, LB 298, § 10; Laws 1988, LB 551, § 6; Laws 1992, LB 1001, § 25; Laws 1993, LB 107, § 9; R.S.1943, (1994), § 79-1049; Laws 1996, LB 900, § 627; Laws 1997, LB 624, § 25; Laws 1998, LB 497, § 16; Laws 2001, LB 711, § 11; Laws 2005, LB 364, § 14; Laws 2006, LB 1019, § 11.

79-993. Reemployment; repay contributions; limitation; effect.

For one year from May 30, 1987, any person who withdrew his or her accumulated contributions pursuant to section 79-992 prior to May 30, 1987, has again become an employee, and has not previously repaid all of his or her accumulated contributions pursuant to such section may elect to repay any unpaid portion of these accumulated contributions to the retirement system for any number of years of creditable service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of creditable service for which the repayment is being made plus the regular interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of creditable service for which repayment is made as he or she had prior to the withdrawal of the accumulated contributions.

Source: Laws 1987, LB 298, § 1; R.S.1943, (1994), § 79-1049.01; Laws 1996, LB 900, § 628.

79-994. Employee of another school district; contribution; limitation; effect.

For one year from May 30, 1987, any person who was an employee of another school district prior to May 30, 1987, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by another school district and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in another school district if the salary is verified by the other school district or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as an employee in another school district, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act.

Source: Laws 1987, LB 298, § 2; R.S.1943, (1994), § 79-1049.02; Laws 1996, LB 900, § 629; Laws 1998, LB 497, § 17.

79-995. Reemployment; military service; leave of absence; contribution; limitation; effect.

For one year from May 30, 1987, any person who served in the armed forces as specified in subsection (1) of section 79-990 or who was on a leave of absence as specified in subsection (2) of such section, has again become an employee, and has not previously paid into the system for all of the years of military service or leave of absence permitted by such section may elect to pay into the retirement system for the total number of years of service authorized by such section but not previously paid in. The amount to be paid in by the member shall be calculated as provided in such section. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed the total number of years authorized by such section, and shall be given the same status as though he or she had been a member of the retirement system for such number of years, except as otherwise specifically provided in the Class V School Employees Retirement Act.

Source: Laws 1987, LB 298, § 3; R.S.1943, (1994), § 79-1049.03; Laws 1996, LB 900, § 630; Laws 1998, LB 497, § 18.

79-996. Contributions; how paid; interest.

(1) The payments provided for by sections 79-993, 79-994, and 79-997 may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 79-995 may be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

(2) Interest on delayed payments shall be at the rate of regular interest.

Source: Laws 1987, LB 298, § 4; Laws 1988, LB 551, § 7; R.S.1943, (1994), § 79-1049.04; Laws 1996, LB 900, § 631.

79-997. Employee of educational service unit; contribution; limitation; effect.

On or before May 27, 1988, any person who was an employee of an educational service unit in the State of Nebraska prior to April 7, 1988, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district or educational service unit may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by an educational service unit and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in the educational service unit if the salary is verified by the educational service unit or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. Any person who pays such amount shall be given credit for any number of years of service for which he or she has elected to pay, not to exceed ten years of service rendered as an employee in another school district or educational service unit, and shall be given the same status as though he or she had been a member of the retirement system for

such number of years except as otherwise specifically provided in the Class V School Employees Retirement Act. This section shall not apply to employees retiring prior to April 7, 1988.

Source: Laws 1988, LB 551, § 1; R.S.1943, (1994), § 79-1049.05; Laws 1996, LB 900, § 632; Laws 1998, LB 497, § 19.

79-998. Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences.

The retirement system may accept as payment for additional service credit that is purchased pursuant to sections 79-990 to 79-992 an eligible rollover distribution from or on behalf of the member who is making payments for such service credit if the eligible rollover distribution does not exceed the amount of payment required for the service credit being purchased by the member. The eligible rollover distribution may be contributed to the retirement system by the member or directly transferred from the plan that is making the eligible rollover distribution on behalf of the member. Contribution by a member pursuant to this section may only be made in the form of a cash contribution. For purposes of this section, an eligible rollover distribution means all or any portion of an amount that qualifies as an eligible rollover distribution under the Internal Revenue Code from:

- (1) A plan of another employer which is qualified under section 401(a) or 403(a) of the Internal Revenue Code;
- (2) An annuity contract or custodial account described in section 403(b) of the Internal Revenue Code;
- (3) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code which is maintained by a governmental employer described in section 457(e)(1)(A) of the Internal Revenue Code; or
- (4) An individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over to an employer plan under the Internal Revenue Code.

The retirement system may accept as payment for service credit that is purchased pursuant to sections 79-990 to 79-992 a direct trustee-to-trustee transfer from an eligible deferred compensation plan as described in section 457(e)(17) of the Internal Revenue Code on behalf of a member who is making payments for such service credit if the amount transferred from the eligible deferred compensation plan does not exceed the amount of payment required for the service credit being purchased and the purchase of such service credit qualifies as the purchase of permissive service credit by the member as defined in section 415(n)(3) of the Internal Revenue Code.

The trustees may establish rules, regulations, and limitations on the eligible rollover distributions and direct trustee-to-trustee transfers that may be accepted by the retirement system pursuant to this section, including restrictions on the type of assets that may be transferred to the retirement system.

Cash and other properties contributed or transferred to the system pursuant to this section shall be deposited and held as a commingled asset of the system and shall not be separately accounted for or invested for the member's benefit. Contributions or direct transfers made by or on behalf of any member pursuant to this section shall be treated as qualifying payments under sections 79-990 to 79-992 and as employee contributions for all other purposes of the Class V School Employees Retirement Act except in determining federal and state tax treatment of distributions from the system.

The system, the board, the trustees, and their respective members, officers, and employees shall have no responsibility or liability with respect to the federal and state income tax consequences of any contribution or transfer to the system pursuant to this section, and the trustees may require as a condition to the system's acceptance of any rollover contribution or transfer satisfactory evidence that the proposed contribution or transfer is a qualifying rollover contribution or trustee-to-trustee transfer under the Internal Revenue Code and reasonable releases or indemnifications from the member against any and all liabilities which may in any way be connected with such contribution or transfer.

Effective January 1, 1993, any member who is to receive an eligible rollover distribution, as defined in the Internal Revenue Code, from the system may, in accordance with such rules, regulations, and limitations as may be established by the trustees, elect to have such distribution made in the form of a direct transfer to a retirement plan eligible to receive such transfer under the provisions of the Internal Revenue Code. Any such election shall be made in the form and within the time periods established by the trustees.

All distributions from the system shall be subject to all withholdings required by federal or state tax laws.

Source: Laws 1992, LB 1001, § 27; Laws 1993, LB 107, § 10; Laws 1995, LB 574, § 76; R.S.Supp.,1995, § 79-1049.06; Laws 1996, LB 900, § 633; Laws 1998, LB 497, § 20; Laws 2001, LB 711, § 12; Laws 2002, LB 407, § 47.

79-999. Employees retirement system; annuity; how credited.

After the date of establishment of the retirement system, each member shall be credited annually with a retirement annuity of an amount equal to one and one-half percent of the salary or wage earned by him or her during the then current fiscal year not in excess of five thousand dollars, except that (1) for each member who retires on or after August 31, 1969, such credit shall be an amount equal to one and sixty-five hundredths percent of such salary or wage not in excess of five thousand dollars and (2) for each member who chose the new system in 1951 and who retires on or after August 31, 1976, for service from September 1, 1951, to August 31, 1955, such credit shall be two and four-tenths percent of such salary or wage not in excess of five thousand dollars, for service from September 1, 1955, to August 31, 1963, one and forty-four hundredths percent of such salary or wage not in excess of six thousand dollars, for service from September 1, 1963, to August 31, 1969, one and forty-four hundredths percent of such salary or wage up to the social security wage base, plus two and four-tenths percent of salary or wage in excess thereof, and for service after September 1, 1969, one and forty-four hundredths percent of the first seventy-eight hundred dollars of such salary or wage and two and four-tenths percent of the excess of such salary or wage over seventy-eight hundred dollars. With respect to service rendered prior to the date of establishment of the retirement system, each employee in service or on leave of absence on such date shall be entitled to an annuity on account of prior service. Such annuity shall be such percentage of the maximum annuity to which such member might have been entitled under the terms of a retirement plan previously in effect as the number of years of service under such plan bears to the total number of years for which credit for service might have been granted under such plan, except that no credit shall be given in excess of the maximum annuity provided under such preexisting plan. The number of years of prior service for which credit shall be given under this section shall be the number of years of service with which the employee is credited under such preexisting plan on May 21, 1951. The sum of these two annuities shall constitute the retirement allowance to which the member shall be entitled to be paid beginning on his or her retirement date. Such annuity shall be paid in twelve equal

monthly installments unless the amount thereof is less than ten dollars per month in which event payments shall be made quarterly or semiannually.

Source: Laws 1951, c. 274, § 13, p. 917; Laws 1969, c. 724, § 1, p. 2754; Laws 1972, LB 1116, § 1; Laws 1976, LB 994, § 2; Laws 1987, LB 298, § 7; R.S.1943, (1994), § 79-1044; Laws 1996, LB 900, § 634.

79-9,100. Employees retirement system; formula retirement annuity; computation.

In lieu of the retirement annuity provided by section 79-999 or 79-9,113, any member who becomes eligible to receive a retirement annuity after February 20, 1982, under the Class V School Employees Retirement Act shall receive a formula retirement annuity based on final average compensation, except that if the monthly formula retirement annuity based on final average compensation is less than the monthly retirement annuity specified in section 79-999 or 79-9,113, accrued to the date of retirement or August 31, 1983, whichever first occurs, the member shall receive the monthly retirement annuity specified in section 79-999 or 79-9,113 accrued to the date of retirement or August 31, 1983, whichever first occurs.

The monthly formula retirement annuity based on final average compensation shall be determined by multiplying the number of years of creditable service for which such member would otherwise receive the retirement annuity provided by section 79-999 or 79-9,113 by one and one-half percent of his or her final average compensation. For retirements after June 15, 1989, and before April 18, 1992, the applicable percentage shall be one and sixty-five hundredths percent of his or her final average compensation. For retirements on or after April 18, 1992, and before June 7, 1995, the applicable percentage shall be one and seventy-hundredths percent of his or her final average compensation. For retirements on or after June 7, 1995, and before March 4, 1998, the applicable percentage shall be one and eighty-hundredths percent of his or her final average compensation. For retirements on or after March 4, 1998, and before March 22, 2000, the applicable percentage shall be one and eighty-five hundredths percent of his or her final average compensation. For retirements on or after March 22, 2000, the applicable percentage shall be two percent of his or her final average compensation.

Final average compensation shall be determined by dividing the member's total compensation for the three fiscal years in which such compensation was the highest by thirty-six.

For retirements before June 7, 1995, if the annuity begins prior to the sixty-second birthday of the member and the member has not completed thirty-five or more years of creditable service, the annuity at the date it begins shall be the actuarial equivalent of the annuity deferred to the sixty-second birthday of the member. If the annuity begins prior to the sixty-second birthday of the member and the member has completed thirty-five or more years of creditable service, the annuity shall not be reduced. For retirements on or after June 7, 1995, any retirement annuity which begins prior to the sixty-second birthday of the member shall be reduced by twenty-five hundredths percent for each month or partial month between the date the annuity begins and the member's sixty-second birthday. If the annuity begins at a time when:

(1) The sum of the member's attained age and creditable service is eighty-five or more, the annuity shall not be reduced;

(2) The sum of the member's attained age and creditable service totals eighty-four, the annuity shall not be reduced by an amount greater than three percent of the unreduced annuity;

(3) The sum of the member's attained age and creditable service totals eighty-three, the annuity shall not be reduced by an amount greater than six percent of the unreduced annuity; and

(4) The sum of the member's attained age and creditable service totals eighty-two, the annuity shall not be reduced by an amount greater than nine percent of the unreduced annuity.

For purposes of this section, a member's creditable service and attained age shall be measured in one-half-year increments.

The normal form of the formula retirement annuity based on final average compensation shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until a total of sixty monthly payments have been made. A member may elect to receive, in lieu of the normal form of annuity, an actuarially equivalent annuity in any optional form provided by section 79-9,101.

Any member receiving a formula retirement annuity based on final average compensation shall also receive the service annuity to be paid by the State of Nebraska as provided in sections 79-933 to 79-935 and 79-951.

Source: Laws 1982, LB 131, § 4; Laws 1985, LB 215, § 3; Laws 1989, LB 237, § 2; Laws 1992, LB 1001, § 22; Laws 1995, LB 505, § 5; R.S.Supp.,1995, § 79-1044.01; Laws 1996, LB 900, § 635; Laws 1998, LB 497, § 21; Laws 1998, LB 1191, § 62; Laws 2000, LB 155, § 2.

Cross References

For supplemental retirement benefits, see sections 79-940 to 79-947.

79-9,101. Employees retirement system; annuity; election; remaining payments.

Any time prior to receiving the first annuity payment, the member may elect to receive in lieu of such annuity, but payable in the same manner, an actuarially equivalent annuity in one of the following forms:

(1) A joint and survivorship annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year;

(2) A joint and survivorship annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (a) member's spouse until his or her death or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than nineteen years less than the attained age of the member in such calendar year until his or her death;

(3) An annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made;

(4) A joint and survivorship annuity which will continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-9,100; or

(5) A joint and survivorship annuity which shall continue after the death of the member so that fifty percent of the amount of the member's monthly benefit under this option shall be paid monthly to a designated beneficiary until his or her death.

For purposes of the annuities provided in subdivisions (1), (2), and (4) of this section, a designated beneficiary's adjusted age means the attained age of the designated beneficiary in the calendar year in which payment of the annuity commences plus the number of years, if any, by which the member's attained age in the calendar year in which payment of the annuity commences is younger than seventy years.

Each of these actuarially equivalent annuities, except for the form provided in subdivision (3) of this section, shall continue for a minimum of sixty months.

The amount of each monthly payment shall be the amount specified in the form elected by the member.

Whether the member elects the normal form or one of the optional forms of the formula retirement annuity, if the member and his or her designated beneficiary die before the specified monthly payments have been made, the remaining number of the specified payments shall be paid to the individual or individuals designated in writing, on forms prescribed by the system, by the last surviving of the member or the member's designated beneficiary and, if no such designation is made, to the estate of the last surviving of the member or the member's designated beneficiary. At the election of a beneficiary, a single sum payment which is the actuarial equivalent of the remaining monthly payments to be paid to such beneficiary may be paid in lieu of the annuity benefit otherwise to be provided under the normal form or the optional form described in subdivision (3) of this section.

Source: Laws 1951, c. 274, § 15, p. 919; Laws 1985, LB 215, § 4; Laws 1989, LB 237, § 3; Laws 1991, LB 350, § 5; Laws 1993, LB 107, § 6; Laws 1995, LB 505, § 7; R.S.Supp.,1995, § 79-1046; Laws 1996, LB 900, § 636; Laws 2001, LB 711, § 13; Laws 2005, LB 364, § 15.

79-9,102. Employees retirement system; annuity benefit; limitations.

(1) Notwithstanding any other provision of the Class V School Employees Retirement Act, no member of the retirement system shall receive in any calendar year an annuity benefit derived from contributions of the board which if received in the form of a straight life annuity with no ancillary benefits would exceed a dollar limitation of ninety thousand dollars, adjusted as of January 1 of each calendar year to the dollar limitation as determined for such year by the Commissioner of Internal Revenue pursuant to section 415(d) of the Internal Revenue Code.

(2) The limitation provided in this section shall be adjusted as follows:

(a) If the annuity begins prior to the sixty-second birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-second birthday of the member, but not less than seventy-five thousand dollars if the member's annuity benefit begins at or after age fifty-five and not less than the actuarial equivalent of seventy-five thousand dollars if the annuity benefit begins before age fifty-five;

(b) If the annuity begins after the sixty-fifth birthday of the member, the dollar limitation shall be equal to an annual annuity benefit which is equal to the actuarial equivalent of an annuity benefit commencing on the sixty-fifth birthday of the member;

(c) If the annuity begins prior to the member having ten years of creditable service, the dollar limitation shall be reduced by a fraction, the numerator of which is the total full fractional parts of years of creditable service and the denominator of which is ten; and

(d) The adjustments provided in subdivisions (a) and (c) of this subsection shall not apply to the disability retirement annuity under section 79-9,105 or to any annuity paid to a beneficiary as the result of the death of a member.

(3) For purposes of the limitations provided in this section, the actuarial equivalent shall be determined from the actuarial tables used for the retirement allowance for early retirement, except that in the case of the adjustment for an annuity which begins (a) before the sixty-second birthday of a member, the rate to be used in determining actuarial equivalency shall not be less than five percent, and (b) after the sixty-fifth birthday of a member, the interest rate to be used in determining the actuarial equivalency shall not be greater than five percent. The value of the joint and survivorship feature of an annuity shall not be taken into account in applying the limitations provided in this section.

(4) Any payments provided for by sections 79-990, 79-991, and 79-992 for the purchase or restoration of creditable service shall be subject to the limitations of section 415 of the Internal Revenue Code on annual additions to the system, and the trustees may suspend payments, alter installment periods, or, if such suspension or alteration is not possible, deny the purchase of all or a portion of the creditable service desired to be purchased, as necessary to comply with the requirements of section 415 of the Internal Revenue Code.

(5) This section is intended to meet the requirements of section 415 of the Internal Revenue Code and shall be construed in accordance with such section and shall, by this reference, incorporate any subsequent changes made to such section as the same may apply to the retirement system.

Source: Laws 1985, LB 215, § 8; Laws 1995, LB 574, § 75; R.S.Supp.,1995, § 79-1046.01; Laws 1996, LB 900, § 637; Laws 1997, LB 623, § 31; Laws 1998, LB 497, § 22.

79-9,103. Annuity payment; cost-of-living adjustment; additional adjustments.

(1) Any annuity paid on or after September 1, 1983, to a member who retired prior to February 21, 1982, pursuant to the Class V School Employees Retirement Act, or to such member's beneficiary, or to a person who retired under the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, or to such person's beneficiary, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1983, except that such increase shall not exceed the sum of one dollar and fifty cents per month for each year of creditable service and one dollar per month for each completed year of retirement as measured from the effective date of retirement to June 30, 1983. No separate adjustment in such annuity shall be made as a result of the changes made in section 79-9,113 pursuant to Laws 1983, LB 488. If a joint and survivor annuity was elected, the increase shall be actuarially adjusted so that the joint and survivor annuity remains the actuarial equivalent of the life annuity otherwise payable.

(2) In addition to the cost-of-living adjustment provided in subsection (1) of this section, any annuity paid on or after September 1, 1986, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1985, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1986, except that such increase shall not exceed (a) three and one-half percent for annuities first paid on or after September 1, 1984, (b) seven percent for annuities first paid on or after September 1, 1983, but before September 1, 1984, or (c) ten and one-half percent for all other annuities.

(3) In addition to the cost-of-living adjustment provided in subsections (1) and (2) of this section, any annuity paid on or after September 1, 1989, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before September 1, 1988, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1989, except that such increase shall not exceed (a) three percent for annuities first paid on or after September 1, 1987, (b) six percent for annuities first paid on or after September 1, 1986, but before September 1, 1987, or (c) nine percent for all other annuities.

(4) In addition to the cost-of-living adjustment provided in subsections (1), (2), and (3) of this section, any annuity paid on or after September 1, 1992, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1991, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1992, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1990, (b) six percent for annuities first paid after October 1, 1989, but on or before October 1, 1990, or (c) nine percent for all other annuities.

(5) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), and (4) of this section, any annuity paid on or after September 1, 1995, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1995, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1993, (b) six percent for annuities first paid after October 1, 1992, but on or before October 1, 1993, or (c) nine percent for all other annuities.

(6) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), and (5) of this section, any annuity paid pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 1, 1994, shall be subject to adjustment to equal the greater of (a) the annuity payable to the member or beneficiary as adjusted, if applicable, under the provisions of subsection (1), (2), (3), (4), or (5) of this section or (b) ninety percent of the annuity which results when the original annuity that was paid to the member or beneficiary (before any cost-of-living adjustments under this section), is adjusted by the increase in the cost of living or wage levels between the commencement date of the annuity and June 30, 1995.

(7) In addition to the cost-of-living adjustment provided in subsections (1), (2), (3), (4), (5), and (6) of this section, any annuity paid on or after September 1, 1998, pursuant to the act or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3, 1997, shall be adjusted by the increase in the cost of living or wage levels between the effective date of retirement and June 30, 1998, except that such increase shall not exceed (a) three percent for annuities first paid after October 1, 1996, (b) six percent for annuities first paid after October 1, 1995, but on or before October 1, 1996, or (c) nine percent for all other annuities.

(8) Beginning January 1, 2000, and on January 1 of every year thereafter, a cost-of-living adjustment shall be made for any annuity being paid pursuant to the act, or pursuant to the

provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 preceding such January 1 adjustment date. The cost-of-living adjustment for any such annuity shall be the lesser of (a) one and one-half percent or (b) the increase in the consumer price index from the date such annuity first became payable through the August 31 preceding the January 1 adjustment date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to section 79-9,103 and pursuant to subsections (8) and (9) of this section.

(9) Beginning September 1, 1999, the actuary shall make an annual valuation of the assets and liabilities of the system. If the annual valuation made by the actuary, as approved by the trustees, indicates that the system has sufficient actuarial surplus to provide for a cost-of-living adjustment in addition to the adjustment made pursuant to subsection (8) of this section, the board may, in its discretion, declare by resolution that each annuity being paid pursuant to the act, or pursuant to the provisions of the retirement system established by statute for employees of Class V school districts in effect prior to September 1, 1951, and on which the first payment was dated on or before October 3 of the year such resolution is adopted, shall be increased beginning as of the January 1 following the date of the board's resolution by such percentage as may be declared by the board, except that such increase for any such annuity shall not exceed the increase in the consumer price index from the date such annuity first became payable through the applicable valuation date as reduced by the aggregate cost-of-living adjustments previously made to the annuity pursuant to section 79-9,103 and pursuant to subsections (8) and (9) of this section.

(10) Except for the adjustments pursuant to subsection (12) of this section, the consumer price index to be used for determining any cost-of-living adjustment under this section shall be the Consumer Price Index - All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor. If this consumer price index is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board, upon recommendation of the trustees, which shall be a reasonable representative measurement of the cost of living for retired employees. An annuity as increased by any cost-of-living adjustment made under this section shall be considered the base annuity amount for the purpose of future adjustments pursuant to this section. In no event shall any cost-of-living adjustment be deemed to affect or increase the amount of the base retirement annuity of a member as determined under section 79-999 or 79-9,100.

(11) Any decision or determination by the board (a) to declare or not declare a cost-of-living adjustment, (b) as to whether the annual valuation indicates a sufficient actuarial surplus to provide for a cost-of-living adjustment, or (c) pursuant to the selection of a substitute index shall be made in the sole, absolute, and final discretion of the board and shall not be subject to challenge by any member or beneficiary. In no event shall the Legislature be constrained or limited in amending the system or increasing the benefits of members under the system, nor shall the board or trustees be constrained from supporting any such change to the system, notwithstanding the effect of any such change upon the actuarial surplus of the system and the ability of the board to declare future cost-of-living adjustments.

(12) The Legislature finds and declares that there exists in this state a pressing need to attract and retain qualified and dedicated public school employees and that one of the factors prospective public school employees consider when seeking or continuing public school employment is the retirement system and benefits the employment provides. The Legislature further finds that over the past decades, as reflected by the Medical Price Index published by the United States Department of Labor, the cost of medical care, including the cost of medications

and insurance coverages, has increased at a rate in excess of that by which the Consumer Price Index - All Urban Consumers has increased. The Legislature further finds and declares that there accordingly exists a need to adjust the amount of retirement benefits paid to retired public school employees in order to assist them in meeting the increased cost of medical care. Therefore, in addition to the cost-of-living adjustments provided in subsections (1) through (11) of this section, commencing on October 3, 2001, and on October 3 of every year thereafter, a medical cost-of-living adjustment shall be paid to any annuitant who has been paid an annuity from the retirement system for at least ten years through the October 3 adjustment date. The cost-of-living adjustment shall be paid in the form of a supplemental annuity providing monthly payments equal to the amount which results when (a) the fraction, not to exceed one, that results when the annuitant's years of creditable service at his or her retirement date is divided by twenty, is multiplied by (b) the product of ten dollars times the number of years, including attained one-half years, that such annuitant has received annuity payments from the retirement system through the October 3 adjustment date. The supplemental annuity being paid to an annuitant shall increase by ten dollars on October 3 of each subsequent year to reflect the additional year of annuity payments to the annuitant until the total amount of the supplemental annuity is two hundred fifty dollars. In no event shall the medical cost-of-living adjustment for any annuitant pursuant to this subsection result in the payment of a supplemental annuity exceeding two hundred fifty dollars per month. The supplemental annuity paid to an annuitant pursuant to this subsection shall cease at the death of the annuitant regardless of the form of retirement annuity being paid to the annuitant at the time of his or her death.

Source: Laws 1983, LB 488, § 2; Laws 1986, LB 1048, § 5; Laws 1989, LB 237, § 8; Laws 1992, LB 1001, § 26; Laws 1993, LB 107, § 11; Laws 1995, LB 505, § 9; R.S.Supp., 1995, § 79-1056.06; Laws 1996, LB 900, § 638; Laws 1998, LB 497, § 23; Laws 2001, LB 711, § 14.

79-9,104. Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.

(1) All annuities and other benefits payable under the Class V School Employees Retirement Act and all accumulated credits of members of the retirement system shall not be assignable or subject to execution, garnishment, or attachment except to the extent that such annuity or benefit is subject to a qualified domestic relations order as such term is defined in and which meets the requirements of section 414(p) of the Internal Revenue Code. Payments under such a qualified domestic relations order shall be made only after the administrator of the retirement system receives written notice of such order and such additional information and documentation as the administrator may require.

(2) In lieu of the assignment of a member's future annuity or benefit to the member's spouse or former spouse, the retirement system shall permit the spouse or former spouse of a member to receive, pursuant to a qualified domestic relations order, a single sum payment of a specified percentage of the member's accumulated contributions on the condition that upon the payment of such amount the spouse or former spouse shall have no further interest in the retirement system or in the remaining benefit of the member under the retirement system.

(3) A member's interest and benefits under the retirement system shall be reduced, either at termination of employment, retirement, disability, or death, by the actuarial value of the benefit assigned or paid to the member's spouse, former spouse, or other dependents under a qualified domestic relations order, as determined by the plan actuary on the basis of the actuarial assumptions then recommended by the actuary pursuant to section 79-984.

Source: Laws 1951, c. 274, § 29, p. 925; Laws 1991, LB 350, § 8; R.S.1943, (1994), § 79-1060; Laws 1996, LB 900, § 639; Laws 1997, LB 623, § 32; Laws 1998, LB 497, § 24; Laws 2000, LB 155, § 3.

79-9,105. Employees retirement system; member; disability; benefits.

(1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled for further performance of duty on or after March 22, 2000, may be approved for deferred disability retirement by the board. In the case of such deferred disability retirement, the member, during the period specified in subsection (3) of this section, shall be credited with creditable service for each year or portion thereof, to be determined in accordance with board policies governing creditable service, that the member defers retirement, up to a maximum of thirty-five years of total creditable service, including creditable service accrued before the member became totally disabled. The member approved for deferred disability retirement may at any time of the member's choosing request the deferral to end and retirement annuity payments to begin. The retirement annuity of such member shall be based on the total number of years of the member's creditable service, including the years credited to the member during his or her total disability under this section, and the member's final average salary as of the date that the member became totally disabled and as adjusted from such date by a percentage equal to the cumulative percentage cost-of-living adjustments that were made or declared for annuities in pay status pursuant to subsections (8) and (9) of section 79-9,103 after the date of the board's approval for deferred disability retirement and before the cessation of the accrual of additional creditable service pursuant to subsection (3) of this section. Except as provided in subsection (4) of this section, the retirement annuity so determined for the member shall be payable to the member without reduction due to any early commencement of benefits, except that the retirement annuity shall be reduced by the amount of any periodic payments to such employee as workers' compensation benefits. Additional creditable service acquired through deferred disability retirement shall apply to the service requirements specified in section 79-9,106. The board shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) Notwithstanding the provisions of subsection (1) of this section, the payment of the retirement annuity of a member may not be deferred later than the member's required beginning date as defined in section 401(a)(9) of the Internal Revenue Code, as defined in section 49-801.01. If the payment of a disabled member's retirement annuity is required to commence before the member has elected to end his or her deferred disability retirement, the amount of benefit that would have accrued pursuant to subsection (1) of this section in the fiscal year of the member's required beginning date, and in each subsequent fiscal year through the year of the member's election to end the deferred disability retirement period, shall be reduced, but not below zero, by the actuarial equivalent of the payments which were paid to the member during each such fiscal year and after the member's required beginning date. The retirement annuity of any member that commences before the end of the member's deferred disability retirement shall be adjusted as of each September 1 pursuant to the requirements of this subsection.

(3) The accrual of creditable service and any adjustment of final average salary provided in subsection (1) of this section shall begin from the first day of the month following the date of the first of the two examinations by which the member is determined by the board to be totally disabled, shall continue only so long as the member does not receive any wages or compensation for services, and shall end at the earlier of (a) the time total disability ceases as determined by the

board or (b) the date the member elects to end the deferred disability retirement and begin to receive his or her retirement annuity. The board may require periodic proof of disability but not more frequently than semiannually.

(4) The payment of any retirement annuity to a disabled member, which begins to be paid under this section (a) before the member's sixty-second birthday or (b) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board determines at any time before the member's sixty-second birthday that the member's total disability has ceased. Payment of the retirement annuity of such member as determined under this section shall recommence at the member's early retirement date or normal retirement date but shall be subject to reduction at such time as specified in section 79-9,100.

Source: Laws 1951, c. 274, § 17, p. 919; Laws 1957, c. 354, § 2, p. 1202; Laws 1963, c. 490, § 2, p. 1565; Laws 1982, LB 131, § 7; Laws 1985, LB 215, § 6; Laws 1987, LB 298, § 9; Laws 1988, LB 551, § 5; Laws 1991, LB 350, § 6; Laws 1993, LB 107, § 8; R.S.1943, (1994), § 79-1048; Laws 1996, LB 900, § 640; Laws 2000, LB 155, § 4; Laws 2001, LB 711, § 15.

79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount.

(1) Upon the death of a member who has not yet retired and who has twenty years or more of creditable service, the member's primary beneficiary shall receive a survivorship annuity in accordance with subdivision (1) of section 79-9,101 if the primary beneficiary is (a) the member's spouse or (b) one other designated beneficiary whose attained age in the calendar year of the member's death is no more than ten years less than the attained age of the member in such calendar year. The amount of such actuarially equivalent annuity shall be calculated using the attained ages of the member and the beneficiary and be based on the annuity earned to the date of the member's death without reduction due to any early commencement of benefits. Within sixty days from the date of the member's death, if the member has not previously filed with the administrator of the retirement system a form requiring that only the survivorship annuity be paid, the beneficiary may request to receive in a lump sum an amount equal to the member's accumulated contributions. If prior to the member's death, the member files with the administrator of the retirement system a form requiring that the beneficiary receive a lump-sum settlement in lieu of the survivorship annuity, the beneficiary shall receive, in lieu of the survivorship annuity, a lump-sum settlement in an amount equal to the member's accumulated contributions notwithstanding any other provision of this section.

(2) Upon the death of a member who has not yet retired and who has less than twenty years of creditable service or upon the death of a member who has not yet retired and who has twenty years or more of creditable service but whose beneficiary does not meet the criteria in subsection (1) of this section, the member's beneficiary or, if no beneficiary has been named, the member's estate shall receive in a lump sum an amount equal to the member's accumulated contributions.

Source: Laws 1951, c. 274, § 16, p. 919; Laws 1965, c. 527, § 1, p. 1659; Laws 1967, c. 544, § 2, p. 1788; Laws 1982, LB 131, § 6; Laws 1985, LB 215, § 5; Laws 1992, LB 1001, § 24; Laws 1993, LB 107, § 7; R.S.1943, (1994), § 79-1047; Laws 1996, LB 900, § 641; Laws 2001, LB 711, § 16.

79-9,107. Employees retirement system; funds; investment; violations; penalty.

The funds of the retirement system which are not required for current operations shall be invested and reinvested by the trustees subject to the approval of the board of education or

Class V Retirement System Board as provided in sections 79-9,108 to 79-9,111. Except as otherwise provided in the Class V School Employees Retirement Act, no trustee and no member of the board shall have any direct interest in the income, gains, or profits of any investment made by the trustees, nor shall any such person receive any pay or emolument for services in connection with any such investment. No trustee or member of the board shall become an endorser or surety or in any manner an obligor for money loaned by or borrowed from the retirement system. Any person who violates any of these restrictions shall be guilty of a Class II misdemeanor.

Source: Laws 1951, c. 274, § 20, p. 921; Laws 1967, c. 545, § 1, p. 1791; Laws 1977, LB 39, § 257; Laws 1986, LB 1048, § 1; Laws 1989, LB 237, § 4; R.S.1943, (1994), § 79-1051; Laws 1996, LB 900, § 642; Laws 1998, LB 497, § 25; Laws 2006, LB 1024, § 67.

79-9,108. Employees retirement system; funds; investment manager; duties; board of education or Class V Retirement System Board; investments; approve or disapprove.

The trustees, with approval of the board of education or Class V Retirement System Board, shall invest and reinvest funds of the retirement system. A professional investment manager may be employed by the trustees subject to approval of the board of education or Class V Retirement System Board. The professional investment manager shall be responsible for the purchase, sale, exchange, investment, or reinvestment of such funds subject to guidelines determined by the trustees. The trustees shall each month submit a report to the board of education or Class V Retirement System Board with respect to the investment of funds. The board of education or Class V Retirement System Board shall approve or disapprove the investments in the report, and in the event of disapproval of any investment, the board shall direct the sale of all or part of such investment or establish future policy with respect to that type of investment.

Source: Laws 1967, c. 545, § 2, p. 1791; Laws 1991, LB 350, § 7; R.S.1943, (1994), § 79-1051.01; Laws 1996, LB 900, § 643; Laws 2006, LB 1024, § 68.

79-9,109. Employees retirement system; investments; default of principal or interest; trustees; powers and duties.

In the event of default in the payment of principal of, or interest on, the investments made, the trustees are authorized to institute the proper proceedings to collect such matured principal or interest, and may, with approval of the board of education or Class V Retirement System Board, accept for exchange purposes, refunding bonds or other evidences of indebtedness with interest rates to be agreed upon with the obligor. The trustees, with the approval of the board of education or Class V Retirement System Board, are further authorized to make such compromises, adjustments, or disposition of the past-due interest or principal as are in default, or to make such compromises and adjustments as to future payments of interest or principal as deemed advisable for the purpose of protecting the investment.

Source: Laws 1967, c. 545, § 3, p. 1792; R.S.1943, (1994), § 79-1051.02; Laws 1996, LB 900, § 644; Laws 2006, LB 1024, § 69.

79-9,110. Employees retirement system; investments; mortgages on real property, when.

Investments may also be made in first mortgages on improved real property which are insured by the Federal Housing Administration under the National Housing Act, are guaranteed by the United States Department of Veterans Affairs under the federal Veterans' Benefits Act of

1958 and any amendments thereto, or are otherwise insured or guaranteed by the United States of America or any agency or instrumentality thereof so as to give the investor protection essentially the same as that provided by such National Housing Act or federal Veterans' Benefits Act of 1958 and any amendments thereto or in notes, bonds, or debentures fully collateralized by such protected mortgages.

Source: Laws 1967, c. 545, § 6, p. 1795; Laws 1991, LB 2, § 21; R.S.1943, (1994), § 79-1051.05; Laws 1996, LB 900, § 645.

79-9,111. Employees retirement system; investments; trustees; powers and duties.

The trustees shall invest the funds of the retirement system in investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another. Such investments shall not be made for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. The trustees shall not purchase investments on margin or enter into any futures contract or other contract obligation which requires the payment of margin or enter into any similar contractual arrangement which may result in losses in excess of the amount paid or deposited with respect to such investment or contract, unless such transaction constitutes a hedging transaction or is incurred for the purpose of portfolio or risk management for the funds and investments of the system. The trustees may write covered call options or put options. The trustees shall establish written guidelines for any such option, purchase, or contract obligation. Any such option, purchase, or contract obligation shall be governed by the prudent investment rule stated in this section for investment of the funds of the system. The trustees may lend any security if cash, United States Government obligations, or United States Government agency obligations with a market value equal to or exceeding the market value of the security lent are received as collateral. If shares of stock are purchased under this section, all proxies may be voted by the trustees.

Source: Laws 1989, LB 237, § 6; R.S.1943, (1994), § 79-1051.07; Laws 1996, LB 900, § 646; Laws 1997, LB 624, § 26.

79-9,113. Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.

(1)(a) If, at any future time, a majority of the eligible members of the retirement system votes to be included under an agreement providing old age and survivors insurance under the Social Security Act of the United States, the contributions to be made by the member and the school district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three percent but not less than three percent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-999, shall thereafter be reduced from one and one-half percent to nine-tenths of one percent and not less than nine-tenths of one percent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths percent to one percent and not less than one percent of salary or wage earned by the member during each fiscal year and from two percent to one and two-tenths percent of salary or wage earned by the member during each fiscal year, and from two and four-tenths percent to one and forty-four hundredths percent of salary or wage earned by the member during each fiscal year, except that after September 1, 1963, and prior to September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of salary covered by old age and

survivors insurance, and five percent above that amount. Commencing September 1, 1969, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and three-fourths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five percent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the school district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths percent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five and twenty-five hundredths percent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the school district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1989, all employees of the school district shall contribute an amount equal to the membership contribution which shall be five and eight-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 1995, all employees of the school district shall contribute an amount equal to the membership contribution which shall be six and three-tenths percent of the compensation earned in each fiscal year. Commencing September 1, 2007, all employees of the school district shall contribute an amount equal to the membership contribution which shall be seven and three-tenths percent of the compensation paid in each fiscal year. Commencing September 1, 2009, all employees of the school district shall contribute an amount equal to the membership contribution which shall be eight and three-tenths percent of the compensation paid in each fiscal year.

(b) The contributions by the school district in any fiscal year beginning on or after September 1, 1999, shall be the greater of (i) one hundred percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(c) The contributions by the school district in any fiscal year beginning on or after September 1, 2007, shall be the greater of (i) one hundred and one percent of the contributions by the employees for such fiscal year or (ii) such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees.

(d) The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment except as to benefits provided under the Class V School Employees Retirement Act.

(e) After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one percent of salary or wage covered by old age and survivors insurance and one and one-half percent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one percent of salary or wages covered by old age and survivors insurance and one and sixty-five hundredths percent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and

sixty-five hundredths percent of salary or wages earned above that amount in the same fiscal year, except that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths percent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths percent of salary or wages earned above that amount in the same fiscal year and the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, not to become members of the system shall not be less than they would have been had they remained under any preexisting system to date of retirement.

(f) Members of this system having the service qualifications of members of the School Retirement System of the State of Nebraska, as provided by section 79-926, shall receive the state service annuity provided by sections 79-933 to 79-935 and 79-951.

(2) The school district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The school district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The school district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Beginning September 1, 1995, the school district shall also pick up any contributions required by sections 79-990, 79-991, and 79-992 which are made under an irrevocable payroll deduction authorization between the member and the school district, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the school district shall continue to withhold federal and state income taxes based upon these contributions until the Internal Revenue Service rules that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the system. Employee contributions picked up shall be treated for all purposes of the Class V School Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Source: Laws 1951, c. 274, § 25, p. 923; Laws 1953, c. 308, § 4, p. 1029; Laws 1955, c. 321, § 3, p. 993; Laws 1963, c. 490, § 5, p. 1567; Laws 1969, c. 724, § 2, p. 2755; Laws 1972, LB 1116, § 3; Laws 1976, LB 994, § 3; Laws 1982, LB 131, § 12; Laws 1983, LB 488, § 1; Laws 1984, LB 218, § 3; Laws 1989, LB 237, § 7; Laws 1995, LB 505, § 8; Laws 1995, LB 574, § 77; R.S.Supp., 1995, § 79-1056; Laws 1996, LB 900, § 648; Laws 1997, LB 623, § 33; Laws 1998, LB 497, § 26; Laws 1998, LB 1191, § 63; Laws 2000, LB 155, § 5; Laws 2007, LB 596, § 3; Laws 2009, LB 187, § 3.

Cross References

For provisions of federal Social Security Act, see Chapter 68, article 6.

79-9,114. Employees retirement system; federal Social Security Act; agreement; coverage group.

In the event that an agreement for social security under the provisions of section 218(d)(3) of the federal Social Security Act is made applicable to services performed by employees in

positions covered by the school employees retirement system and to services performed by employees who have elected under the provisions of section 79-988 as such section existed immediately prior to February 20, 1982, to remain under a preexisting system, such agreement shall also be made applicable to services performed by individuals as employees of the school district in positions not so covered, but which are otherwise eligible to the benefits of old age and survivors insurance under the provisions of section 218 of the federal Social Security Act as amended, and such employees shall be included in the coverage group, specified in such agreement.

Source: Laws 1955, c. 321, § 8, p. 995; R.S.1943, (1994), § 79-1056.05; Laws 1996, LB 900, § 649.

79-9,115. Employees retirement fund; created; use.

All allowances, annuities, or other benefits granted under the Class V School Employees Retirement Act, and all expenses incurred in connection with the administration of the act, except clerical work incurred in connection with maintenance of records and payment of benefits, shall be paid from the retirement fund hereby established. Such clerical work shall be performed by employees of the school district or districts and paid for out of the general fund of the school district or districts.

Source: Laws 1951, c. 274, § 27, p. 925; R.S.1943, (1994), § 79-1058; Laws 1996, LB 900, § 650; Laws 1998, LB 497, § 27; Laws 2006, LB 1024, § 70.

79-9,116. Applicability of sections.

Sections 79-993 to 79-996 and the changes to sections 79-978, 79-988, 79-991, 79-992, 79-999, and 79-9,105 and to section 79-1057 as such section existed immediately before May 30, 1987, made by Laws 1987, LB 298, shall not apply to employees retiring prior to May 30, 1987.

Source: Laws 1987, LB 298, § 11; R.S.1943, (1994), § 79-1060.01; Laws 1996, LB 900, § 651.

ARTICLE 10

SCHOOL TAXATION, FINANCE, AND FACILITIES

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

ARTICLE 10 -- SCHOOL TAXATION, FINANCE, AND FACILITIES --

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

- 79-1003. Terms, defined.
- 79-1017.01. Local system formula resources; amounts included.
- 79-1028. School years prior to 2008-09; applicable allowable growth rate; Class II, III, IV, V, or VI district may exceed; situations enumerated.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1028.03. Retirement aid; calculation.

79-1003. Terms, defined.

For purposes of the Tax Equity and Educational Opportunities Support Act:

(1) Adjusted general fund operating expenditures means (a) for school fiscal years before school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the transportation allowance and minus the special receipts allowance, (b) for school fiscal year 2007-08, general fund operating expenditures as calculated pursuant to subdivision (21) of this section minus the sum of the transportation, special receipts, and distance education and telecommunications allowances, (c) for school fiscal year 2008-09, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, and focus school and program allowance, (d) for school fiscal year 2009-10, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, and focus school and program allowance, (e) for school fiscal years 2010-11 through 2012-13, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site allowance, elementary class size allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance, and (f) for school fiscal year 2013-14 and each school fiscal year thereafter, the difference of the product of the general fund operating expenditures as calculated pursuant to subdivision (21) of this section multiplied by the cost growth factor calculated pursuant to section 79-1007.10 minus the transportation allowance, special receipts allowance, poverty allowance, limited English proficiency allowance, distance education and telecommunications allowance, elementary site

allowance, summer school allowance, instructional time allowance, teacher education allowance, and focus school and program allowance;

(2) Adjusted valuation means the assessed valuation of taxable property of each local system in the state, adjusted pursuant to the adjustment factors described in section 79-1016. Adjusted valuation means the adjusted valuation for the property tax year ending during the school fiscal year immediately preceding the school fiscal year in which the aid based upon that value is to be paid. For purposes of determining the local effort rate yield pursuant to section 79-1015.01, adjusted valuation does not include the value of any property which a court, by a final judgment from which no appeal is taken, has declared to be nontaxable or exempt from taxation;

(3) Allocated income tax funds means the amount of assistance paid to a local system pursuant to section 79-1005.01 or 79-1005.02 as adjusted by the minimum levy adjustment pursuant to section 79-1008.02;

(4) Average daily attendance of a student who resides on Indian land means average daily attendance of a student who resides on Indian land from the most recent data available on November 1 preceding the school fiscal year in which aid is to be paid;

(5) Average daily membership means the average daily membership for grades kindergarten through twelve attributable to the local system, as provided in each district's annual statistical summary, and includes the proportionate share of students enrolled in a public school instructional program on less than a full-time basis;

(6) Base fiscal year means the first school fiscal year following the school fiscal year in which the reorganization or unification occurred;

(7) Board means the school board of each school district;

(8) Categorical funds means funds limited to a specific purpose by federal or state law, including, but not limited to, Title I funds, Title VI funds, federal vocational education funds, federal school lunch funds, Indian education funds, Head Start funds, and funds from the Education Innovation Fund;

(9) Consolidate means to voluntarily reduce the number of school districts providing education to a grade group and does not include dissolution pursuant to section 79-498;

(10) Department means the State Department of Education;

(11) District means any Class I, II, III, IV, V, or VI school district and, beginning with the calculation of state aid for school fiscal year 2011-12 and each school fiscal year thereafter, a unified system as defined in section 79-4,108;

(12) Ensuing school fiscal year means the school fiscal year following the current school fiscal year;

(13) Equalization aid means the amount of assistance calculated to be paid to a local system pursuant to sections 79-1007.11 to 79-1007.23, 79-1007.25, 79-1008.01 to 79-1022, and 79-1022.02;

(14) Fall membership means the total membership in kindergarten through grade twelve attributable to the local system as reported on the fall school district membership reports for each district pursuant to section 79-528;

(15) Fiscal year means the state fiscal year which is the period from July 1 to the following June 30;

(16) Formula students means:

(a) For school fiscal years prior to school fiscal year 2008-09, (i) for state aid certified pursuant to section 79-1022, the sum of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid, multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately

preceding the school fiscal year in which aid is to be paid and the prior two school fiscal years, plus qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus qualified early childhood education average daily membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which the aid was paid; and

(b) For school fiscal year 2008-09 and each school fiscal year thereafter, (i) for state aid certified pursuant to section 79-1022, the sum of the product of fall membership from the school fiscal year immediately preceding the school fiscal year in which the aid is to be paid multiplied by the average ratio of average daily membership to fall membership for the second school fiscal year immediately preceding the school fiscal year in which the aid is to be paid and the prior two school fiscal years plus sixty percent of the qualified early childhood education fall membership plus tuitioned students from the school fiscal year immediately preceding the school fiscal year in which aid is to be paid minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the fall membership multiplied by 0.5 and (ii) for final calculation of state aid pursuant to section 79-1065, the sum of average daily membership plus sixty percent of the qualified early childhood education average daily membership plus tuitioned students minus the product of the number of students enrolled in kindergarten that is not full-day kindergarten from the average daily membership multiplied by 0.5 from the school fiscal year immediately preceding the school fiscal year in which aid was paid;

(17) Free lunch and free milk student means a student who qualified for free lunches or free milk from the most recent data available on November 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(18) Full-day kindergarten means kindergarten offered by a district for at least one thousand thirty-two instructional hours;

(19) General fund budget of expenditures means the total budget of disbursements and transfers for general fund purposes as certified in the budget statement adopted pursuant to the Nebraska Budget Act, except that for purposes of the limitation imposed in section 79-1023 and the calculation pursuant to subdivision (2) of section 79-1027.01, the general fund budget of expenditures does not include any special grant funds, exclusive of local matching funds, received by a district;

(20) General fund expenditures means all expenditures from the general fund;

(21) General fund operating expenditures means:

(a) For state aid calculated for school fiscal years prior to school fiscal year 2008-09, the total general fund expenditures minus categorical funds, tuition paid, transportation fees paid to other districts, adult education, summer school, community services, redemption of the principal portion of general fund debt service, retirement incentive plans, staff development assistance, and transfers from other funds into the general fund for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid as reported on the annual financial report prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid;

(b) For state aid calculated for school fiscal year 2008-09, as reported for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid on the annual financial report submitted prior to December 1 of the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer

school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, and (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund;

(c) For state aid calculated for school fiscal year 2009-10, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, and federal impact aid, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, and (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred; and

(d) For state aid calculated for school fiscal year 2010-11 and each school fiscal year thereafter, as reported on the annual financial report for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid, the total general fund expenditures minus (i) the amount of all receipts to the general fund, to the extent that such receipts are not included in local system formula resources, from early childhood education tuition, summer school tuition, educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities, private foundations, individuals, associations, charitable organizations, the textbook loan program authorized by section 79-734, federal impact aid, and levy override elections pursuant to section 77-3444, (ii) the amount of expenditures for categorical funds, tuition paid, transportation fees paid to other districts, adult education, community services, redemption of the principal portion of general fund debt service, retirement incentive plans authorized by section 79-855, and staff development assistance authorized by section 79-856, (iii) the amount of any transfers from the general fund to any bond fund and transfers from other funds into the general fund, (iv) any legal expenses in excess of fifteen-hundredths of one percent of the formula need for the school fiscal year in which the expenses occurred, (v) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009, and (vi)(A) expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent or (B) expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School

Employees Retirement System to the extent that such expenditures exceed the school district contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent.

For purposes of this subdivision (21) of this section, receipts from levy override elections shall equal ninety-nine percent of the difference of the total general fund levy minus a levy of one dollar and five cents per one hundred dollars of taxable valuation multiplied by the assessed valuation for school districts that have voted pursuant to section 77-3444 to override the maximum levy provided pursuant to section 77-3442;

(22) High school district means a school district providing instruction in at least grades nine through twelve;

(23) Income tax liability means the amount of the reported income tax liability for resident individuals pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(24) Income tax receipts means the amount of income tax collected pursuant to the Nebraska Revenue Act of 1967 less all nonrefundable credits earned and refunds made;

(25) Limited English proficiency students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of students with limited English proficiency in a district from the most recent data available on November 1 of the school fiscal year preceding the school fiscal year in which aid is to be paid plus the difference of such students with limited English proficiency minus the average number of limited English proficiency students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(26) Local system means a learning community for purposes of calculation of state aid for the second full school fiscal year after becoming a learning community and each school fiscal year thereafter, a unified system, a Class VI district and the associated Class I districts, or a Class II, III, IV, or V district and any affiliated Class I districts or portions of Class I districts. The membership, expenditures, and resources of Class I districts that are affiliated with multiple high school districts will be attributed to local systems based on the percent of the Class I valuation that is affiliated with each high school district;

(27) Low-income child means (a) for school fiscal years prior to 2008-09, a child under nineteen years of age living in a household having an annual adjusted gross income of fifteen thousand dollars or less for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated and (b) for school fiscal year 2008-09 and each school fiscal year thereafter, a child under nineteen years of age living in a household having an annual adjusted gross income for the second calendar year preceding the beginning of the school fiscal year for which aid is being calculated equal to or less than the maximum household income that would allow a student from a family of four people to be a free lunch and free milk student during the school fiscal year immediately preceding the school fiscal year for which aid is being calculated;

(28) Low-income students means the number of low-income children within the district multiplied by the ratio of the formula students in the district divided by the total children under nineteen years of age residing in the district as derived from income tax information;

(29) Most recently available complete data year means the most recent single school fiscal year for which the annual financial report, fall school district membership report, annual

statistical summary, Nebraska income tax liability by school district for the calendar year in which the majority of the school fiscal year falls, and adjusted valuation data are available;

(30) Poverty students means (a) for school fiscal years prior to school fiscal year 2009-10, the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, and (b) for school fiscal year 2009-10 and each school fiscal year thereafter, the number of low-income students or the number of students who are free lunch and free milk students in a district plus the difference of the number of low-income students or the number of students who are free lunch and free milk students in a district, whichever is greater, minus the average number of poverty students for such district, prior to such addition, for the three immediately preceding school fiscal years if such difference is greater than zero;

(31) Qualified early childhood education average daily membership means the product of the average daily membership for school fiscal year 2006-07 and each school fiscal year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the actual instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(32) Qualified early childhood education fall membership means the product of membership on the last Friday in September 2006 and each year thereafter of students who will be eligible to attend kindergarten the following school year and are enrolled in an early childhood education program approved by the department pursuant to section 79-1103 for such school district for such school year multiplied by the ratio of the planned instructional hours of the program divided by one thousand thirty-two if: (a) The program is receiving a grant pursuant to such section for the third year; (b) the program has already received grants pursuant to such section for three years; or (c) the program has been approved pursuant to subsection (5) of section 79-1103 for such school year and the two preceding school years, including any such students in portions of any of such programs receiving an expansion grant;

(33) Regular route transportation means the transportation of students on regularly scheduled daily routes to and from the attendance center;

(34) Reorganized district means any district involved in a consolidation and currently educating students following consolidation;

(35) School year or school fiscal year means the fiscal year of a school district as defined in section 79-1091;

(36) Sparse local system means a local system that is not a very sparse local system but which meets the following criteria:

(a)(i) Less than two students per square mile in the county in which each high school is located, based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than ten miles between each high school attendance center and the next closest high school attendance center on paved roads;

(b)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads;

(c)(i) Less than one and one-half formula students per square mile in the local system and (ii) more than two hundred seventy-five square miles in the local system; or

(d)(i) Less than two formula students per square mile in the local system and (ii) the local system includes an area equal to ninety-five percent or more of the square miles in the largest county in which a high school attendance center is located in the local system;

(37) Special education means specially designed kindergarten through grade twelve instruction pursuant to section 79-1125, and includes special education transportation;

(38) Special grant funds means the budgeted receipts for grants, including, but not limited to, Title I funds, Title VI funds, funds from the Education Innovation Fund, reimbursements for wards of the court, short-term borrowings including, but not limited to, registered warrants and tax anticipation notes, interfund loans, insurance settlements, and reimbursements to county government for previous overpayment. The state board shall approve a listing of grants that qualify as special grant funds;

(39) State aid means the amount of assistance paid to a district pursuant to the Tax Equity and Educational Opportunities Support Act;

(40) State board means the State Board of Education;

(41) State support means all funds provided to districts by the State of Nebraska for the general fund support of elementary and secondary education;

(42) Statewide average basic funding per formula student means the statewide total basic funding for all districts divided by the statewide total formula students for all districts;

(43) Statewide average general fund operating expenditures per formula student means the statewide total general fund operating expenditures for all districts divided by the statewide total formula students for all districts;

(44) Teacher has the definition found in section 79-101;

(45) Temporary aid adjustment factor means (a) for school fiscal years before school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, the local system's special receipts allowance, and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping and (b) for school fiscal year 2007-08, one and one-fourth percent of the sum of the local system's transportation allowance, special receipts allowance, and distance education and telecommunications allowance and the product of the local system's adjusted formula students multiplied by the average formula cost per student in the local system's cost grouping;

(46) Tuitioned students means students in kindergarten through grade twelve of the district whose tuition is paid by the district to some other district or education agency; and

(47) Very sparse local system means a local system that has:

(a)(i) Less than one-half student per square mile in each county in which each high school attendance center is located based on the school district census, (ii) less than one formula student per square mile in the local system, and (iii) more than fifteen miles between the high school attendance center and the next closest high school attendance center on paved roads; or

(b)(i) More than four hundred fifty square miles in the local system, (ii) less than one-half student per square mile in the local system, and (iii) more than fifteen miles between each high school attendance center and the next closest high school attendance center on paved roads.

Source: Laws 1990, LB 1059, § 3; Laws 1991, LB 511, § 71; Laws 1992, LB 245, § 76; Laws 1994, LB 1290, § 3; Laws 1995, LB 840, § 4; R.S.Supp., 1995, § 79-3803; Laws 1996, LB 900, § 654; Laws 1996, LB 1050, § 12; Laws 1997, LB 347, § 29; Laws 1997, LB 710, § 5; Laws 1997, LB 713, § 1; Laws 1997, LB 806, § 31; Laws 1998, LB 306, § 42; Laws 1998, LB 1134, § 2; Laws 1998, LB 1219, § 15; Laws 1998, LB 1229, § 3; Laws 1998, Spec. Sess., LB 1, § 15; Laws 1999, LB 149, § 3; Laws 1999, LB 813, § 19; Laws 2001, LB 313, § 1; Laws 2001, LB 797, § 18; Laws 2001, LB 833, § 4; Laws 2002, LB 898, § 3; Laws 2005, LB 126, § 45; Laws 2005, LB 577, § 1; Laws 2006, LB 1024, § 73; Laws 2006, LB 1208, § 4; Referendum 2006, No. 422;

Laws 2007, LB641, § 13; Laws 2008, LB988, § 9; Laws 2009, LB545, § 4; Laws 2009, LB549, § 26; Laws 2009, First Spec. Sess., LB5, § 3; Laws 2010, LB1071, § 12.

Cross References

Nebraska Budget Act, see section 13-501.
Nebraska Revenue Act of 1967, see section 77-2701.

79-1017.01. Local system formula resources; amounts included.

Local system formula resources includes retirement aid determined under section 79-1028.03, allocated income tax funds determined for each such district pursuant to the provisions of section 79-1005.01 or 79-1005.02, and adjustments pursuant to section 79-1008.02.

Source: Laws 1997, LB 806, § 48; Laws 2002, LB 898, § 11; Laws 2009, LB545, § 14.

79-1028. School years prior to 2008-09; applicable allowable growth rate; Class II, III, IV, V, or VI district may exceed; situations enumerated.

For school fiscal years prior to school fiscal year 2008-09:

(1) A Class II, III, IV, V, or VI school district may exceed its applicable allowable growth rate for (a) expenditures in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity or joint public agency, (b) expenditures to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (c) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, (d) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment, or (e) expenditures to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments were not budgeted expenditures for fiscal year 1997-98;

(2) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subdivision, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The department shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be

multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subdivision. On or before July 1, the department shall make available to districts which have been allowed additional growth pursuant to this subdivision the necessary document to recalculate the actual formula students of such district. Such document shall be filed with the department under subsection (1) of section 79-1024;

(3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a Class II, III, IV, V, or VI district to exceed its applicable allowable growth rate by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall notify the district on or before July 1 of the recovery of the additional growth pursuant to this subdivision;

(4) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the department that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year;

(5) A Class II, III, IV, or V district may exceed its applicable allowable growth rate by the specific dollar amount of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;

(6) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount in any year for which the state aid calculation for the local system includes students in the qualified early childhood education fall membership of the district for the first time or for a year in which an early childhood education program of the district is receiving an expansion grant. The department shall compute the amount by which the district may exceed the district's applicable allowable growth rate by multiplying the cost grouping cost per student for the applicable cost grouping by the district's adjusted formula students attributed to early childhood education programs if students are included in the district's qualified early childhood education fall membership for the first time or by the district's adjusted formula students attributed to such early childhood education programs minus the district's adjusted formula students attributed to such early childhood education programs for the prior school fiscal year if a program is receiving an expansion grant in the school fiscal year for which the fall membership is measured. The department shall allow the district to increase its general fund expenditures by such amount for such school fiscal year;

(7) A Class II, III, IV, or V school district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed the amount received during such school fiscal year from educational entities as defined in section 79-1201.01 for providing distance education courses through the Distance Education Council; and

(8) A Class II, III, IV, or V school district may exceed its applicable allowable growth rate for school fiscal year 2007-08 by a specific dollar amount equal to the amount paid in school fiscal year 2006-07 to any distance education consortium in which the school district was participating pursuant to an interlocal agreement.

Source: Laws 1990, LB 1059, § 19; Laws 1991, LB 511, § 84; Laws 1992, LB 245, § 89; Laws 1992, LB 719, § 4; Laws 1992, LB 1063, § 205; Laws 1992, Second Spec. Sess., LB 1, § 176; Laws 1993, LB 310, § 14; Laws 1995, LB 490, § 186; Laws 1996, LB 299, § 30; R.S.Supp., 1995, § 79-3819; Laws 1996, LB 900, § 674; Laws 1996, LB 1050, § 32; Laws 1998, LB 989, § 11; Laws 1999, LB 87, § 88; Laws 1999, LB 149, § 13; Laws 2001, LB 797, § 29; Laws 2003, LB 67, § 18; Laws 2004, LB 1091, § 11; Laws 2005, LB 126, § 50; Laws 2005, LB 503, § 11; Laws 2005, LB 577, § 4; Laws 2006, LB 1024, § 90; Laws 2006, LB 1208, § 7; Referendum 2006, No. 422; Laws 2007, LB603, § 6; Laws 2008, LB988, § 45.

Cross References

Emergency Management Act, see section 81-829.36.

Retirement expenditures, not exempt from limitations, see section 79-977.

79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.

(1) For each school fiscal year, a school district may exceed its maximum general fund budget of expenditures minus the special education budget of expenditures by a specific dollar amount for:

(a) Expenditures for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act;

(b) Expenditures for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district;

(c) Expenditures pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856;

(d) Expenditures of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011;

(e) Expenditures of amounts received from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(f) Either (i) the first and second school fiscal years the district will be participating in Network Nebraska for the full school fiscal year or (ii) school fiscal year 2008-09, if the school district participated in Network Nebraska for all of school fiscal year 2007-08, for the difference of the estimated expenditures for such school fiscal year for telecommunications services, access to data transmission networks that transmit data to and from the school district, and the transmission of data on such networks as such expenditures are defined by the department for purposes of the distance education and telecommunications allowance minus the dollar amount of such expenditures for the second school fiscal year preceding the first full school fiscal year the district participates in Network Nebraska;

(g) Expenditures to pay another school district for the transfer of land from such other school district;

(h) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for employer contributions pursuant to subsection (2) of section 79-958 to the School Retirement System of the State of Nebraska to the extent that such expenditures exceed the employer contributions under such subsection that would have been made at a contribution rate of seven and thirty-five hundredths percent;

(i) Expenditures in school fiscal years 2009-10 through 2013-14 to pay for school district contributions pursuant to subdivision (1)(c)(i) of section 79-9,113 to the Class V School Employees Retirement System to the extent that such expenditures exceed the school district

contributions under such subdivision that would have been made at a contribution rate of seven and thirty-seven hundredths percent;

(j) Expenditures for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination occurring prior to July 1, 2009;

(k) Expenditures for new elementary attendance sites in the first year of operation or the first year of operation after being closed for at least one school year if such elementary attendance site will most likely qualify for the elementary site allowance in the immediately following school fiscal year as determined by the state board; and

(l) Any expenditures in school fiscal years 2016-17 and 2017-18 of amounts specified in the notice provided by the Commissioner of Education pursuant to section 79-309.01 for teacher performance pay.

(2) The state board shall approve, deny, or modify the amount allowed for any exception to the maximum general fund budget of expenditures minus the special education budget of expenditures pursuant to this section.

Source: Laws 2008, LB988, § 46; Laws 2008, LB1154, § 10; Laws 2009, LB545, § 19; Laws 2010, LB1014, § 3.

Cross References

Emergency Management Act, see section 81-829.36.

79-1028.03. Retirement aid; calculation.

For school fiscal years 2009-10 through 2013-14, an amount calculated by the department shall be paid to each school district as retirement aid equal to the product of fifteen million dollars multiplied by the school district's salary percentage. The school district's salary percentage shall equal the total salary reported by the school district on the annual financial report for the most recently available complete data year divided by the total salary reported by all school districts in the state on the annual financial report for the most recently available complete data year.

Source: Laws 2009, LB545, § 21.

This page left intentionally blank.

CHAPTER 81 – STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 9 -- STATE COOPERATION WITH FEDERAL GOVERNMENT

- 81-917. Surplus and excess property program; employees of Department of Roads; transferred to Department of Correctional Services; conditions; benefits.

ARTICLE 13 – PERSONNEL

(a) STATE PERSONNEL SERVICE

- 81-1325. Employee; retirement; death; payment for unused sick leave benefits.

ARTICLE 14 – LAW ENFORCEMENT

(d) LAW ENFORCEMENT RESERVE FORCES

- 81-1442. Law enforcement reserve officer; not eligible for participation in certain pension funds or retirement systems.

ARTICLE 20 – NEBRASKA STATE PATROL

(b) RETIREMENT SYSTEM

- 81-2014. Terms, defined.
- 81-2014.01. Act, how cited.
- 81-2015. Nebraska State Patrol Retirement System; creation.
- 81-2016. Retirement system; membership; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 81-2017. Retirement system; contributions; payment; funding of system.
- 81-2018. State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.
- 81-2019. Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.
- 81-2019.01. Board; power to adjust contributions and benefits.
- 81-2020. State Treasurer; duties; warrants.
- 81-2021. Retirement system; director; records; employer education program.
- 81-2022. Retirement system; funds; investment; charges.
- 81-2023. Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.
- 81-2024. Retirement system; powers.
- 81-2025. Retirement; conditions; deferment of payment; board; duties.
- 81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.
- 81-2027. Retirement benefit; adjusted by increase in cost of living.
- 81-2027.03. Benefits; adjustment.
- 81-2027.05. Annual benefit adjustment; terms, defined.
- 81-2027.06. Annual benefit adjustment; minimum accrual rate.
- 81-2027.07. Annual benefit adjustment; calculations.
- 81-2028. Retirement; disability; exceptions.
- 81-2029. Retirement; disability; proof.
- 81-2030. Retirement; disability; medical examinations; expense.
- 81-2031. Termination of employment; return of contributions, when; rejoining system; deferred annuity.
- 81-2031.01. Retirement system; reemployment; election to repay system; amount; status; exception.
- 81-2031.02. Retirement system; current employee; participation in another governmental plan; how treated.
- 81-2031.03. Direct rollover; terms, defined; distributee; powers; board; duties.
- 81-2031.04. Retirement system; accept payments and rollovers; limitations; board; duties.
- 81-2031.05. Retired officer; reemployment; how treated.
- 81-2031.06. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 81-2031.07. Retirement system; accept transfers; limitations; how treated.
- 81-2032. Retirement system; funds; exemption from legal process; exception.
- 81-2033. Retirement; total service credit.

- 81-2034. Retirement; method of crediting for time served in armed forces; effect.
- 81-2035. Annuity; adjustment; amount.
- 81-2036. Annuity; additional adjustment; changes in family unit.
- 81-2037. Limitation of actions.
- 81-2038. False or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 81-2039. Retirement system contributions, property, and rights; how treated.
- 81-2040. Termination of system or contributions; effect.
- 81-2041. DROP participation authorized; requirements; fees.

ARTICLE 9

STATE COOPERATION WITH FEDERAL GOVERNMENT

81-917. Surplus and excess property program; employees of Department of Roads; transferred to Department of Correctional Services; conditions; benefits.

All employees employed in those federal surplus and excess property programs which are consolidated by Public Law 94-519 and have been transferred to the Department of Roads may be transferred to the Department of Correctional Services. All employees so transferred shall be: (1) Employed under and compensated through the State Personnel System; and (2) considered as new employees solely for purposes of performance evaluation and subject to all applicable policies and procedures for such transfer. All employees so transferred shall keep all accrued benefits such as sick leave, vacation leave, and retirement benefits after such transfer has been completed.

Source: Laws 1977, LB 548, § 11; Laws 1981, LB 536, § 5; Laws 1982, LB 767, § 5.

ARTICLE 13

PERSONNEL

(a) STATE PERSONNEL SERVICE

81-1325. Employee; retirement; death; payment for unused sick leave benefits.

Each employee who meets the minimum age and service requirements for retirement under any existing state or federal retirement system shall, upon termination of employment with the state by reason of retirement or voluntary resignation in lieu of retirement, be entitled to a one-time payment of one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the time of termination or retirement. Upon the death of an employee, his or her beneficiary shall be paid one-fourth of his or her accumulated unused sick leave, with the rate of payment based upon his or her regular pay at the date of death.

Source: Laws 1973, LB 340, § 6; Laws 1974, LB 1003, § 3; Laws 1986, LB 325, § 14; Laws 1986, LB 311, § 23.

ARTICLE 14

LAW ENFORCEMENT

(d) LAW ENFORCEMENT RESERVE FORCES

81-1442. Law enforcement reserve officer; not eligible for participation in certain pension funds or retirement systems.

Nothing in sections 81-1438 to 81-1446 shall be construed to authorize or permit a law enforcement reserve officer to become eligible for participation in any pension fund or retirement system created by the laws of this state to which regular deputy sheriffs or police officers may become members.

Source: Laws 1976, LB 782, § 5.

This page left intentionally blank.

ARTICLE 20

NEBRASKA STATE PATROL

(b) RETIREMENT SYSTEM

ARTICLE 20 – NEBRASKA STATE PATROL

(b) RETIREMENT SYSTEM

- 81-2014. Terms, defined.
- 81-2014.01. Act, how cited.
- 81-2015. Nebraska State Patrol Retirement System; creation.
- 81-2016. Retirement system; membership; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 81-2017. Retirement system; contributions; payment; funding of system.
- 81-2018. State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.
- 81-2019. Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.
- 81-2019.01. Board; power to adjust contributions and benefits.
- 81-2020. State Treasurer; duties; warrants.
- 81-2021. Retirement system; director; records; employer education program.
- 81-2022. Retirement system; funds; investment; charges.
- 81-2023. Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.
- 81-2024. Retirement system; powers.
- 81-2025. Retirement; conditions; deferment of payment; board; duties.
- 81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.
- 81-2027. Retirement benefit; adjusted by increase in cost of living.
- 81-2027.03. Benefits; adjustment.
- 81-2027.05. Annual benefit adjustment; terms, defined.
- 81-2027.06. Annual benefit adjustment; minimum accrual rate.
- 81-2027.07. Annual benefit adjustment; calculations.
- 81-2028. Retirement; disability; exceptions.
- 81-2029. Retirement; disability; proof.
- 81-2030. Retirement; disability; medical examinations; expense.
- 81-2031. Termination of employment; return of contributions, when; rejoining system; deferred annuity.
- 81-2031.01. Retirement system; reemployment; election to repay system; amount; status; exception.
- 81-2031.02. Retirement system; current employee; participation in another governmental plan; how treated.
- 81-2031.03. Direct rollover; terms, defined; distributee; powers; board; duties.
- 81-2031.04. Retirement system; accept payments and rollovers; limitations; board; duties.
- 81-2031.05. Retired officer; reemployment; how treated.
- 81-2031.06. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 81-2031.07. Retirement system; accept transfers; limitations; how treated.
- 81-2032. Retirement system; funds; exemption from legal process; exception.
- 81-2033. Retirement; total service credit.
- 81-2034. Retirement; method of crediting for time served in armed forces; effect.
- 81-2035. Annuity; adjustment; amount.
- 81-2036. Annuity; additional adjustment; changes in family unit.
- 81-2037. Limitation of actions.
- 81-2038. False or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 81-2039. Retirement system contributions, property, and rights; how treated.
- 81-2040. Termination of system or contributions; effect.
- 81-2041. DROP participation authorized; requirements; fees.

81-2014. Terms, defined.

For purposes of the Nebraska State Patrol Retirement Act:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature;

(2) Board means the Public Employees Retirement Board;

(3)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. For any officer employed after January 4, 1979, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 81-2027.04 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(8) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(9) Initial benefit means the retirement benefit calculated at the time of retirement;

(10) Officer means an officer provided for in sections 81-2001 to 81-2009;

(11) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(12) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(13) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(14) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(15) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(16) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency.

Source: Laws 1947, c. 211, § 1, p. 687; Laws 1969, c. 511, § 1, p. 2092; R.S.1943, (1978), § 60-441; Laws 1989, LB 506, § 13; Laws 1991, LB 549, § 47; Laws 1994, LB 833, § 34; Laws 1995, LB 501, § 7; Laws 1996, LB 700, § 13; Laws 1996, LB 847, § 34; Laws 1996, LB 1076, § 32; Laws 1996, LB 1273, § 27; Laws 1997, LB 624, § 27; Laws 1999, LB 674, § 7; Laws 2000, LB 1192, § 19; Laws 2001, LB 408, § 19; Laws 2002, LB 470, § 7; Laws 2003, LB 451, § 21; Laws 2007, LB324, § 1.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2014.01. Act, how cited.

Sections 81-2014 to 81-2041 shall be known and may be cited as the Nebraska State Patrol Retirement Act.

Source: Laws 1996, LB 847, § 33; Laws 1997, LB 624, § 28; Laws 1998, LB 532, § 9; Laws 1998, LB 1191, § 64; Laws 2001, LB 408, § 20; Laws 2002, LB 407, § 48; Laws 2007, LB324, § 2.

81-2015. Nebraska State Patrol Retirement System; creation.

A retirement system is hereby created and established to be known as the Nebraska State Patrol Retirement System. It is the legislative intent and purpose of sections 81-2014 to 81-2036 to provide certain retirement and other benefits for officers of the Nebraska State Patrol in the amounts and under the terms and conditions set forth in such sections. It is further the legislative intent and purpose of such sections that when and if the Social Security Act, or any amendment thereto, or any similar or related federal act shall be enacted or amended so as to permit the inclusion of such officers of the Nebraska State Patrol, the State of Nebraska may at its election through appropriate legislative action adjust the benefits provided in such sections and the contributions called for so that the fund provided for by such sections or any amendments thereto may become merged with or integrated with the federal social security system.

Source: Laws 1947, c. 211, § 2, p. 687; Laws 1967, c. 391, § 2, p. 1215; Laws 1969, c. 511, § 2, p. 2093; R.S.1943, (1978), § 60-442; Laws 1991, LB 549, § 48; Laws 1994, LB 833, § 35.

81-2016. Retirement system; membership; requirements; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) Every member of the Nebraska State Patrol who was employed by the State of Nebraska as such, on September 7, 1947, and every person employed as a member of such patrol thereafter, shall be a member of the system, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska. On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the Nebraska State Patrol Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(2) Within the first thirty days of employment, a member may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned.

(3) Any officer who qualifies for membership pursuant to subsection (1) of this section may not be disqualified from membership in the retirement system solely because such officer also maintains separate employment which qualifies the officer for membership in another public retirement system, nor may membership in this retirement system disqualify such an officer from membership in another public retirement system solely by reason of separate employment which qualifies such officer for membership in this retirement system.

(4) Information necessary to determine membership shall be provided by the Nebraska State Patrol.

(5) The board may adopt and promulgate rules and regulations governing the assessment and granting of eligibility and vesting credit.

Source: Laws 1947, c. 211, § 3, p. 687; R.S.1943, (1978), § 60-443; Laws 1995, LB 501, § 8; Laws 1996, LB 1076, § 33; Laws 1997, LB 624, § 29; Laws 1998, LB 1191, § 65; Laws 2000, LB 1192, § 20; Laws 2002, LB 407, § 49; Laws 2002, LB 470, § 8; Laws 2010, LB950, § 19.

81-2017. Retirement system; contributions; payment; funding of system.

(1) Commencing July 1, 2005, and until July 1, 2009, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to thirteen percent of his or her monthly compensation. Commencing July 1, 2009, and until July 1, 2010, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to fifteen percent of his or her monthly compensation. Commencing July 1, 2010, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to sixteen percent of his or her monthly compensation. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from the compensation of members of the Nebraska State Patrol in accordance with subsection (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, commencing July 1, 2005, and until July 1, 2010, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of fifteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2010, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of sixteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund.

(3) For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. Beginning July 1, 2006, any existing unfunded liabilities shall be reinitialized and amortized over a thirty-year period, and during each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a thirty-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a thirty-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(4) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a

compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Source: Laws 1947, c. 211, § 4, p. 688; Laws 1959, c. 286, § 6, p. 1085; Laws 1965, c. 387, § 1, p. 1243; Laws 1971, LB 987, § 10; Laws 1975, LB 235, § 1; R.S.1943, (1978), § 60-444; Laws 1981, LB 462, § 5; Laws 1984, LB 218, § 4; Laws 1989, LB 506, § 14; Laws 1991, LB 549, § 49; Laws 1994, LB 833, § 36; Laws 1994, LB 1287, § 1; Laws 1995, LB 369, § 6; Laws 1995, LB 574, § 81; Laws 2001, LB 408, § 21; Laws 2002, LB 407, § 50; Laws 2004, LB 514, § 1; Laws 2005, LB 503, § 12; Laws 2006, LB 1019, § 12; Laws 2007, LB324, § 4; Laws 2009, LB188, § 7.

81-2018. State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.

(1) Except as provided in subsection (2) of this section, all money received by the Nebraska State Patrol Retirement System shall be remitted to the State Treasurer for credit to the State Patrol Retirement Fund which is hereby created. Out of the fund shall be paid the benefits and annuities as provided in the Nebraska State Patrol Retirement Act.

(2) The State Patrol Retirement Act Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the Nebraska State Patrol Retirement Act and necessary in connection with the administration and operation of the retirement system.

Source: Laws 1947, c. 211, § 5, p. 688; Laws 1959, c. 286, § 7, p. 1086; Laws 1967, c. 391, § 3, p. 1216; Laws 1969, c. 511, § 4, p. 2094; R.S.1943, (1978), § 60-445; Laws 1991, LB 549, § 50; Laws 1994, LB 833, § 37; Laws 2001, LB 408, § 22; Laws 2005, LB 364, § 16.

81-2019. Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.

The general administration of the Nebraska State Patrol Retirement System, except the investment of funds, is hereby vested in the board. The board shall adopt and promulgate rules and regulations as may be necessary to carry out the Nebraska State Patrol Retirement Act. The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act.

Source: Laws 1947, c. 211, § 6, p. 688; Laws 1967, c. 391, § 4, p. 1216; Laws 1967, c. 486, § 39, p. 1529; Laws 1971, LB 987, § 11; R.S.1943, (1978), § 60-446; Laws 1991, LB 549, § 51; Laws 1994, LB 833, § 38; Laws 1995, LB 369, § 7; Laws 1996, LB 847, § 35.

81-2019.01. Board; power to adjust contributions and benefits.

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of sections 81-2014 to 81-2036, the board shall refund contributions, require additional contributions, adjust benefits, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may, in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding

contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 35.

81-2020. State Treasurer; duties; warrants.

The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the State Patrol Retirement Fund. The State Treasurer shall disburse money from such fund only on warrants issued by the Director of Administrative Services upon vouchers signed by a person authorized by the retirement board.

Source: Laws 1947, c. 211, § 7, p. 689; Laws 1971, LB 987, § 12; R.S.1943, (1978), § 60-447; Laws 1991, LB 549, § 52; Laws 1997, LB 623, § 34.

81-2021. Retirement system; director; records; employer education program.

(1) The director in charge of the system shall keep a record of all acts and proceedings taken by the board. He or she shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the Nebraska State Patrol Retirement Act. The board shall prescribe the form in which such information shall be reported by the Nebraska State Patrol to the board. The information in the records shall be provided by the Nebraska State Patrol in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Source: Laws 1947, c. 211, § 8, p. 689; Laws 1971, LB 987, § 13; R.S.1943, (1978), § 60-448; Laws 1991, LB 549, § 53; Laws 1994, LB 833, § 39; Laws 2000, LB 1192, § 21; Laws 2005, LB 503, § 13.

81-2022. Retirement system; funds; investment; charges.

Any funds of the Nebraska State Patrol Retirement System available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the board, and the Nebraska Retirement Systems Committee.

The state investment officer shall sell any securities upon request from the director so as to provide money for the payment of benefits or annuities.

Source: Laws 1947, c. 211, § 9, p. 689; Laws 1967, c. 486, § 40, p. 1530; Laws 1969, c. 584, § 59, p. 2382; R.S.1943, (1978), § 60-449; Laws 1986, LB 311, § 24; Laws 1991, LB 549, § 54; Laws 1994, LB 1066, § 128.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

81-2023. Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.

It shall be the duty of the Auditor of Public Accounts to make an annual audit of the retirement system, and an annual report to the Clerk of the Legislature of its condition. Each member of the Legislature shall receive a copy of such report by making a request for it to the Auditor of Public Accounts.

Source: Laws 1947, c. 211, § 10, p. 689; Laws 1971, LB 987, § 14; Laws 1979, LB 322, § 24; R.S.Supp.,1980, § 60-450.

81-2024. Retirement system; powers.

The system may sue or be sued in the name of the system, and in all actions brought by or against it, the system shall be represented by the Attorney General.

Source: Laws 1947, c. 211, § 11, p. 690; R.S.1943, (1978), § 60-451; Laws 1996, LB 847, § 36.

81-2025. Retirement; conditions; deferment of payment; board; duties.

(1) Every officer who has been in the employ of the state as such and who becomes disabled and physically unfit to perform the duties of an officer shall be entitled to retire and receive an annuity as provided by law.

(2) Every officer who has been in the employ of the state as such for ten years or more, as calculated in section 81-2033, and has attained the age of fifty years or more shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(3) Any officer who has attained the age of sixty years upon his or her separation from state service but who has not been in the employ of the state for ten years as such shall be entitled to the annuity as provided for in the Nebraska State Patrol Retirement Act.

(4) Every officer who has been in the employ of the state as such for twenty-five years or more, as calculated in section 81-2033, and has attained the age of fifty years shall be entitled to retire and receive an annuity as provided by law. The right to retire at the age of fifty years with twenty-five years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(5) Every officer who has been in the employ of the state as such for thirty years or more, as calculated in section 81-2033, shall be entitled to retire and receive an annuity as provided by law. The right to retire with thirty years or more of creditable service shall be at the option of the officer but such retirement shall be mandatory upon the officer attaining the age of sixty years.

(6) Payment of any benefit provided under the act may not be deferred later than April 1 of the year following the year in which the officer has both attained at least age seventy and one-half years and terminated his or her employment with the Nebraska State Patrol.

(7) The effective date of retirement payments shall be the first day of the month following (a) the date a member qualifies for retirement as provided in this section or (b) the date upon which a member's request for retirement is received on an application form provided by the system, whichever is later. An application may be filed no more than ninety days in advance of qualifying for retirement.

(8) The board shall make reasonable efforts to locate the officer or the officer's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the account shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any officer would otherwise receive under the Nebraska State Patrol Retirement Act.

Source: Laws 1947, c. 211, § 12(1), p. 690; Laws 1953, c. 333, § 1, p. 1093; Laws 1969, c. 510, § 3, p. 2090; Laws 1969, c. 511, § 7, p. 2095; Laws 1975, LB 235, § 2; R.S.1943, (1978), § 60-452; Laws 1986, LB 311, § 25; Laws 1989, LB 506, § 15; Laws 1990, LB 953, § 1; Laws 1993, LB 724, § 15; Laws 1994, LB 833, § 40; Laws 1994, LB 1306, § 5; Laws 1997, LB 623, § 35; Laws 1997, LB 624, § 30; Laws 2003, LB 451, § 22.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.

(1)(a) Any officer qualified for an annuity as provided in section 81-2025 for reasons other than disability shall be entitled to receive a monthly annuity for the remainder of the officer's life. The annuity payments shall continue until the end of the calendar month in which the officer dies. The amount of the annuity shall be a percentage of the officer's final average monthly compensation. For retirement on or after the fifty-fifth birthday of the member or on or after the fiftieth birthday of a member who has been in the employ of the state for twenty-five years, as calculated in section 81-2033, the percentage shall be three percent multiplied by the number of years of creditable service, as calculated in section 81-2033, except that the percentage shall never be greater than seventy-five percent.

(b) For retirement pursuant to subsection (2) of section 81-2025 on or after the fiftieth birthday of the member but prior to the fifty-fifth birthday of the member who has been in the employ of the state for less than twenty-five years, as calculated in section 81-2033, the annuity which would apply if the member were age fifty-five at the date of retirement shall be reduced by five-ninths of one percent for each month by which the early retirement date precedes age fifty-five or for each month by which the early retirement date precedes the date upon which the member has served for twenty-five years, whichever is earlier. Any officer who has completed thirty years of creditable service with the Nebraska State Patrol shall have retirement benefits computed as if the officer had reached age fifty-five.

(c) For purposes of this computation, final average monthly compensation shall mean the sum of the officer's total compensation during the three twelve-month periods of service as an officer in which compensation was the greatest divided by thirty-six, and for any officer employed on or before January 4, 1979, the officer's total compensation shall include payments received for unused vacation and sick leave accumulated during the final three years of service.

(2) Any officer qualified for an annuity as provided in section 81-2025 for reasons of disability shall be entitled to receive a monthly annuity for the remainder of the period of disablement as provided in sections 81-2028 to 81-2030. The amount of the annuity shall be fifty percent of the officer's monthly compensation at the date of disablement if the officer has

completed seventeen or fewer years of creditable service. If the officer has completed more than seventeen years of creditable service, the amount of the annuity shall be three percent of the final monthly compensation at the date of disablement multiplied by the total years of creditable service but not to exceed seventy-five percent of the final average monthly compensation as defined in subsection (1) of this section. The date of disablement shall be the date on which the benefits as provided in section 81-2028 have been exhausted.

(3) Upon the death of an officer after retirement for reasons other than disability, benefits shall be provided as a percentage of the amount of the officer's annuity, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If there is no surviving spouse or no dependent child or children of the officer under nineteen years of age, the amount of benefit such officer has received under the Nebraska State Patrol Retirement Act shall be computed. If such amount is less than the contributions to the State Patrol Retirement Fund made by such officer, plus regular interest, the difference shall be paid to the officer's designated beneficiary or estate.

(4) Upon the death of an officer after retirement for reasons of disability, benefits shall be provided as if the officer had retired for reasons other than disability.

(5) Upon the death of an officer before retirement, benefits shall be provided as if the officer had retired for reasons of disability on the date of such officer's death, calculated as follows:

(a) If there is a surviving spouse but no dependent child or children of the officer under nineteen years of age, the surviving spouse shall receive a benefit equal to seventy-five percent of the amount of the officer's annuity for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(b) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age and there is no other dependent child or children of the officer not in the care of the surviving spouse under nineteen years of age, the benefit shall be equal to one hundred percent of the officer's annuity. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(c) If there is a surviving spouse and the surviving spouse has in his or her care a dependent child or children of the officer under nineteen years of age or there is another dependent child or children of the officer under nineteen years of age not in the care of the surviving spouse, the benefit shall be twenty-five percent of the amount of the officer's annuity to the surviving spouse and seventy-five percent of the amount of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children but in no case shall the benefit received by a surviving spouse and dependent children residing with such spouse be less than fifty percent of the amount of the officer's annuity. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age. When there is no remaining dependent child of the officer under nineteen years of age, the benefit shall be seventy-five percent of the amount of the officer's annuity to the surviving spouse for the remainder of the surviving spouse's life or until the surviving spouse remarries;

(d) If there is no surviving spouse and a dependent child or children of the officer under nineteen years of age, the benefit shall be equal to seventy-five percent of the officer's annuity to the dependent children of the officer under nineteen years of age to be divided equally among such dependent children. At such time as any dependent child of the officer attains nineteen years of age, the benefit shall be divided equally among the remaining dependent children of the officer who have not yet attained nineteen years of age; and

(e) If no benefits are paid to a surviving spouse or dependent child or children of the officer, benefits will be paid as described in subsection (1) of section 81-2031.

(6) Any changes made to this section by Laws 2004, LB 1097, shall apply only to retirements, disabilities, and deaths occurring on or after July 16, 2004.

Source: Laws 1953, c. 333, § 2, p. 1093; Laws 1957, c. 276, § 1, p. 1004; Laws 1959, c. 296, § 1, p. 1104; Laws 1961, c. 307, § 6, p. 973; Laws 1965, c. 386, § 2, p. 1241; Laws 1969, c. 510, § 4, p. 2090; Laws 1969, c. 511, § 8, p. 2095; Laws 1974, LB 1004, § 1; Laws 1975, LB 235, § 3; Laws 1976, LB 644, § 1; Laws 1977, LB 347, § 1; Laws 1979, LB 80, § 107; R.S.Supp., 1980, § 60-452.01; Laws 1981, LB 462, § 6; Laws 1986, LB 311, § 26; Laws 1987, LB 493, § 1; Laws 1989, LB 506, § 16; Laws 1990, LB 953, § 2; Laws 1991, LB 549, § 55; Laws 1993, LB 724, § 16; Laws 1994, LB 833, § 41; Laws 1994, LB 1306, § 6; Laws 1996, LB 847, § 37; Laws 1996, LB 1273, § 28; Laws 1997, LB 623, § 36; Laws 1997, LB 624, § 31; Laws 2004, LB 1097, § 30; Laws 2006, LB 1019, § 13.

Annotations

Subsection (3) of this section, as it existed in 2002, is ambiguous as to the proper distribution of a deceased trooper's annuity where there are surviving minor children who are not all in the care of a surviving spouse.

Consistent with the legislative intent of subsection (3) of this section, to provide benefits to the surviving members of a trooper's family, this section requires distribution of benefits to all of a deceased trooper's minor children, regardless of with whom they reside. *Zach v. Eacker*, 271 Neb. 868, 716 N.W.2d 437 (2006).

Where plaintiffs had been members of the system prior to administrative change in method of calculating "final average monthly salary" under this section and had been advised on the former method of calculation, their expectations that their retirement payment would be calculated under the former method amounted to a contractual right. Where state failed to produce evidence that violating patrolmen's contractual right to have retirement payments calculated under former method was demanded by a vital state interest or important public purpose, plaintiffs in this case were entitled to summary judgment against state. *Halpin v. Nebraska State Patrolmen's Retirement System*, 211 Neb. 892, 320 N.W.2d 910 (1982).

81-2027. Retirement benefit; adjusted by increase in cost of living.

Each retired officer of the Nebraska State Patrol, or surviving beneficiary who is receiving a retirement benefit as of December 31, 1977, shall have such retirement benefits adjusted by the increase in the cost of living, as determined by the difference between the Consumer Price Index for Urban Wage Earners and Clerical Workers from the date his or her retirement benefit commenced and January 1, 1978.

Source: Laws 1977, LB 347, § 2; Laws 1979, LB 80, § 108; R.S.Supp.,1980, § 60-452.02.

81-2027.03. Benefits; adjustment.

(1) Beginning July 1, 2000, and each July 1 thereafter, current benefits paid to a member or beneficiary shall be adjusted so that the purchasing power of the benefit being paid is not less than sixty percent of the purchasing power of the initial benefit. The purchasing power of the initial benefit in any year following the year in which the initial benefit commenced shall be calculated by dividing the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the current year by the Consumer Price Index for Urban Wage Earners and Clerical Workers factor on June 30 of the year in which the benefit commenced. The result shall be multiplied by the product that results when the amount of the initial benefit is multiplied by sixty percent. In any year in which applying the adjustment provided in subsection (2) of this section results in a benefit which would be less than sixty percent of the purchasing power of the initial benefit as calculated above, the adjustment shall instead be equal to the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor from the prior year to the current year. In all other years, the adjustment provided under subsection (2) of this section shall be provided. The adjustment pursuant to this subsection shall not cause a current benefit to be reduced.

(2) Except as provided in subsection (1) of this section:

(a) Beginning July 1, 2000, and until July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two percent; and

(b) Beginning July 1, 2001, the current benefit of a member or the beneficiary of such a member shall be increased annually by the lesser of (i) the percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor for the prior year or (ii) two and one-half percent.

(3) The state shall contribute to the State Patrol Retirement Fund an annual level dollar payment certified by the board. For the 1996-97 fiscal year through the 2012-13 fiscal year, the

annual level dollar payment certified by the board shall equal 3.04888 percent of six million eight hundred ninety-five thousand dollars.

(4) The board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1996, LB 700, § 14; Laws 1999, LB 674, § 8; Laws 2001, LB 711, § 19; Laws 2004, LB 1097, § 31; Laws 2008, LB1147, § 11; Laws 2010, LB950, § 20.

81-2027.05. Annual benefit adjustment; terms, defined.

For purposes of this section and sections 81-2027.06 and 81-2027.07:

(1) Eligible retiree means (a) a member or beneficiary who has been receiving a retirement benefit for at least five years, which member had at least twenty-five years of creditable service; (b) a member who has been receiving a disability retirement benefit for at least five years pursuant to section 81-2025; or (c) a beneficiary who has been receiving a death benefit pursuant to section 81-2026 for at least five years, and which member's or beneficiary's monthly accrual rate is less than or equal to the minimum accrual rate as determined by section 81-2027.06;

(2) Monthly accrual rate means the eligible retiree's total monthly benefit divided by the number of years of creditable service earned by the retiree or deceased member; and

(3) Total monthly benefit means the total benefit received by an eligible retiree pursuant to the Nebraska State Patrol Retirement Act, previous adjustments made pursuant to section 81-2027.07, or any other provision of Nebraska law which grants a benefit or cost-of-living increase within the act, but total monthly benefit does not include sums received by an eligible retiree from federal sources.

Source: Laws 1998, LB 532, § 10.

81-2027.06. Annual benefit adjustment; minimum accrual rate.

The minimum accrual rate is thirty dollars until adjusted pursuant to this section. Commencing June 30, 1999, the retirement board shall annually adjust the minimum accrual rate to reflect the cumulative percentage change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers factor published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the minimum accrual rate.

Source: Laws 1998, LB 532, § 11; Laws 1999, LB 703, § 17; Laws 2008, LB1147, § 12.

81-2027.07. Annual benefit adjustment; calculations.

(1) Beginning June 30, 1999, and each June 30 thereafter, the retirement board shall determine the number of eligible retirees in the retirement system and shall grant an annual benefit adjustment to each eligible retiree. The annual benefit adjustment shall be calculated by multiplying the eligible retiree's total monthly benefit by the lesser of:

(a)(i) For calculations on June 30, 1999, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, the cumulative change in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics of the United States Department of Labor from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated; or

(b)(i) For calculations on June 30, 1999, an amount equal to three percent per annum compounded from June 30, 1998, through June 30, 1999; or

(ii) For calculations on June 30, 2000, and each June 30 thereafter, an amount equal to three percent per annum compounded for the period from the last adjustment of the total monthly benefit of each eligible retiree pursuant to this section through June 30 of the year for which the annual benefit adjustment is being calculated.

(2) Beginning July 1 each year, each eligible retiree shall receive the sum of the annual benefit adjustment and such retiree's total monthly benefit, which sum shall be the retiree's adjusted total monthly benefit. Each eligible retiree shall receive the adjusted total monthly benefit until the expiration of the annuity option selected by the member or until the eligible retiree again qualifies for the annual benefit adjustment, whichever occurs first. Subsequent to the date of the annual benefit adjustment, an eligible retiree shall never receive less than the adjusted total monthly benefit until the annuity option selected by the member expires.

(3) The retirement board shall adjust the annual benefit adjustment provided in this section so that the total amount of all cost-of-living adjustments provided to the eligible retiree at the time of the annual benefit adjustment does not exceed the change in the National Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics for the period between June 30 of the prior year to June 30 of the present year. If the consumer price index used in this section and section 81-2027.06 is discontinued or replaced, a substitute index published by the United States Department of Labor shall be selected by the board which shall be a reasonable representative measurement of the cost of living for retired employees.

Source: Laws 1998, LB 532, § 12; Laws 1999, LB 703, § 18.

81-2028. Retirement; disability; exceptions.

No officer shall receive any disability benefit payments when there remains to his or her credit unused annual leave or sick leave or under any other circumstances if during the period of disability there has been no impairment of his or her compensation.

Source: Laws 1947, c. 211, § 13(2), p. 691; R.S.1943, (1978), § 60-455; Laws 1991, LB 549, § 56.

81-2029. Retirement; disability; proof.

No disability benefit payments shall be made except upon adequate proof furnished to the system of the existence of such disability, and during the time when any such benefits are being paid, the system shall have the right, at reasonable times, to require the disabled officer to submit proof of the continuance of the disability claimed. Disability is defined to be the complete inability of the officer, for reasons of accident or sickness, to perform the duties of an officer.

Source: Laws 1947, c. 211, § 13(3), p. 691; Laws 1969, c. 511, § 9, p. 2097; Laws 1974, LB 1004, § 2; R.S.1943, (1978), § 60-456; Laws 1991, LB 549, § 57.

81-2030. Retirement; disability; medical examinations; expense.

The board shall have the right to demand a physical examination of the member by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, chosen by the system and at the expense of the system.

Source: Laws 1947, c. 211, § 13(4), p. 691; R.S.1943, (1978), § 60-457; Laws 1997, LB 623, § 39.

81-2031. Termination of employment; return of contributions, when; rejoining system; deferred annuity.

(1) Upon termination of employment prior to becoming eligible to retire, as provided in section 81-2025, and for reasons other than death or disability, an officer shall be entitled to receive all payments which have been made by compensation deductions into the State Patrol Retirement Fund plus regular interest. The return of such contributions and interest to such officer shall preclude such officer from any benefits under the Nebraska State Patrol Retirement Act unless and until such officer is reemployed in such capacity and repays such withdrawals pursuant to section 81-2031.06. If the officer chooses not to repay such withdrawals with interest, the officer shall enter the system as a new member with no prior rights.

(2) In lieu of the benefit described in subsection (1) of this section, the officer may elect to receive a deferred annuity to commence as early as age fifty. If this election is made, the contributions made to the system by the officer may not be withdrawn from the system. The deferred annuity shall be computed as a percentage of the retirement annuity, as computed in subsection (1) of section 81-2026. The percentage shall be:

(a) Zero percent for the first five years of (i) creditable service plus (ii) eligibility and vesting credit;

(b) Twenty percent for each completed year for the next five years of (i) creditable service plus (ii) eligibility and vesting credit; and

(c) One hundred percent after ten completed years of (i) creditable service plus (ii) eligibility and vesting credit.

In the event of the death of any officer during the deferred period, the accumulated value of the officer's contributions at the date of termination plus regular interest to the date of his or her death shall be paid to such officer's beneficiary.

Source: Laws 1947, c. 211, § 14, p. 692; Laws 1959, c. 297, § 1, p. 1106; Laws 1969, c. 511, § 10, p. 2097; Laws 1974, LB 905, § 6; Laws 1974, LB 1004, § 3; Laws 1975, LB 55, § 1; Laws 1975, LB 235, § 4; R.S.1943, (1978), § 60-458; Laws 1986, LB 311, § 27; Laws 1989, LB 506, § 17; Laws 1991, LB 549, § 58; Laws 1994, LB 833, § 44; Laws 1994, LB 1306, § 7; Laws 1996, LB 1076, § 34; Laws 1997, LB 624, § 32; Laws 1999, LB 703, § 19; Laws 2001, LB 408, § 23.

81-2031.01. Retirement system; reemployment; election to repay system; amount; status; exception.

From January 1, 1991, to June 30, 1991, any person who withdrew his or her accumulated contributions pursuant to subsection (1) of section 81-2031 prior to January 1, 1991, and has again become an employee of the Nebraska State Patrol may elect to repay the retirement system for any number of years of service which he or she accumulated prior to withdrawing his or her accumulated contributions. The amount to be repaid shall not exceed the amount of the withdrawal for the years of service for which the repayment is being made plus the interest which would have accrued on that amount under the retirement system. Any person who repays such amount shall be restored to the same status for the years of service for which repayment is

made as he or she had prior to the withdrawal of the accumulated contributions. This section shall not apply to employees of the Nebraska State Patrol retiring prior to January 1, 1991.

Source: Laws 1990, LB 1105, § 1.

81-2031.02. Retirement system; current employee; participation in another governmental plan; how treated.

For one year after September 9, 1995, any member employed on or before September 9, 1995, may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation.

Source: Laws 1995, LB 501, § 9.

81-2031.03. Direct rollover; terms, defined; distributee; powers; board; duties.

(1) For purposes of this section and section 81-2031.04:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 39; Laws 2002, LB 407, § 51.

81-2031.04. Retirement system; accept payments and rollovers; limitations; board; duties.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 81-2031 if the contributions do not exceed the amount of

payment required for the service credits purchased by the member pursuant to such section and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments for service credits.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 40; Laws 2002, LB 407, § 52.

81-2031.05. Retired officer; reemployment; how treated.

A retired officer of the Nebraska State Patrol who becomes a member of the Nebraska State Patrol shall continue receiving retirement benefits and shall be treated for all purposes of the Nebraska State Patrol Retirement Act as a new member of the system.

Source: Laws 1997, LB 624, § 33.

81-2031.06. Termination of employment prior to eligibility to retire; rejoining system; effect.

An officer who terminates employment prior to becoming eligible to retire and again serves as an officer in the Nebraska State Patrol may elect to repay part or all of the amount he or she had withdrawn as a refund pursuant to section 81-2031 plus the interest that would have accrued on such amount. Payment shall commence prior to termination of employment, shall not be extended more than five years after the date the officer elects to repay his or her refund, and shall be completed prior to termination of employment. Prior service and rights shall be restored in proportion to the amounts repaid, and the prior service and rights of the officer shall be fully restored only if he or she repays all accumulated withdrawals plus interest which would have accrued on that amount.

Source: Laws 2001, LB 408, § 24.

81-2031.07. Retirement system; accept transfers; limitations; how treated.

The retirement system may accept as payment for withdrawn amounts made pursuant to the Nebraska State Patrol Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 53.

81-2032. Retirement system; funds; exemption from legal process; exception.

All annuities or benefits which any person shall be entitled to receive under sections 81-2014 to 81-2036 shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1947, c. 211, § 15, p. 692; Laws 1969, c. 511, § 11, p. 2098; R.S.1943, (1978), § 60-459; Laws 1986, LB 311, § 28; Laws 1989, LB 506, § 18; Laws 1994, LB 833, § 45; Laws 1995, LB 574, § 84; Laws 1996, LB 1273, § 29.

Cross References

Spousal Pension Rights Act, see section 42-1101.

81-2033. Retirement; total service credit.

In computing length of creditable service under the Nebraska State Patrol Retirement Act, such service shall include the years of service with the Nebraska State Patrol, permanent force, as established by the law creating the Nebraska State Patrol computed to the nearest one-twelfth year and shall only include such years during which the person was a contributing member of the Nebraska State Patrol Retirement System. Length of creditable service shall also include credit for time served in the armed forces pursuant to section 81-2034. For subsection (2) of section 81-2031 only, service shall also include credit for vesting pursuant to sections 60-1304, 81-2016, and 81-2031.02.

Source: Laws 1947, c. 211, § 16, p. 692; Laws 1969, c. 511, § 12, p. 2098; R.S.1943, (1978), § 60-460; Laws 1993, LB 724, § 17; Laws 1995, LB 501, § 10; Laws 1997, LB 624, § 34; Laws 2002, LB 470, § 9.

81-2034. Retirement; method of crediting for time served in armed forces; effect.

(1) Any member of the Nebraska State Patrol who, while a member of the Nebraska State Patrol, entered into and served or shall enter into and serve in the armed forces of the United States during a declared emergency, as defined and prescribed under such rules and regulations as the board may adopt, and who, within six months after honorable discharge or honorable separation from active duty, returned or returns to the service of the state and again becomes a member of the Nebraska State Patrol shall be credited, in determining benefits due such member from the State Patrol Retirement Fund, for all the time actually served in the armed forces as if such person had been in the service of the Nebraska State Patrol throughout such declared emergency service in the armed forces.

(2) Under such rules and regulations as the board adopts and promulgates, any member of the Nebraska State Patrol who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. chapter 43, shall be treated as not having incurred a break in service by reason of his or her period of military service. Such military service shall be credited for purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan. The state shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

Source: Laws 1949, c. 177, § 1, p. 481; Laws 1967, c. 391, § 5, p. 1216; Laws 1971, LB 987, § 15; R.S.1943, (1978), § 60-461; Laws 1991, LB 549, § 59; Laws 1996, LB 847, § 38.

81-2035. Annuity; adjustment; amount.

Any annuity paid pursuant to sections 81-2014 to 81-2034 to any officer or surviving spouse qualified to receive such payment shall be adjusted on May 27, 1989, to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement. The adjustment shall be an increase in an amount equal to three percent for each year since the date of such officer's retirement commencing on and after January 1, 1978, until December 31, 1984.

Source: Laws 1989, LB 137, § 1.

81-2036. Annuity; additional adjustment; changes in family unit.

After the adjustment prescribed in section 81-2035 is made, any annuity paid pursuant to sections 81-2014 to 81-2034 to any officer or surviving spouse qualified to receive such payment shall be adjusted on May 27, 1989, to reflect changes in the cost of living and wage levels which have occurred subsequent to the date of retirement up to an annuity total amount equal to five thousand nine hundred eighty dollars for a one-member family unit. For each additional member of the family unit the amount shall be increased by two thousand forty dollars. The annuity shall be adjusted to reflect any changes in the family unit when the change occurs. A change in the family unit after retirement occurs (1) upon the death of the officer, (2) upon the death of the spouse or a dependent child, (3) upon the birth of a dependent child, (4) upon the divorce of the officer and his or her spouse, (5) when the officer no longer provides support for a dependent child, and (6) when a dependent child becomes nineteen years of age. Each officer or surviving spouse whose annuity is adjusted pursuant to this section shall file an annual report with the retirement system, on a form prescribed by the Public Employees Retirement Board, to verify the size of the family unit. For purposes of this section, family unit shall include the officer, his or her spouse at the time of retirement, the officer's legal dependent children under nineteen years of age, and the officer's dependent handicapped children.

Source: Laws 1989, LB 137, § 2.

81-2037. Limitation of actions.

Every claim and demand under sections 81-2014 to 81-2036 and against the retirement system or the board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 36.

81-2038. False or fraudulent actions; prohibited acts; penalty; denial of benefits.

Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the officer to recover any benefits already paid on the basis of such information.

Source: Laws 1998, LB 1191, § 66.

81-2039. Retirement system contributions, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the Nebraska State Patrol Retirement Act.

Source: Laws 1998, LB 1191, § 67.

81-2040. Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to benefits accrued to the date of such termination, partial termination, or discontinuance, to the extent funded as of such date, shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 68.

81-2041. DROP participation authorized; requirements; fees.

(1) Any member who meets the participation requirements of subsection (2) of this section may participate in DROP. DROP provides that subsequent to attaining normal age and service retirement eligibility, a member may voluntarily choose to participate in DROP upon its adoption which, for purposes of this section, shall be the earlier of September 1, 2008, or the first of the month following a favorable letter determination by the Internal Revenue Service. If the member chooses to participate in DROP, the member shall be deemed to have retired, but the member may continue in active employment for up to a five-year period. During the DROP period, the member's retirement benefit payments shall be deposited into the DROP account for the benefit of the member until the member actually retires from active employment at or before the expiration of the DROP period. Thereafter, future retirement benefit payments shall be made directly to the member, and the member shall have access to all funds in the DROP account designated for the benefit of the member.

(2) To participate in the DROP program, a member shall meet the following requirements:

(a) A member shall be eligible to enter DROP at any time subsequent to the date when the member has (i) attained normal retirement age and (ii) completed twenty-five years of service. Members having attained normal retirement age and completed twenty-five years of service on or before the date of adoption of DROP shall be eligible to enter DROP at any future date;

(b) A member who elects to enter DROP shall be entitled to receive regular age and service retirement benefits in accordance with section 81-2026. A member is entitled to remain in DROP for a maximum of five years subsequent to the date of the member's DROP election. A member may separate from service and thereby exit DROP at any time during the DROP period. On or before the completion of the DROP period, the member must separate from active employment and exit DROP. During the DROP period, a member's retirement benefit shall be payable to the DROP account vendor designated in the member's name. Amounts transferred or paid to a participating member's DROP account shall not constitute annual additions under section 415 of the Internal Revenue Code;

(c) A member electing to enter DROP shall choose an annuity payment option. After the option is chosen, the member shall not be entitled to any retirement benefit changes, for reasons including, but not limited to, wage increases, promotions, and demotions, except that the restriction on retirement benefit changes shall not apply in the event of duty-related death or duty-related disability. The benefit amount shall be fixed as of the date of election and shall be payable as if the employee retired on that date and separated from active employment. Upon the death of a member during the DROP period, monthly benefits shall be provided as a percentage of the amount of the member's annuity as set forth in subsection (3) of section 81-2026 based upon the annuity benefit calculation made at commencement of the DROP period. In addition, the balance of the DROP account, if any, shall be provided to the beneficiary or beneficiaries of the member or, if no beneficiary is provided, to the estate of the member. Upon the disability of a member during the DROP period, the member shall be deemed to have completed the DROP period, shall begin receiving the annuity benefit as calculated at the commencement of the DROP period, and shall be paid the balance of the DROP account, if any;

(d) No member shall be allowed to continue making the required contributions while the member is enrolled in DROP;

(e) During the DROP period, the Nebraska State Patrol shall not be assessed the amount required under subsection (2) of section 81-2017 nor shall such amount be credited to the State Patrol Retirement Fund;

(f) The member shall be paid the balance of the DROP account upon the member's separation from active employment or at the expiration of the DROP period thereby ending the member's participation in DROP. If a member has not voluntarily separated from active employment on or before the completion of the DROP period, the member's retirement benefit shall be paid directly to the member thereby ending the member's active employment. The member's DROP account shall consist of accrued retirement benefits and interest on such benefits;

(g) Any member that is enrolled in DROP shall be responsible for directing the DROP account designated for the benefit of the member by investing the account in any DROP investment options. There shall be no guaranteed rate of investment return on DROP account assets. Any losses, charges, or expenses incurred by the participating DROP member in such member's DROP account by virtue of the investment options selected by the participating DROP member shall not be made up by the retirement system but all of the same shall be born by the participating DROP member. The retirement system, the state, the board, and the state investment officer shall not be responsible for any investment results under the DROP agreement. Transfers between investment options shall be in accordance with the rules and regulations of DROP. A DROP account shall be established for each participating DROP member. Such DROP account shall be adjusted no less frequently than annually for the member's retirement benefit distributions and net investment earnings and losses;

(h) If the DROP account is subject to administrative or other fees or charges, such fees or charges shall be charged to the participating DROP member's DROP account; and

(i) Cost-of-living adjustments as provided for in section 81-2027.03 shall not be applied to retirement benefits during the DROP period.

Source: Laws 2007, LB324, § 3.

CHAPTER 84 – STATE OFFICERS

ARTICLE 7 -- GENERAL PROVISIONS AS TO STATE OFFICERS

- 84-712.05. Records which may be withheld from the public; enumerated.

ARTICLE 13 – STATE EMPLOYEES RETIREMENT ACT

- 84-1301. Terms, defined.
- 84-1302. State Employees Retirement System; established; operative date; official name; acceptance of contributions.
- 84-1305. Retirement board; duties.
- 84-1305.01. Records; employer education program.
- 84-1305.02. Retirement board; power to adjust contributions and benefits.
- 84-1307. Retirement system; membership; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 84-1308. Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.
- 84-1309. State Employees Retirement Fund; established; amounts credited; disbursements.
- 84-1309.01. Board; provide benefit liability information; verify investments.
- 84-1309.02. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 84-1310. Defined contribution benefit; employee account.
- 84-1310.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 84-1311. Defined contribution benefit; employer account; investment.
- 84-1311.03. Defined contribution benefit; employer account; investment options; procedures; administration.
- 84-1312. Direct rollover; terms, defined; distributee; powers; board; duties.
- 84-1313. Retirement system; accept payments and rollovers; limitations; board; duties.
- 84-1313.01. Retirement system; accept transfers; limitations; how treated.
- 84-1313.02. Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.
- 84-1314. State Employees Retirement System Expense Fund; created; use; investment.
- 84-1315. Auditor of Public Accounts; annual audit of retirement system; annual report to Clerk of the Legislature.
- 84-1316. Retirement system; sue and be sued; actions; representation by Attorney General.
- 84-1317. Employees; retirement date; application for benefits; deferment of benefits; board; duties.
- 84-1318. Employees; benefits; retirement value; how computed.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.
- 84-1319.01. State Equal Retirement Benefit Fund; created; use.
- 84-1320. Prior service retirement benefits; when payable; how computed; deferment; reduction in amount, when.
- 84-1321. Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.
- 84-1321.01. Termination of employment; account forfeited; when.
- 84-1322. Employees; reemployment; status; how treated.
- 84-1323. Employees; death before retirement; death benefit; amount.
- 84-1323.01. Employee; retirement; disability; medical examination.
- 84-1324. Retirement benefits; exemption from legal process; exception.
- 84-1325. Employees; military service; credit; payments.
- 84-1326. Retirement system; membership status; not lost while employment continues.
- 84-1326.01. Retirement system; member; employee status changed to behavioral health region or community mental health center benefits retained; application; immediate participation; when.
- 84-1327. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 84-1328. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 84-1329. Limitation of actions.

- 84-1329.04. Retirement system contributions, property, and rights; how treated.
- 84-1329.05. Termination of system or contributions; effect.
- 84-1330. Elected officials and employees having regular term; sections, when operative.
- 84-1330.01. State Employees Retirement Fund; elected officials and employees having a regular term; sections, when operative.
- 84-1331. Act, how cited.
- 84-1332. City or county employee changed by Legislature to state employee; vesting of prior service retirement benefits; application; vested benefits.
- 84-1333. County employee changed by law to judge; vesting of prior service retirement benefits; vested benefits.

ARTICLE 15 – PUBLIC EMPLOYEES RETIREMENT BOARD

- 84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.
- 84-1502. Board; chairperson; secretary; election; meetings.
- 84-1503. Board; duties.
- 84-1503.02. Board, duties and responsibilities.
- 84-1503.03. Director; employ personnel; employees; duties.
- 84-1503.04. Internal auditor; duties and responsibilities.
- 84-1504. Deferred compensation; treatment.
- 84-1505. Deferred compensation; treatment; investment.
- 84-1506. Deferred compensation; availability and distribution of funds; Deferred Compensation Fund; created.
- 84-1506.01. Deferred Compensation Expense Fund; created; use; investment.
- 84-1507. Actuarial reports; statement of actuarial assumptions and methods; actuarial valuations and experience investigations; prepared; actuary; certified by Public Employees Retirement Board.
- 84-1509. Administrative services agreement; authorized.
- 84-1510. Administrative services agreement; terms.
- 84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.
- 84-1511.01. Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.
- 84-1512. Board; access to records; employer education program.
- 84-1513. Board; members; personal liability.

ARTICLE 7

GENERAL PROVISIONS AS TO STATE OFFICERS

84-712.05. Records which may be withheld from the public; enumerated.

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed

under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, (a) job application materials means employment applications, resumes, reference letters, and school transcripts and (b) finalist means any applicant (i) who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (ii) who is an original applicant when the final pool of applicants numbers less than four, or (iii) who is an original applicant and there are four or fewer original applicants;

(16) Records obtained by the Public Employees Retirement Board pursuant to section 84-1512;

(17) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens; and

(18) Information exchanged between a jurisdictional utility and city pursuant to section 66-1867.

Source: Laws 1979, LB 86, § 5; Laws 1983, LB 108, § 1; Laws 1983, LB 565, § 1; Laws 1993, LB 579, § 6; Laws 1993, LB 590, § 6; Laws 1993, LB 719, § 2; Laws 1994, LB 1061, § 7; Laws 1994, LB 1224, § 88; Laws 1995, LB 343, § 7; Laws 1995, LB 509, § 6; Laws 1999, LB 137, § 1; Laws 2002, LB 276, § 7; Laws 2004, LB 236, § 1; Laws 2004, LB 868, § 3; Laws 2005, LB 361, § 37; Laws 2007, LB389, § 1; Laws 2009, LB188, § 8; Laws 2009, LB658, § 7.

Cross References

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

Annotations

A public record is an investigatory record under this section where (1) the activity giving rise to the document sought is related to the duty of investigation or examination with which the public body is charged and (2) the relationship between the investigation or examination and that public body's duty to investigate or examine supports a colorable claim of rationality. When an inquiry by an administrative agency departs from the routine and focuses with special intensity on a particular party, an investigation is underway for purposes of this section. Records that have been "disclosed" within the meaning of this section are only those records that a public body has, in its official capacity, already made available to the general public. *State ex rel. Neb. Health Care Assn. v. Dept. of Health and Human Services Finance and Support*, 255 Neb. 784, 587 N.W.2d 100 (1998).

Court upheld Attorney General's refusal to disclose requested documents pursuant to subsections (4) and (5) of this section. *State ex rel. Sileven v. Spire*, 243 Neb. 451, 500 N.W.2d 179 (1993).

ARTICLE 13

STATE EMPLOYEES RETIREMENT ACT

ARTICLE 13 – STATE EMPLOYEES RETIREMENT ACT

- 84-1301. Terms, defined.
- 84-1302. State Employees Retirement System; established; operative date; official name; acceptance of contributions.
- 84-1305. Retirement board; duties.
- 84-1305.01. Records; employer education program.
- 84-1305.02. Retirement board; power to adjust contributions and benefits.
- 84-1307. Retirement system; membership; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 84-1308. Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.
- 84-1309. State Employees Retirement Fund; established; amounts credited; disbursements.
- 84-1309.01. Board; provide benefit liability information; verify investments.
- 84-1309.02. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 84-1310. Defined contribution benefit; employee account.
- 84-1310.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 84-1311. Defined contribution benefit; employer account; investment.
- 84-1311.03. Defined contribution benefit; employer account; investment options; procedures; administration.
- 84-1312. Direct rollover; terms, defined; distributee; powers; board; duties.
- 84-1313. Retirement system; accept payments and rollovers; limitations; board; duties.
- 84-1313.01. Retirement system; accept transfers; limitations; how treated.
- 84-1313.02. Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.
- 84-1314. State Employees Retirement System Expense Fund; created; use; investment.
- 84-1315. Auditor of Public Accounts; annual audit of retirement system; annual report to Clerk of the Legislature.
- 84-1316. Retirement system; sue and be sued; actions; representation by Attorney General.
- 84-1317. Employees; retirement date; application for benefits; deferment of benefits; board; duties.
- 84-1318. Employees; benefits; retirement value; how computed.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.
- 84-1319.01. State Equal Retirement Benefit Fund; created; use.
- 84-1320. Prior service retirement benefits; when payable; how computed; deferment; reduction in amount, when.
- 84-1321. Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.
- 84-1321.01. Termination of employment; account forfeited; when.
- 84-1322. Employees; reemployment; status; how treated.
- 84-1323. Employees; death before retirement; death benefit; amount.
- 84-1323.01. Employee; retirement; disability; medical examination.
- 84-1324. Retirement benefits; exemption from legal process; exception.
- 84-1325. Employees; military service; credit; payments.
- 84-1326. Retirement system; membership status; not lost while employment continues.
- 84-1326.01. Retirement system; member; employee status changed to behavioral health region or community mental health center benefits retained; application; immediate participation; when.
- 84-1327. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 84-1328. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 84-1329. Limitation of actions.
- 84-1329.04. Retirement system contributions, property, and rights; how treated.

- 84-1329.05. Termination of system or contributions; effect.
- 84-1330. Elected officials and employees having regular term; sections, when operative.
- 84-1330.01. State Employees Retirement Fund; elected officials and employees having a regular term; sections, when operative.
- 84-1331. Act, how cited.
- 84-1332. City or county employee changed by Legislature to state employee; vesting of prior service retirement benefits; application; vested benefits.
- 84-1333. County employee changed by law to judge; vesting of prior service retirement benefits; vested benefits.

84-1301. Terms, defined.

For purposes of the State Employees Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of an annuity payment. The mortality assumption used for purposes of converting the member cash balance account shall be the 1994 Group Annuity Mortality Table using a unisex rate that is fifty percent male and fifty percent female. For purposes of converting the member cash balance account attributable to contributions made prior to January 1, 1984, that were transferred pursuant to the act, the 1994 Group Annuity Mortality Table for males shall be used;

(2) Annuity means equal monthly payments provided by the retirement system to a member or beneficiary under forms determined by the board beginning the first day of the month after an annuity election is received in the office of the Nebraska Public Employees Retirement Systems or the first day of the month after the employee's termination of employment, whichever is later. The last payment shall be at the end of the calendar month in which the member dies or in accordance with the payment option chosen by the member;

(3) Annuity start date means the date upon which a member's annuity is first effective and shall be the first day of the month following the member's termination or following the date the application is received by the board, whichever is later;

(4) Cash balance benefit means a member's retirement benefit that is equal to an amount based on annual employee contribution credits plus interest credits and, if vested, employer contribution credits plus interest credits and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(5)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(6) Date of disability means the date on which a member is determined to be disabled by the board;

(7) Defined contribution benefit means a member's retirement benefit from a money purchase plan in which member benefits equal annual contributions and earnings pursuant to section 84-1310 and, if vested, employer contributions and earnings pursuant to section 84-1311;

(8) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(9) Employee means any employee of the State Board of Agriculture who is a member of the state retirement system on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities. Employee does not include (a) judges as defined in section 24-701, (b) members of the Nebraska State Patrol, except for those members of the Nebraska State Patrol who elected pursuant to section 60-1304 to remain members of the State Employees Retirement System of the State of Nebraska, (c) employees of the University of Nebraska, (d) employees of the state colleges, (e) employees of community colleges, (f) employees of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the federal Social Security Act or funds from other federal sources, (g) the Commissioner of Labor employed prior to July 1, 1984, (h) employees of the State Board of Agriculture who are not members of the state retirement system on July 1, 1982, (i) the Nebraska National Guard air and army technicians, (j) persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the retirement system pursuant to section 79-920 or been made members of the system pursuant to such section, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System of the State of Nebraska shall continue as members of such system, or (k) employees of the Coordinating Commission for Postsecondary Education who are eligible for and have elected to become members of a qualified retirement program approved by the commission which is commensurate with retirement programs at the University of Nebraska. Any individual appointed by the Governor may elect not to become a member of the State Employees Retirement System of the State of Nebraska;

(10) Employee contribution credit means an amount equal to the member contribution amount required by section 84-1308;

(11) Employer contribution credit means an amount equal to the employer contribution amount required by section 84-1309;

(12) Final account value means the value of a member's account on the date the account is either distributed to the member or used to purchase an annuity from the plan, which date shall occur as soon as administratively practicable after receipt of a valid application for benefits, but no sooner than forty-five days after the member's termination;

(13) Five-year break in service means five consecutive one-year breaks in service;

(14) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(15) Fund means the State Employees Retirement Fund created by section 84-1309;

(16) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative

securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(17) Interest credit rate means the greater of (a) five percent or (b) the applicable federal mid-term rate, as published by the Internal Revenue Service as of the first day of the calendar quarter for which interest credits are credited, plus one and one-half percent, such rate to be compounded annually;

(18) Interest credits means the amounts credited to the employee cash balance account and the employer cash balance account at the end of each day. Such interest credit for each account shall be determined by applying the daily portion of the interest credit rate to the account balance at the end of the previous day. Such interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account after a member ceases to be an employee, except that no such credit shall be made with respect to the employee cash balance account and the employer cash balance account for any day beginning on or after the member's date of final account value. If benefits payable to the member's surviving spouse or beneficiary are delayed after the member's death, interest credits shall continue to be credited to the employee cash balance account and the employer cash balance account until such surviving spouse or beneficiary commences receipt of a distribution from the plan;

(19) Member cash balance account means an account equal to the sum of the employee cash balance account and, if vested, the employer cash balance account and dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

(20) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(21) Participation means qualifying for and making the required deposits to the retirement system during the course of a plan year;

(22) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(23) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(24) Prior service means service before January 1, 1964;

(25) Regular interest means the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on the investments through December 31, 1984;

(26) Required contribution means the deduction to be made from the compensation of employees as provided in section 84-1308;

(27) Retirement means qualifying for and accepting the retirement benefit granted under the State Employees Retirement Act after terminating employment;

(28) Retirement board or board means the Public Employees Retirement Board;

(29) Retirement system means the State Employees Retirement System of the State of Nebraska;

(30) Service means the actual total length of employment as an employee and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 84-1317;

(31) State department means any department, bureau, commission, or other division of state government not otherwise specifically defined or exempted in the act, the employees and officers of which are not already covered by a retirement plan;

(32) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(33) Termination of employment occurs on the date on which the agency which employs the member determines that the member's employer-employee relationship with the State of Nebraska is dissolved. The agency which employs the member shall notify the board of the date on which such a termination has occurred. Termination of employment does not occur if an employee whose employer-employee relationship with the State of Nebraska is dissolved enters into an employer-employee relationship with the same or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the state and the date when the employer-employee relationship commenced with the same or another agency. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 84-1321, the board shall require the member who has received such benefit to repay the benefit to the retirement system; and

(34) Vesting credit means credit for years, or a fraction of a year, of participation in another Nebraska governmental plan for purposes of determining vesting of the employer account.

Source: Laws 1963, c. 532, § 1, p. 1667; Laws 1965, c. 574, § 1, p. 1864; Laws 1965, c. 573, § 1, p. 1861; Laws 1969, c. 584, § 116, p. 2420; Laws 1971, LB 987, § 33; Laws 1973, LB 498, § 1; Laws 1974, LB 905, § 8; Laws 1980, LB 818, § 3; Laws 1982, LB 942, § 8; Laws 1983, LB 223, § 4; Laws 1984, LB 747, § 6; Laws 1984, LB 751, § 1; Laws 1986, LB 325, § 15; Laws 1986, LB 529, § 54; Laws 1986, LB 311, § 29; Laws 1989, LB 506, § 19; Laws 1991, LB 549, § 60; Laws 1993, LB 417, § 6; Laws 1994, LB 1068, § 4; Laws 1996, LB 847, § 41; Laws 1996, LB 900, § 1070; Laws 1996, LB 1076, § 37; Laws 1996, LB 1273, § 30; Laws 1997, LB 624, § 35; Laws 1998, LB 1191, § 69; Laws 1999, LB 703, § 20; Laws 2000, LB 1192, § 22; Laws 2002, LB 407, § 54; Laws 2002, LB 470, § 10; Laws 2002, LB 687, § 18; Laws 2003, LB 451, § 23; Laws 2004, LB 1097, § 32; Laws 2006, LB 366, § 7; Laws 2006, LB 1019, § 14.

Cross References

For provisions on Public Employees Retirement Board, see sections 84-1501 to 84-1513.
Spousal Pension Rights Act, see section 42-1101.

Annotations

State Employees Retirement Act sustained as constitutional. *Gossman v. State Employees Retirement System*, 177 Neb. 326, 129 N.W.2d 97 (1964).

84-1302. State Employees Retirement System; established; operative date; official name; acceptance of contributions.

(1) An employees retirement system is hereby established for the purpose of providing a retirement annuity or other benefits for employees as provided by the State Employees Retirement Act and sections 84-1332 and 84-1333. The retirement system so created shall begin operation January 1, 1964. It shall be known as the State Employees Retirement System of the

State of Nebraska and by such name shall transact all business and hold all cash and other property as provided in such sections.

(2) The retirement system shall not accept as contributions any money from members or the state except the following:

- (a) Mandatory contributions established by sections 84-1308 and 84-1309;
- (b) Money that is a repayment of refunded contributions made pursuant to section 84-1322;
- (c) Contributions for military service credit made pursuant to section 84-1325;
- (d) Actuarially required contributions pursuant to subdivision (4)(b) of section 84-1319;
- (e) Trustee-to-trustee transfers pursuant to section 84-1313.01; or
- (f) Corrections ordered by the board pursuant to section 84-1305.02.

Source: Laws 1963, c. 532, § 2, p. 1668; Laws 1991, LB 549, § 61; Laws 2003, LB 451, § 24; Laws 2009, LB188, § 9.

84-1305. Retirement board; duties.

The general administration of the retirement system shall be vested in the retirement board. The board shall adopt and promulgate rules and regulations to carry out the State Employees Retirement Act. The board shall maintain records and may employ any assistance as may be necessary to carry out the act.

Source: Laws 1963, c. 532, § 5, p. 1669; Laws 1969, c. 584, § 117, p. 2421; Laws 1973, LB 498, § 2; Laws 1984, LB 751, § 2; Laws 1991, LB 549, § 62; Laws 1995, LB 369, § 8; Laws 1996, LB 847, § 42.

84-1305.01. Records; employer education program.

(1) The director of the Nebraska Public Employees Retirement Systems shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the State Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Source: Laws 1991, LB 549, § 69; Laws 1998, LB 1191, § 70; Laws 2000, LB 1192, § 23; Laws 2005, LB 503, § 14.

84-1305.02. Retirement board; power to adjust contributions and benefits.

(1) If the board determines that the retirement system has previously received contributions or distributed benefits which for any reason are not in accordance with the statutory provisions of the State Employees Retirement Act, the board shall refund contributions, require additional contributions, adjust benefits, credit dividend amounts, or require repayment of benefits paid. In the event of an overpayment of a benefit, the board may,

in addition to other remedies, offset future benefit payments by the amount of the prior overpayment, together with regular interest or interest credits, whichever is appropriate, thereon. In the event of an underpayment of a benefit, the board shall immediately make payment equal to the deficit amount plus regular interest or interest credits, whichever is appropriate.

(2) The board shall adopt and promulgate rules and regulations implementing this section, which shall include, but not be limited to, the following: (a) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (b) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment of contributions or benefits; and (c) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment of contributions or benefits.

Source: Laws 1996, LB 1076, § 41; Laws 2002, LB 687, § 19; Laws 2006, LB 1019, § 15.

84-1307. Retirement system; membership; requirements; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.

(1) The membership of the retirement system shall be composed of all persons who are or were employed by the State of Nebraska and who maintain an account balance with the retirement system.

(2) The following employees of the State of Nebraska are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment; and (b) all permanent part-time employees who have attained the age of twenty years may exercise the option to begin participation in the retirement system. An employee who exercises the option to begin participation in the retirement system pursuant to this section shall remain in the retirement system until his or her termination of employment or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee shall be authorized to participate in the retirement system provided for in the State Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4) For purposes of this section, (a) permanent full-time employees includes employees of the Legislature or Legislative Council who work one-half or more of the regularly scheduled hours during each pay period of the legislative session and (b) permanent part-time employees includes employees of the Legislature or Legislative Council who work less than one-half of the regularly scheduled hours during each pay period of the legislative session.

(5) Within the first one hundred eighty days of employment, a full-time employee may apply to the board for vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned. The board may adopt and promulgate rules and regulations governing the assessment and granting of vesting credit.

(6) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in

another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public employment system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(7) State agencies shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Source: Laws 1963, c. 532, § 7, p. 1670; Laws 1969, c. 842, § 1, p. 3177; Laws 1973, LB 492, § 1; Laws 1983, LB 219, § 1; Laws 1986, LB 325, § 16; Laws 1986, LB 311, § 30; Laws 1990, LB 834, § 1; Laws 1995, LB 501, § 11; Laws 1996, LB 1076, § 38; Laws 1997, LB 624, § 36; Laws 1998, LB 1191, § 71; Laws 1999, LB 703, § 21; Laws 2000, LB 1192, § 24; Laws 2002, LB 407, § 55; Laws 2002, LB 687, § 20; Laws 2004, LB 1097, § 33; Laws 2006, LB 366, § 8; Laws 2008, LB1147, § 13; Laws 2009, LB188, § 10; Laws 2010, LB950, § 21.

84-1308. Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.

(1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to four and eight-tenths percent of his or her monthly compensation. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

(2) The employer shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction through a reduction in the cash compensation of the employee. Employee contributions picked up shall be treated for all purposes of the State Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Source: Laws 1963, c. 532, § 8, p. 1670; Laws 1967, c. 617, § 3, p. 2070; Laws 1969, c. 584, § 118, p. 2421; Laws 1981, LB 459, § 6; Laws 1984, LB 218, § 5; Laws 1984, LB 751, § 3; Laws 1991, LB 549, § 63; Laws 1995, LB 574, § 85; Laws 1998, LB 1191, § 72; Laws 2001, LB 408, § 25; Laws 2006, LB 366, § 9.

84-1309. State Employees Retirement Fund; established; amounts credited; disbursements.

(1) There is hereby established in the state treasury a special fund to be known as the State Employees Retirement Fund to consist of such funds as the Legislature shall from time to time appropriate. The Director of Administrative Services shall credit an amount each month to the State Employees Retirement Fund equal to one hundred fifty-six percent of the amounts deducted, in accordance with section 84-1308, from the compensation of employees who are paid from funds appropriated from the General Fund.

(2) The Director of Administrative Services shall credit an amount each month to the State Employees Retirement Fund from the funds of each department with at least one

employee who is a member of the retirement system for a sum equal to one hundred fifty-six percent of the amounts deducted, in accordance with section 84-1308, from the compensation of employees who are paid from any funds other than funds appropriated from the General Fund.

(3) The Director of Administrative Services shall credit an amount each month to the State Employees Retirement Fund for prior service benefits. After receiving the annual report required by section 84-1315, the Legislature may make such adjustments in the funding of prior service benefits as necessary to keep the plan sound. The contribution for prior service purposes shall cease when the prior service obligation is properly funded.

(4) The State Treasurer shall be the custodian of the funds and securities of the retirement system and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. The State Treasurer shall transmit monthly to the board a detailed statement showing all credits to and disbursements from the fund. He or she shall disburse money from the fund only on warrants issued by the Director of Administrative Services upon vouchers signed by a person authorized by the retirement board.

Source: Laws 1963, c. 532, § 9, p. 1671; Laws 1967, c. 619, § 1, p. 2074; Laws 1969, c. 584, § 119, p. 2422; Laws 1971, LB 476, § 1; Laws 1971, LB 987, § 34; Laws 1981, LB 459, § 7; Laws 1984, LB 751, § 4; Laws 1991, LB 549, § 64; Laws 1997, LB 623, § 41.

84-1309.01. Board; provide benefit liability information; verify investments.

The board shall provide benefit liability information and other assistance to the Nebraska Investment Council for the establishment of policy portfolio objectives for the investing and reinvesting of the assets of the retirement system. The board shall verify that the investments of the assets of the retirement system by the council and the state investment officer are invested and reinvested for the exclusive purposes of providing benefits to members and members' beneficiaries and that the assets of the retirement system are not invested with the sole or primary investment objective of economic development or social purposes or objectives. Such verification shall be included in the written plan of action pursuant to subsection (3) of section 84-1503.

Source: Laws 1984, LB 653, § 1; Laws 1996, LB 847, § 43; Laws 2005, LB 503, § 15.

84-1309.02. Cash balance benefit; election; effect; administrative services agreements; authorized.

(1) It is the intent of the Legislature that, in order to improve the competitiveness of the retirement plan for state employees, a cash balance benefit shall be added to the State Employees Retirement Act on and after January 1, 2003. Each member who is employed and participating in the retirement system prior to January 1, 2003, may either elect to continue participation in the defined contribution benefit as provided in the act prior to January 1, 2003, or elect to participate in the cash balance benefit as set forth in this section. The member shall make the election prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008. If no election is made prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, the member shall be treated as though he or she elected to continue participating in the defined contribution benefit as provided in the act prior to January 1, 2003. Members who elect to participate in the cash balance benefit on or after November 1, 2007, but before January 1, 2008, shall commence participation in the cash balance benefit on January 1, 2008. Any member who made the election prior to January 1, 2003, does not have to reelect the cash balance benefit on or after November 1, 2007, but before January 1, 2008. A member employed and participating in the retirement system prior to January 1, 2003, who terminates

employment on or after January 1, 2003, and returns to employment prior to having a five-year break in service shall participate in the cash balance benefit as set forth in this section.

(2) For a member employed and participating in the retirement system beginning on and after January 1, 2003, or a member employed and participating in the retirement system on January 1, 2003, who, prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, elects to convert his or her employee and employer accounts to the cash balance benefit:

(a) The employee cash balance account shall, at any time, be equal to the following:

(i) The initial employee account balance, if any, transferred from the defined contribution plan account described in section 84-1310; plus

(ii) Employee contribution credits deposited in accordance with section 84-1308; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319;

and

(b) The employer cash balance account shall, at any time, be equal to the following:

(i) The initial employer account balance, if any, transferred from the defined contribution plan account described in section 84-1311; plus

(ii) Employer contribution credits deposited in accordance with section 84-1309; plus

(iii) Interest credits credited in accordance with subdivision (18) of section 84-1301; plus

(iv) Dividend amounts credited in accordance with subdivision (4)(c) of section 84-1319.

(3) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees. The board may develop a schedule for the allocation of the administrative services agreements costs for accounting or record-keeping services and may assess the costs so that each member pays a reasonable fee as determined by the board.

Source: Laws 2002, LB 687, § 21; Laws 2003, LB 451, § 25; Laws 2005, LB 364, § 17; Laws 2006, LB 366, § 10; Laws 2006, LB 1019, § 16; Laws 2007, LB328, § 7; Laws 2009, LB188, § 11; Laws 2010, LB950, § 22.

84-1310. Defined contribution benefit; employee account.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, a member's share of the fund arising from the compensation deductions made in accordance with section 84-1308 shall be known as his or her employee account. Each year commencing January 1, 1975, and ending December 31, 1984, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred percent of his or her employee account as of the next preceding January 1 increased by any regular interest earned and any amounts deducted from the member's compensation since the next preceding January 1 in accordance with the provisions of section 84-1308. On and after January 1, 1985, the employee account shall be equal to the sum of the stable return account, the equities account, and any assets of additional accounts created by the board pursuant to section 84-1310.01.

Source: Laws 1963, c. 532, § 10, p. 1671; Laws 1969, c. 842, § 2, p. 3178; Laws 1974, LB 905, § 9; Laws 1983, LB 313, § 3; Laws 1984, LB 751, § 5; Laws 1991, LB 549, § 65; Laws 1994, LB 833, § 46; Laws 2002, LB 687, § 22.

84-1310.01. Defined contribution benefit; employee account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options. Such investment options shall include, but not be limited to, the following:

(a) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

(b) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

(c) An equities account which shall be invested by or under the direction of the state investment officer in equities;

(d) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

(e) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

(f) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments;

(g) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(h) Beginning on July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (b) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement

shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Source: Laws 1984, LB 751, § 11; Laws 1991, LB 549, § 66; Laws 1994, LB 833, § 47; Laws 1996, LB 847, § 44; Laws 1999, LB 703, § 22; Laws 2000, LB 1200, § 5; Laws 2001, LB 408, § 26; Laws 2002, LB 407, § 56; Laws 2002, LB 687, § 23; Laws 2005, LB 503, § 16; Laws 2008, LB1147, § 14; Laws 2010, LB950, § 23.

84-1311. Defined contribution benefit; employer account; investment.

(1) For a member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, a member's share of the fund arising from the state contributions made in accordance with section 84-1309 shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred four percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred four percent of the amounts deducted from the member's compensation for the first nine months of the year and one hundred fifty-six percent of the amount so deducted for the final three months of the year in accordance with section 84-1308. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty-six percent of any amounts deducted from the member's compensation since the next preceding January 1 in accordance with section 84-1308. The member's employer account shall be increased by any interest allocated under the provisions of the guaranteed investment contract and any gains on investments and reduced by any losses on investments, any expense charges under the guaranteed investment contract or other investments, and any expense charges incurred in connection with administering the retirement system in excess of those provided for in section 84-1321.01, except that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with section 84-1321.01. On and after July 1, 1999, the employer account shall be equal to the sum of the assets of the accounts created by the board pursuant to section 84-1311.03.

(2) On and after January 1, 1997, and until July 1, 1999, the state investment officer shall invest the employer account, and, after July 1, 1999, upon maturity, the state investment officer shall invest the employer account funds which have been invested in guaranteed investment contracts prior to January 1, 1997. On and after July 1, 1999, the employer account shall be invested pursuant to section 84-1311.03. The state investment officer shall invest or reinvest the funds in securities and investments the nature of which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and if the state investment officer has special skills or is appointed on the basis of representations of special skills or expertise, he or she is under a duty to use such skills.

Source: Laws 1963, c. 532, § 11, p. 1672; Laws 1971, LB 987, § 35; Laws 1973, LB 498, § 3; Laws 1981, LB 459, § 8; Laws 1983, LB 313, § 4; Laws 1984, LB 751, § 6; Laws 1986, LB 311, § 31; Laws 1991, LB 549, § 67; Laws 1994, LB 833, § 48; Laws 1996, LB 847, § 45; Laws 1999, LB 687, § 5; Laws 1999, LB 703, § 23; Laws 2002, LB 687, § 24.

84-1311.03. Defined contribution benefit; employer account; investment options; procedures; administration.

(1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options. Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 84-1310.01. If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(d) of section 84-1310.01. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member under subdivision (1) of section 84-1323 or his or her beneficiary may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Source: Laws 1999, LB 687, § 4; Laws 2000, LB 1200, § 6; Laws 2001, LB 408, § 27; Laws 2002, LB 407, § 57; Laws 2002, LB 687, § 25; Laws 2004, LB 1097, § 34; Laws 2005, LB 503, § 17; Laws 2008, LB1147, § 15; Laws 2010, LB950, § 24.

84-1312. Direct rollover; terms, defined; distributee; powers; board; duties.

(1) For purposes of this section and section 84-1313:

(a) Distributee means the member, the member's surviving spouse, or the member's former spouse who is an alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code;

(b) Direct rollover means a payment by the retirement system to the eligible retirement plan or plans specified by the distributee;

(c) Eligible retirement plan means (i) an individual retirement account described in section 408(a) of the Internal Revenue Code, (ii) an individual retirement annuity described in section 408(b) of the code, except for an endowment contract, (iii) a qualified plan described in section 401(a) of the code, (iv) an annuity plan described in section 403(a) or 403(b) of the code, and (v) a plan described in section 457(b) of the code and maintained by a governmental employer. For eligible rollover distributions to a surviving spouse, an eligible retirement plan means subdivisions (1)(c)(i) through (iv) of this section; and

(d) Eligible rollover distribution means any distribution to a distributee of all or any portion of the balance to the credit of the distributee in the plan, except such term shall not include any distribution which is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life of the distributee or joint lives of the distributee and the distributee's beneficiary or for the specified period of ten years or more and shall not include any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code.

(2) For distributions made to a distributee on or after January 1, 1993, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee.

(3) The board shall adopt and promulgate rules and regulations for direct rollover procedures which are consistent with section 401(a)(31) of the Internal Revenue Code and which include, but are not limited to, the form and time of direct rollover distributions.

Source: Laws 1996, LB 847, § 48; Laws 2002, LB 407, § 58.

84-1313. Retirement system; accept payments and rollovers; limitations; board; duties.

(1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 84-1322 or 84-1325 if the contributions do not exceed the amount of payment authorized to be paid by the member pursuant to section 84-1322 or 84-1325 and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified plan under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified plan under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified plan, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 84-1322 or 84-1325.

(3) Under the same conditions as provided in subsection (1) of this section, the retirement system may accept eligible rollover distributions from (a) an annuity contract described in section 403(b) of the Internal Revenue Code, (b) a plan described in section 457(b) of the code which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or (c) the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over and would otherwise be includible in gross income. Amounts accepted pursuant to this subsection shall be deposited as all other payments under this section.

(4) The retirement system may accept direct rollover distributions made from a qualified plan pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(5) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Source: Laws 1996, LB 847, § 49; Laws 1997, LB 624, § 37; Laws 2002, LB 407, § 59.

84-1313.01. Retirement system; accept transfers; limitations; how treated.

QThe retirement system may accept as payment for withdrawn amounts made pursuant to the State Employees Retirement Act a direct trustee-to-trustee transfer from (1) an eligible tax-sheltered annuity plan as described in section 403(b) of the Internal Revenue Code or (2) an eligible deferred compensation plan as described in section 457(b) of the code on behalf of a member who is making payments for such amounts. The amount transferred shall not exceed the amount withdrawn and such transferred amount shall qualify as a purchase of permissive service credit by the member as defined in section 415 of the code.

Source: Laws 2002, LB 407, § 61.

84-1313.02. Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.

The retirement system may transfer deferred compensation by a member as a plan-to-plan transfer to the deferred compensation plan authorized under section 84-1504 if the following conditions are met:

- (1) The member has an amount of compensation deferred immediately after the transfer at least equal to the amount of compensation deferred immediately before the transfer;
- (2) The account of the member is valued as of the date of final account value;
- (3) The member is not eligible for additional annual deferrals in the receiving plan unless the member is performing services for the state; and
- (4) The deferred compensation plan provides for such transfers.

Source: Laws 2009, LB188, § 12.

84-1314. State Employees Defined Contribution Retirement Expense Fund; State Employees Cash Balance Retirement Expense Fund; created; use; investment.

(1) The State Employees Defined Contribution Retirement Expense Fund is created. The fund shall be credited with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Employees Cash Balance Retirement Expense Fund is created. The fund shall be credited with money forfeited pursuant to section 84-1321.01 and with money from the retirement system assets and income sufficient to pay the pro rata share of administrative expenses incurred as directed by the board for the proper administration of the State Employees Retirement Act and necessary in connection with the administration and operation of the retirement system, except as provided in sections 84-1309.02, 84-1310.01, and 84-1311.03. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 623, § 40; Laws 2000, LB 1200, § 7; Laws 2001, LB 408, § 28; Laws 2003, LB 451, § 26; Laws 2005, LB 364, § 18; Laws 2007, LB328, § 8; Laws 2010, LB950, § 25.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

84-1315. Auditor of Public Accounts; annual audit of retirement system; annual report to Clerk of the Legislature.

It shall be the duty of the Auditor of Public Accounts to make an annual audit of the retirement system and an annual report to the retirement board and to the Clerk of the Legislature of the condition of the retirement system. Each member of the Legislature shall receive a copy of the report required by this section by making a request for such report to either the Auditor of Public Accounts or the retirement board.

Source: Laws 1963, c. 532, § 15, p. 1673; Laws 1971, LB 987, § 37; Laws 1972, LB 1072, § 1; Laws 1979, LB 322, § 75; Laws 1988, LB 1169, § 2.

84-1316. Retirement system; sue and be sued; actions; representation by Attorney General.

The retirement system may sue or be sued in the name of the system, and in all actions brought by or against it, the system shall be represented by the Attorney General.

Source: Laws 1963, c. 532, § 16, p. 1673; Laws 1996, LB 847, § 46.

84-1317. Employees; retirement date; application for benefits; deferment of benefits; board; duties.

(1) Upon filing an application for benefits with the board, an employee may elect to retire after the attainment of age fifty-five or an employee may retire as a result of disability at any age.

(2) The member shall specify in the application for benefits the manner in which he or she wishes to receive the retirement benefit under the options provided by the State Employees Retirement Act. Payment under the application for benefits shall be made (a) for annuities, no sooner than the annuity start date, and (b) for other distributions, no sooner than the date of final account value.

(3) Payment of any benefit provided under the retirement system may not be deferred later than April 1 of the year following the year in which the employee has both attained at least age seventy and one-half years and terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

(4) The board shall make reasonable efforts to locate the member or the member's beneficiary and distribute benefits by the required beginning date as specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder. If the board is unable to make such a distribution, the benefit shall be distributed pursuant to the Uniform Disposition of Unclaimed Property Act and no amounts may be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

Source: Laws 1963, c. 532, § 17, p. 1673; Laws 1967, c. 619, § 2, p. 2075; Laws 1971, LB 360, § 1; Laws 1973, LB 498, § 4; Laws 1973, LB 55, § 1; Laws 1974, LB 740, § 2; Laws 1979, LB 391, § 7; Laws 1979, LB 161, § 3; Laws 1981, LB 288, § 1; Laws 1982, LB 287, § 5; Laws 1983, LB 604, § 25; Laws 1983, LB 219, § 2; Laws 1986, LB 325, § 17; Laws 1986, LB 311, § 32; Laws 1987, LB 296, § 4; Laws 1996, LB 1076, § 39; Laws 1997, LB 624, § 38; Laws 2003, LB 451, § 27; Laws 2009, LB188, § 13.

Cross References

Uniform Disposition of Unclaimed Property Act, see section 69-1329.

84-1318. Employees; benefits; retirement value; how computed.

The retirement value for any employee who retires under the provisions of section 84-1317 shall be (1) for participants in the defined contribution benefit, the sum of the employee's employee account and employer account as of the date of final account value and (2) for participants in the cash balance benefit, the benefit provided in section 84-1309.02 as of the date of final account value.

Source: Laws 1963, c. 532, § 18, p. 1674; Laws 2002, LB 687, § 26; Laws 2003, LB 451, § 28.

84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.

(1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made no earlier than the annuity start date, which shall be the actuarial equivalent of the retirement value as specified in section 84-1318 based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments except as provided in this section.

Except as provided in section 42-1107, at any time before the annuity start date, the retiring employee may choose to receive his or her annuity either in the form of an annuity as provided under subsection (4) of this section or any optional form that is determined acceptable by the board.

Except as provided in section 42-1107, in lieu of the future service retirement annuity, a retiring employee may receive a benefit not to exceed the amount in his or her employer and employee accounts as of the date of final account value payable in a lump sum and, if the employee chooses not to receive the entire amount in such accounts, an annuity equal to the actuarial equivalent of the remainder of the retirement value, and the employee may choose any form of such annuity as provided for by the board.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value as specified in section 84-1318 except as provided in this section.

The board shall provide to any state employee who is eligible for retirement, prior to his or her selecting any of the retirement options provided by this section, information on the federal and state income tax consequences of the various annuity or retirement benefit options.

(2) Except as provided in subsection (4) of this section, the monthly annuity income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the annuity start date which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on the date of purchase; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4)(a) The normal form of payment shall be a single life annuity with five-year certain, which is an annuity payable monthly during the remainder of the member's life with the provision that, in the event of his or her death before sixty monthly payments have been made, the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made in total. Such annuity shall be equal to the actuarial equivalent of the member cash balance account or the sum of the employee and employer accounts, whichever is applicable, as of the date of final account value. As a part of the annuity, the normal form of payment may include a two and one-half percent cost-of-living adjustment purchased by the member, if the member elects such a payment option.

Except as provided in section 42-1107, a member may elect a lump-sum distribution of his or her member cash balance account as of the date of final account value upon termination of service or retirement.

For a member employed and participating in the retirement system prior to January 1, 2003, who has elected to participate in the cash balance benefit pursuant to section 84-1309.02, or for a member employed and participating in the retirement system beginning on and after January 1, 2003, the balance of his or her member cash balance account as of the date of final account value shall be converted to an annuity using an interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit prior to January 1, 2003, or on or after November 1, 2007, but before January 1, 2008, pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefits Guarantee Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

(c) If the unfunded accrued actuarial liability under the entry age actuarial cost method is less than zero on an actuarial valuation date, and on the basis of all data in the possession of the

retirement board, including such mortality and other tables as are recommended by the actuary engaged by the retirement board and adopted by the retirement board, the retirement board may elect to pay a dividend to all members participating in the cash balance option in an amount that would not increase the actuarial contribution rate above ninety percent of the actual contribution rate. Dividends shall be credited to the employee cash balance account and the employer cash balance account based on the account balances on the actuarial valuation date. In the event a dividend is granted and paid after the actuarial valuation date, interest for the period from the actuarial valuation date until the dividend is actually paid shall be paid on the dividend amount. The interest rate shall be the interest credit rate earned on regular contributions.

(5) At the option of the retiring member, any lump sum or annuity provided under this section or section 84-1320 may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the retiring member may be made at any time prior to the commencement of the lump-sum or annuity payments.

Source: Laws 1963, c. 532, § 19, p. 1674; Laws 1973, LB 498, § 5; Laws 1983, LB 210, § 2; Laws 1984, LB 751, § 7; Laws 1986, LB 325, § 18; Laws 1986, LB 311, § 33; Laws 1987, LB 308, § 1; Laws 1987, LB 60, § 4; Laws 1991, LB 549, § 70; Laws 1992, LB 543, § 2; Laws 1994, LB 1306, § 8; Laws 1996, LB 1273, § 31; Laws 2002, LB 687, § 27; Laws 2003, LB 451, § 29; Laws 2006, LB 1019, § 17; Laws 2007, LB328, § 9; Laws 2009, LB188, § 14.

84-1319.01. State Equal Retirement Benefit Fund; created; use.

There is hereby created the State Equal Retirement Benefit Fund, to be administered by the board. Each state agency participating in the retirement system shall make a contribution at least once a year to the fund, in addition to any other retirement contributions. Such contribution shall be in an amount determined by the board to provide all similarly situated male and female members of the retirement system with equal benefits pursuant to subsection (2) of section 84-1319 and to provide for direct expenses incurred in administering the fund. The amount contributed to the fund by each state agency participating in the retirement system shall be proportionate to the total amount such agency contributes to the system for retirement benefits.

Source: Laws 1983, LB 210, § 3; Laws 1998, LB 1191, § 73.

84-1320. Prior service retirement benefits; when payable; how computed; deferment; reduction in amount, when.

The prior service retirement benefit shall be a straight life annuity, payable monthly with the first payment made as of the annuity start date, in an amount determined in accordance with the State Employees Retirement Act, except that the payments may be made less often than monthly if the monthly payment would be less than fifteen dollars. At the option of the member, the first payment may be deferred to commence at any time, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such deferred benefit shall be the actuarial equivalent, based on factors designated by the board, of the prior service benefit. In the event of retirement before age sixty-five under section 84-1317, the amount of the prior service annuity shall be reduced in accordance with the

principles of actuarial equivalence based on factors designated by the board. Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under section 84-1317, who has accrued a prior service retirement benefit as defined in the act, and who has been continuously employed by the state for ten or more years immediately prior to termination shall receive the prior service retirement benefit determined in accordance with the act upon attaining age sixty-five. At the option of the terminating member, such annuity may commence as of the first of the month at any time after such member attains the age of fifty-five or may be deferred, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Any terminating employee who forfeits a vested future service retirement benefit by withdrawing his or her employee account shall also forfeit any vested prior service retirement benefit to which he or she would otherwise be entitled.

Source: Laws 1963, c. 532, § 20, p. 1675; Laws 1973, LB 479, § 1; Laws 1976, LB 643, § 1; Laws 1984, LB 751, § 8; Laws 1986, LB 325, § 19; Laws 1986, LB 311, § 34; Laws 1987, LB 308, § 2; Laws 1994, LB 833, § 51; Laws 2003, LB 451, § 30.

84-1321. Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.

(1) Except as provided in section 42-1107, upon termination of employment before becoming eligible for retirement under section 84-1317, a member may, upon application to the board, receive:

(a) If not vested, a termination benefit equal to the amount in his or her employee account or member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009; or

(b) If vested, a termination benefit equal to (i) the amount of his or her member cash balance account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years or (ii)(A) the amount in his or her employee account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years plus (B) the amount of his or her employer account as of the date of final account value payable in a lump sum or an annuity with the lump-sum or first annuity payment made at any time after termination but no later than April 1 of the year following the year in which the member attains the age of seventy and one-half years. For purposes of subdivision (1)(b) of this section, for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009.

The member cash balance account or employer and employee accounts of a terminating member shall be retained by the board, and the termination benefit shall be deferred until a valid application for benefits has been received.

(2) At the option of the terminating member, any lump sum of the vested portion of the employer account or member cash balance account or any annuity provided under subsection (1) of this section shall commence as of the first of the month at any time after such member has terminated his or her employment with the state or may be deferred, except that no benefit shall be deferred later than April 1 of the year following the year in which the employee has both attained at least seventy and one-half years of age and has terminated his or her employment with the state, except that for members participating in the defined contribution benefit, no distribution is required to be made for the plan year commencing January 1, 2009, through December 31, 2009. Such election by the terminating member shall be made at any time prior to the commencement of the lump-sum or annuity payments.

(3) Members of the retirement system shall be vested after a total of three years of participation in the system as a member pursuant to section 84-1307, including vesting credit. If an employee retires pursuant to section 84-1317, such an employee shall be fully vested in the retirement system.

Source: Laws 1963, c. 532, § 21, p. 1675; Laws 1973, LB 498, § 6; Laws 1975, LB 56, § 3; Laws 1983, LB 604, § 26; Laws 1983, LB 219, § 3; Laws 1984, LB 751, § 9; Laws 1986, LB 325, § 20; Laws 1986, LB 311, § 35; Laws 1987, LB 308, § 3; Laws 1987, LB 60, § 5; Laws 1991, LB 549, § 71; Laws 1993, LB 417, § 7; Laws 1994, LB 1306, § 9; Laws 1996, LB 1076, § 40; Laws 1996, LB 1273, § 32; Laws 1997, LB 624, § 39; Laws 2002, LB 687, § 28; Laws 2003, LB 451, § 31; Laws 2006, LB 366, § 11; Laws 2009, LB188, § 15.

84-1321.01. Termination of employment; account forfeited; when; State Employer Retirement Expense Fund; created; investment.

(1) For a member who has terminated employment and is not vested, the balance of the member's employer account or employer cash balance account shall be forfeited. The forfeited account shall be credited to the State Employees Retirement Fund and shall first be used to meet the expense charges incurred by the retirement board in connection with administering the retirement system, which charges shall be credited to the State Employees Defined Contribution Retirement Expense Fund, if the member participated in the defined contribution option, or to the State Employees Cash Balance Retirement Expense Fund, if the member participated in the cash balance option, and the remainder, if any, shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts. No forfeited amounts shall be applied to increase the benefits any member would otherwise receive under the State Employees Retirement Act.

(2) If a member ceases to be an employee due to the termination of his or her employment by the state and a grievance or other appeal of the termination is filed, transactions involving forfeiture of his or her employer account or employer cash balance account shall be suspended pending the final outcome of the grievance or other appeal.

(3) The State Employer Retirement Expense Fund is created. The fund shall be administered by the Public Employees Retirement Board. The fund shall be established and maintained separate from any funds held in trust for the benefit of members under the retirement system. The fund shall be used to meet expenses of the State Employees Retirement System of the State of Nebraska whether such expenses are incurred in administering the member's employer account or in administering the member's employer cash balance account when the funds available in the State Employees Defined Contribution Retirement Expense Fund or State Employees Cash Balance Retirement Expense Fund make such use reasonably necessary.

(4) The director of the Nebraska Public Employees Retirement Systems shall certify to the Accounting Administrator of the Department of Administrative Services when accumulated employer account forfeiture funds are available to reduce the state contribution which would otherwise be required to fund future service retirement benefits or to restore employer accounts or employer cash balance accounts referred to in subsection (1) of this section. Following such certification, the Accounting Administrator shall transfer the amount reduced from the state contribution from the Imprest Payroll Distributive Fund to the State Employer Retirement Expense Fund. Expenses incurred as a result of the state depositing amounts into the State Employer Retirement Expense Fund shall be deducted prior to any additional expenses being allocated. Any remaining amount shall be allocated in accordance with subsection (3) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 624, § 40; Laws 2000, LB 1200, § 8; Laws 2002, LB 687, § 29; Laws 2003, LB 451, § 32; Laws 2005, LB 364, § 19; Laws 2007, LB328, § 10; Laws 2010, LB950, § 26.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

84-1322. Employees; reemployment; status; how treated.

(1) Except as otherwise provided in this section, a member of the retirement system who has a five-year break in service shall upon reemployment be considered a new employee with respect to the State Employees Retirement Act and shall not receive credit for service prior to his or her reemployment date.

(2)(a) A member who ceases to be an employee before becoming eligible for retirement under section 84-1317 and again becomes a permanent full-time or permanent part-time state employee prior to having a five-year break in service shall immediately be reenrolled in the retirement system and resume making contributions. For purposes of vesting employer contributions made prior to and after reentry into the retirement system under subsection (3) of section 84-1321, years of participation include years of participation prior to such employee's original termination. For a member who is not vested and has received a termination benefit pursuant to section 84-1321, the years of participation prior to such employee's original termination shall be limited in a ratio equal to the amount that the member repays divided by the termination benefit withdrawn pursuant to section 84-1321. This subsection shall apply whether or not the person was a state employee on April 20, 1986, or July 17, 1986.

(b) The reemployed member may repay the value of, or a portion of the value of, the termination benefit withdrawn pursuant to section 84-1321. A reemployed member who elects to repay all or a portion of the value of the termination benefit withdrawn pursuant to section 84-1321 shall repay the actual earnings on such value. Repayment of the termination benefit shall commence within three years after reemployment and shall be completed within five years after reemployment or prior to termination of employment, whichever occurs first, through (i) direct payments to the retirement system, (ii) installment payments made pursuant to a binding irrevocable payroll deduction authorization made by the member, (iii) an eligible rollover distribution as provided under the Internal Revenue Code, or (iv) a direct rollover distribution made in accordance with section 401(a)(31) of the Internal Revenue Code.

(c) The value of the member's forfeited employer account or employer cash balance account, as of the date of forfeiture, shall be restored in a ratio equal to the amount of the

benefit that the member has repaid divided by the termination benefit received. The employer account or employer cash balance account shall be restored first out of the current forfeiture amounts and then by additional employer contributions.

(3) For a member who retired pursuant to section 84-1317 and becomes a permanent full-time employee or permanent part-time employee with the state more than one hundred twenty days after his or her retirement date, the member shall continue receiving retirement benefits. Such a retired member or a retired member who received a lump-sum distribution of his or her benefit shall be considered a new employee as of the date of reemployment and shall not receive credit for any service prior to the member's retirement for purposes of the act.

(4) A member who is reinstated as an employee pursuant to a grievance or appeal of his or her termination by the state shall be a member upon reemployment and shall not be considered to have a break in service for such period of time that the grievance or appeal was pending.

Source: Laws 1963, c. 532, § 22, p. 1676; Laws 1986, LB 325, § 21; Laws 1986, LB 311, § 36; Laws 1991, LB 549, § 72; Laws 1997, LB 624, § 41; Laws 1999, LB 703, § 24; Laws 2002, LB 407, § 60; Laws 2002, LB 687, § 30; Laws 2003, LB 451, § 33; Laws 2004, LB 1097, § 35; Laws 2007, LB328, § 11; Laws 2008, LB1147, § 16.

84-1323. Employees; death before retirement; death benefit; amount.

In the event of the death before his or her retirement date of any employee who is a member of the system, the death benefit shall be equal to (1) for participants in the defined contribution benefit, the total of the employee account and the employer account and (2) for participants in the cash balance benefit, the benefit provided in section 84-1309.02. The death benefit shall be paid to the member's beneficiary, to an alternate payee pursuant to a qualified domestic relations order as provided in section 42-1107, or to the member's estate if there are no designated beneficiaries. If the beneficiary is not the member's surviving spouse, the death benefit shall be paid as a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death. If the sole primary beneficiary is the member's surviving spouse, the surviving spouse may elect to receive an annuity calculated as if the member retired and selected a one-hundred-percent joint and survivor annuity effective on the annuity purchase date. If the surviving spouse does not elect the annuity option within one hundred eighty days after the death of the member, the surviving spouse shall receive a lump-sum payment or payments, except that the entire account must be distributed by the fifth anniversary of the member's death.

Source: Laws 1963, c. 532, § 23, p. 1676; Laws 1973, LB 498, § 7; Laws 1984, LB 751, § 10; Laws 1994, LB 1306, § 10; Laws 1996, LB 1273, § 33; Laws 2002, LB 687, § 31; Laws 2003, LB 451, § 34; Laws 2004, LB 1097, § 36; Laws 2009, LB188, § 16.

84-1323.01. Employee; retirement; disability; medical examination.

(1) Any member who is an employee, disregarding the length of service, may be retired as a result of disability either upon the member's own application or upon the application of the member's employer or any person acting in the member's behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician legally authorized to practice medicine under the laws of the state in which he or she practices, such physician to be selected by the retirement board, and the physician shall certify to the board that the member suffers from an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which began while the member was a participant in

the plan and which can be expected to result in death or to be of long-continued and indefinite duration and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of fifty-five to undergo a medical examination at the expense of the board once each year. If any disability beneficiary refuses to undergo such an examination, the disability retirement benefit may be discontinued by the board.

Source: Laws 1973, LB 498, § 8; Laws 1993, LB 417, § 8; Laws 1997, LB 623, § 44; Laws 1999, LB 703, § 25; Laws 2001, LB 408, § 29; Laws 2010, LB950, § 27.

84-1324. Retirement benefits; exemption from legal process; exception.

All annuities or benefits which any person shall be entitled to receive under the State Employees Retirement Act shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable except to the extent that such annuities or benefits are subject to a qualified domestic relations order under the Spousal Pension Rights Act.

Source: Laws 1963, c. 532, § 24, p. 1676; Laws 1986, LB 311, § 37; Laws 1989, LB 506, § 20; Laws 1996, LB 1273, § 34.

Cross References

Spousal Pension Rights Act, see section 42-1101.

84-1325. Employees; military service; credit; payments.

(1) Any employee who, while an employee, entered into and served in the armed forces of the United States and who within ninety days after honorable discharge or honorable separation from active duty again became an employee shall be credited, for the purposes of the provisions of section 84-1317, with all the time actually served in the armed forces as if such person had been an employee throughout such service in the armed forces pursuant to the terms and conditions of subsection (2) of this section.

(2) Under such rules and regulations as the retirement board adopts and promulgates, any employee who is reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the retirement system an amount equal to the sum of all deductions which would have been made from the employee's compensation during such period of military service. Payment shall be made within the period required by law, not to exceed five years. To the extent that payment is made, (a) the employee shall be treated as not having incurred a break in service by reason of his or her period of military service, (b) the period of military service shall be credited for the purposes of determining the nonforfeitability of the member's accrued benefits and the accrual of benefits under the plan, and (c) the employer shall allocate the amount of employer contributions to the member's employer account in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of member and employer contributions under this subsection, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, the average rate the member received during the twelve-month period immediately preceding military service.

(3) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to this section, and the contributions so picked up

shall be treated as employer contributions in the same manner as contributions picked up under subsection (1) of section 84-1308.

Source: Laws 1963, c. 532, § 25, p. 1676; Laws 1994, LB 833, § 52; Laws 1996, LB 847, § 47; Laws 1999, LB 703, § 26; Laws 2004, LB 1097, § 37.

84-1326. Retirement system; membership status; not lost while employment continues.

Persons who have become members of the retirement system shall not thereafter lose their status as members while they remain employees.

Source: Laws 1963, c. 532, § 26, p. 1676.

84-1326.01. Retirement system; member; employee status changed to behavioral health region or community mental health center; benefits retained; application; immediate participation; when.

(1) Any state employee who is a member of the State Employees Retirement System of the State of Nebraska and whose status is changed by the Legislature to that of an employee of a behavioral health region or an employee of a community mental health center shall, upon application to the Public Employees Retirement Board, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have accrued to the date of transfer. Such employee may not withdraw the amount in his employee account prior to his retirement and still receive such vested benefits.

(2) Any employee shall be eligible for immediate participation in the retirement program available to the employee in the political subdivision of the State of Nebraska to which such employee is transferred with no minimum period of service required, if the minimum age requirement and length of service, with either the State of Nebraska or the political subdivision, total the requirements of the retirement system to which the employee is transferred.

Source: Laws 1975, LB 189, § 9; Laws 1976, LB 794, § 1; Laws 2004, LB 1083, § 144.

84-1327. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.

Any person who, knowing it to be false or fraudulent, presents or causes to be presented a false or fraudulent claim or benefit application, any false or fraudulent proof in support of such a claim or benefit, or false or fraudulent information which would affect a future claim or benefit application to be paid under the retirement system for the purpose of defrauding or attempting to defraud the retirement system shall be guilty of a Class II misdemeanor. The retirement board shall deny any benefits that it determines are based on false or fraudulent information and shall have a cause of action against the member to recover any benefits already paid on the basis of such information.

Source: Laws 1963, c. 532, § 27, p. 1676; Laws 1977, LB 39, § 317; Laws 1998, LB 1191, § 76.

84-1328. Retirement benefits; declared additional to benefits under federal Social Security Act.

The retirement allowances and benefits shall be in addition to benefits and allowances payable under the provisions of the federal Social Security Act.

Source: Laws 1963, c. 532, § 28, p. 1677.

Cross References

For other provisions relating to social security, see Chapter 68, article 6.

84-1329. Limitation of actions.

Every claim and demand under the State Employees Retirement Act and against the retirement system or the retirement board shall be forever barred unless the action is brought within two years of the time at which the claim accrued.

Source: Laws 1996, LB 1076, § 42.

84-1329.04. Retirement system contributions, property, and rights; how treated.

All contributions to the retirement system, all property and rights purchased with the contributions, and all investment income attributable to the contributions, property, or rights shall be held in trust by the State of Nebraska for the exclusive benefit of members and their beneficiaries and shall only be used to pay benefits to such persons and to pay administrative expenses according to the provisions of the State Employees Retirement Act.

Source: Laws 1998, LB 1191, § 74.

84-1329.05. Termination of system or contributions; effect.

Upon termination or partial termination of the retirement system or upon complete discontinuance of contributions under the retirement system, the rights of all affected members to the amounts credited to the members' accounts shall be nonforfeitable.

Source: Laws 1998, LB 1191, § 75.

84-1330. Elected officials and employees having regular term; act, when operative.

The provisions of the State Employees Retirement Act pertaining to elected officials or other employees having a regular term of office shall be interpreted as to effectuate its general purpose and to take effect as soon as the same may become operative under the Constitution of the State of Nebraska.

Source: Laws 1963, c. 532, § 30, p. 1677; Laws 2009, LB188, § 17.

84-1330.01. State Employees Retirement Fund; elected officials and employees having a regular term; sections, when operative.

The provisions of sections 84-1309, 84-1317, and 84-1330.01 pertaining to elected officials or other employees having a regular term of office shall be so interpreted as to effectuate their general purpose and to take effect as soon as the same may become operative under the Constitution of the State of Nebraska.

Source: Laws 1967, c. 619, § 3, p. 2075.

84-1331. Act, how cited.

Sections 84-1301 to 84-1331 shall be known and may be cited as the State Employees Retirement Act.

Source: Laws 1963, c. 532, § 31, p. 1677; Laws 1984, LB 751, § 12; Laws 1991, LB 549, § 73; Laws 1994, LB 833, § 53; Laws 1995, LB 501, § 13; Laws 1996, LB 847, § 50; Laws 1996, LB 1076, § 43; Laws 1997, LB

623, § 45; Laws 1997, LB 624, § 42; Laws 1998, LB 1191, § 77; Laws 1999, LB 687, § 6; Laws 2002, LB 407, § 62; Laws 2002, LB 687, § 32; Laws 2009, LB188, § 18.

84-1332. City or county employee changed by Legislature to state employee; vesting of prior service retirement benefits; application; vested benefits.

(1) Any city or county employee who is a member under a city or county employees retirement system, including retirement systems authorized by section 23-1118, and whose status as a city or county employee is changed by the Legislature to that of a state employee shall, upon application to the Public Employees Retirement Board and to the city or county or to the county board of a county having a retirement system authorized by section 23-1118, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have been accrued to the date of transfer, except that the employee may withdraw the amount in his or her employee account prior to his or her retirement as provided in section 84-1321. Each employee's service as a city or county employee, after he or she has attained the minimum age required under the State Employees Retirement System of the State of Nebraska and has completed two years of service, shall be credited as though it were participation in the State Employees Retirement System of the State of Nebraska for purposes of calculating the termination benefits established by section 84-1321. Such service shall be counted as state service for purposes of calculating entitlement to retirement benefits under section 84-1319.

(2) Any city or county employee whose status as a city or county employee is or has been changed by the Legislature to that of a state employee shall be eligible for immediate participation in the State Employees Retirement System of the State of Nebraska with no minimum period of service required if the minimum age requirement of the State Employees Retirement System of the State of Nebraska is satisfied, or if the minimum age requirement is not satisfied on the date of transfer, the employee shall be eligible to participate at the date he or she satisfies the minimum age requirement.

Source: Laws 1973, LB 573, § 1; Laws 1983, LB 604, § 27; Laws 1984, LB 13, § 86; Laws 1986, LB 325, § 22; Laws 1986, LB 311, § 38; Laws 1987, LB 549, § 13.

84-1333. County employee changed by law to judge; vesting of prior service retirement benefits; vested benefits.

Any county employee who is a member under a county employees retirement system and whose status as a county employee is changed by the Legislature to that of a judge shall, upon application to the Public Employees Retirement Board and to the county, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have been accrued to the date of transfer, except that the employee may not withdraw the amount in his employee account prior to his retirement and still receive such vested benefits. Any such employee shall be eligible for immediate participation in the Nebraska Retirement Fund for Judges.

Source: Laws 1973, LB 573, § 2.

This page left intentionally blank.

ARTICLE 15

PUBLIC EMPLOYEES RETIREMENT BOARD

ARTICLE 15 – PUBLIC EMPLOYEES RETIREMENT BOARD

- 84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.
- 84-1502. Board; chairperson; secretary; election; meetings.
- 84-1503. Board; duties.
- 84-1503.02. Board, duties and responsibilities.
- 84-1503.03. Director; employ personnel; employees; duties.
- 84-1503.04. Internal auditor; duties and responsibilities.
- 84-1504. Deferred compensation; treatment.
- 84-1505. Deferred compensation; treatment; investment.
- 84-1506. Deferred compensation; availability and distribution of funds; Deferred Compensation Fund; created.
- 84-1506.01. Deferred Compensation Expense Fund; created; use; investment.
- 84-1507. Actuarial reports; statement of actuarial assumptions and methods; actuarial valuations and experience investigations; prepared; actuary; certified by Public Employees Retirement Board.
- 84-1509. Administrative services agreement; authorized.
- 84-1510. Administrative services agreement; terms.
- 84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.
- 84-1511.01. Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.
- 84-1512. Board; access to records; employer education program.
- 84-1513. Board; members; personal liability.

84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.

(1) The Public Employees Retirement Board is hereby established.

(2) Prior to January 1, 2005, the board shall consist of seven appointed members and the state investment officer as a nonvoting, ex officio member. Three of the appointed members shall be participants in the retirement systems administered by the board, one of the appointed members shall be a participant in such retirement systems who has retired, and three of the appointed members shall not be employees of the State of Nebraska or any of its political subdivisions. Appointments to such board shall be made by the Governor subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska. The three appointed members who are not employees of the State of Nebraska or any of its political subdivisions shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan. The members serving on March 27, 1997, shall serve for the remainder of their five-year terms which will be extended until the date on which the successor's appointment is effective. For members whose terms begin on January 1, 2000, one shall serve a three-year term and one shall serve a four-year term or until a successor has been appointed and qualified. For members whose terms begin on January 1, 2001, one shall serve a four-year term and two shall serve five-year terms, or until a successor has been appointed and qualified.

(3)(a) Beginning January 1, 2005, the board shall consist of eight appointed members as described in this subsection and the state investment officer as a nonvoting, ex officio member. Six of the appointed members shall be active or retired participants in the retirement systems

administered by the board, and two of the appointed members (i) shall not be an employee of the State of Nebraska or any of its political subdivisions and (ii) shall have at least ten years of experience in the management of a public or private organization or have at least five years of experience in the field of actuarial analysis or the administration of an employee benefit plan. On and after January 1, 2005, any person who is appointed to the board and who is not an employee of the State of Nebraska or any of its political subdivisions shall not own any funds which are administered by the board.

(b) On January 1, 2005, the six appointed members who are participants in the systems shall be as follows:

(i) Two of the appointed members shall be participants in the School Retirement System of the State of Nebraska and shall include one administrator and one teacher as provided in this subdivision. On January 1, 2005, the member of the board who had been a member of the School Retirement System of the State of Nebraska prior to such date shall continue in such position as the member representing the School Retirement System of the State of Nebraska until such member's term expires. A school administrator shall be appointed as a member of the board when the term of the first member of the board expires who was appointed prior to January 1, 2005, and who was not an employee of the State of Nebraska or any of its political subdivisions;

(ii) One of the appointed members shall be a participant in the Nebraska Judges Retirement System. On January 1, 2005, the member of the board who had been a member of the Nebraska Judges Retirement System prior to such date shall continue in such position as the member representing the Nebraska Judges Retirement System until such member's term expires;

(iii) One of the appointed members shall be a participant in the Nebraska State Patrol Retirement System. Such member's term shall begin on January 1, 2005;

(iv) One of the appointed members shall be a participant in the Retirement System for Nebraska Counties. On January 1, 2005, the member of the board who had been a member of the Retirement System for Nebraska Counties prior to such date shall continue in such position as the member representing the Retirement System for Nebraska Counties until such member's term expires; and

(v) One of the appointed members shall be a participant in the State Employees Retirement System of the State of Nebraska. On January 1, 2005, the member of the board who had been a member of the State Employees Retirement System prior to such date shall continue in such position as the member representing the State Employees Retirement System until such member's term expires.

(c) Appointments to the board on and after January 1, 2005, shall be made by the Governor and shall be subject to the approval of the Legislature. All appointed members shall be citizens of the State of Nebraska.

(4) All members appointed on and after January 1, 2002, shall serve for terms of five years or until a successor has been appointed and qualified. The members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The appointed members of the board may be removed by the Governor for cause after notice and an opportunity to be heard.

Source: Laws 1971, LB 987, § 1; Laws 1973, LB 250, § 1; Laws 1975, LB 36, § 1; Laws 1981, LB 204, § 216; Laws 1987, LB 59, § 1; Laws 1989, LB 418, § 1; Laws 1996, LB 847, § 51; Laws 1997, LB 623, § 46; Laws 2004, LB 1097, § 38; Laws 2005, LB 364, § 20.

84-1502. Board; chairperson; secretary; election; meetings; compensation.

(1) Within thirty days after its appointment, the Public Employees Retirement Board shall meet and select a chairperson and secretary. Thereafter, the chairperson and the secretary shall be elected in January of each year.

(2) The board shall meet upon call of the chairperson or upon the request of three members of the board filed with the board office. Meetings of the board shall be held in this state and may be held by telecommunication equipment if the requirements of the Open Meetings Act are met.

(3) The members of the board, except the state investment officer, shall be paid fifty dollars per diem, and all members shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties as board members as provided in sections 81-1174 to 81-1177.

Source: Laws 1971, LB 987, § 2; Laws 1986, LB 311, § 39; Laws 2004, LB 821, § 41; Laws 2005, LB 503, § 18.

Cross References

Open Meetings Act, see section 84-1407.

84-1503. Board; duties.

(1) It shall be the duty of the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, and the State Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses are specified by law;

(d) To administer the deferred compensation program authorized in section 84-1504;

(e) To hire an attorney, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 84-1503.04 who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as testing and monitoring procedures in order to verify the accuracy of such information. The information necessary to determine membership shall be provided by the employer. The board shall adopt and promulgate rules and regulations and prescribe such forms necessary to carry out this subdivision. Nothing in this subdivision shall be construed to require the board to conduct onsite audits of political subdivisions for compliance with statutes, rules, and regulations governing the retirement systems listed in subdivision (1)(a) of this section regarding membership and contributions; and

(h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 and to notify the Nebraska Retirement Systems Committee of the Legislature of the failure of any governmental entity to file such reports.

(2) In administering the retirement systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To determine, based on information provided by the employer, the prior service annuity, if any, for each person who is an employee of the county on the date of adoption of the retirement system;

(b) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the individual's employer;

(c) To adopt and promulgate rules and regulations for the management of the board;

(d) To keep a complete record of all proceedings taken at any meeting of the board;

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once in every three years, unless the board determines that such a process would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall occur beginning on or after July 1, 2005, and at intervals of not less than five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct;

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1)(a) of this section, which shall include, but not be limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2007, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board,

and the Nebraska Retirement Systems Committee and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; and (iii) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) By March 15 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws.

Source: Laws 1971, LB 987, § 3; Laws 1973, LB 216, § 3; Laws 1973, LB 498, § 10; Laws 1979, LB 416, § 3; Laws 1983, LB 70, § 1; Laws 1984, LB 751, § 13; Laws 1986, LB 311, § 40; Laws 1987, LB 549, § 14; Laws 1988, LB 1170, § 22; Laws 1991, LB 549, § 74; Laws 1992, LB 672, § 33; Laws 1994, LB 833, § 54; Laws 1994, LB 1306, § 11; Laws 1995, LB 502, § 3; Laws 1996, LB 847, § 52; Laws 1996, LB 1076, § 44; Laws 1998, LB 1191, § 78; Laws 1999, LB 849, § 33; Laws 2000, LB 1192, § 25; Laws 2001, LB 808, § 21; Laws 2002, LB 407, § 63; Laws 2003, LB 451, § 35; Laws 2005, LB 503, § 19.

Cross References

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

84-1503.02. Board; duties and responsibilities.

(1) The appointed members of the Public Employees Retirement Board shall have the responsibility for the administration of the retirement systems pursuant to subdivision (1)(a) of section 84-1503, shall be deemed fiduciaries with respect to the administration of the retirement systems, and shall be held to the standard of conduct of a fiduciary specified in subsection (2) of this section. The nonvoting, ex officio member of the board shall not be deemed a fiduciary.

(2) As fiduciaries, the appointed members of the board shall discharge their duties with respect to the retirement systems solely in the interests of the members and beneficiaries of the retirement systems for the exclusive purposes of providing benefits to members and members' beneficiaries and defraying reasonable expenses incurred within the limitations and according to the powers, duties, and purposes prescribed by law at the time such duties are discharged. The appointed members of the board shall not have a duty in their official capacity to seek the enhancement of plan benefits through the legislative process if such benefits are not already contained within the plan documents. The appointed members of the board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person

acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Source: Laws 1996, LB 847, § 53; Laws 2006, LB 1019, § 18.

84-1503.03. Director; employ personnel; employees; duties.

The director of the Nebraska Public Employees Retirement Systems shall employ qualified personnel as may be required to carry out the duties and responsibilities required under sections 84-1501 to 84-1513. Such employees shall be deemed state employees and covered by the State Personnel System pursuant to sections 81-1301 to 81-1368 and other personnel rules or regulations. The positions of the internal auditor and the attorney hired by the board pursuant to section 84-1503 shall be classified positions covered by the State Personnel System and shall not be noncovered positions under subsection (2) of section 81-1316. The director shall be exempt from the State Personnel System. All employees shall comply with state accounting regulations and applicable state and federal laws in the discharge of their duties.

Source: Laws 1996, LB 847, § 54; Laws 1997, LB 623, § 48; Laws 2001, LB 408, § 30; Laws 2005, LB 364, § 21; Laws 2005, LB 503, § 21; Laws 2006, LB 1019, § 19.

84-1503.04. Internal auditor; duties and responsibilities.

The duties and responsibilities of the internal auditor employed by the Public Employees Retirement Board shall be consistent with the suggested standards for the professional practice of internal auditing as adopted by the Institute of Internal Auditors and include the following:

- (1) Prepare a formal written three-year audit plan and work schedule each year and present them to the board;
- (2) Conduct ongoing reviews of the internal procedures of the Nebraska Public Employees Retirement Systems and recommend improvements to the board;
- (3) Ensure that the Nebraska Public Employees Retirement Systems' internal accounting and operational controls are appropriate and operating correctly and report inconsistencies to the board;
- (4) Examine and evaluate system records and operating procedures; verify compliance with established plans, policies, procedures, and control systems; assure compliance with regulatory and statutory conditions; and assure adherence to generally accepted accounting and auditing principles and report inconsistencies to the board;
- (5) Perform internal auditing functions, including review of contributions received and creditable service granted; review benefit payments for completeness of information, appropriateness, accuracy, and timeliness; verify accuracy of data and financial information reported to the systems' actuary for all applicable plans; and verify accuracy of data and financial information reported to the systems' record keeper for all applicable plans; and
- (6) Develop standards to be used by independent auditors in their review of the practices and procedures used by various employers to provide for employee participation in the respective retirement systems included in subdivision (1)(a) of section 84-1503.

Source: Laws 2005, LB 503, § 20.

84-1504. Deferred compensation; treatment; participation; requirements.

- (1) The Public Employees Retirement Board, on behalf of the state, may contract with any individual to defer a portion of such individual's compensation or with the Legislative Council to

defer any other amount that the Legislative Council agrees to credit to an individual's account pursuant to section 457 of the Internal Revenue Code.

(2) The compensation to be deferred at the election of the individual and any other amount credited on behalf of such individual by the Legislative Council shall not exceed the total compensation to be received by the individual from the employer or exceed the limits established by the Internal Revenue Code for such a plan.

(3) The deferred compensation program shall serve in addition to but not be a part of any existing retirement or pension system provided for state or county employees or any other benefit program.

(4) Any compensation deferred at the election of the individual under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(5) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such individual.

(6) The state, the board, the state investment officer, the agency, or the county shall not be responsible for any investment results entered into by the individual in the deferred compensation agreement.

(7) Nothing in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any instrumentality or agency of the State of Nebraska, and any such plan is hereby authorized and approved.

(8) On and after July 1, 2010, no employee of the state or any political subdivision of the state shall be authorized to participate in a deferred compensation plan unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(9) For purposes of this section, individual means (a) any state employee, whether employed on a permanent or temporary basis, full-time or part-time, (b) a person under contract providing services to the state who is not employed by the University of Nebraska or any of the state colleges or community colleges and who has entered into a contract with the state to have compensation deferred prior to August 28, 1999, and (c) any county employee designated as a permanent part-time or full-time employee or elected official whose employer does not offer a deferred compensation plan and who has entered into an agreement pursuant to section 48-1401.

Source: Laws 1973, LB 428, § 1; R.S.Supp.,1974, § 84-1329.01; Laws 1975, LB 42, § 2; Laws 1987, LB 549, § 15; Laws 1994, LB 460, § 1; Laws 1996, LB 847, § 55; Laws 1997, LB 623, § 49; Laws 1997, LB 624, § 43; Laws 1998, LB 1191, § 79; Laws 1999, LB 703, § 27; Laws 2001, LB 75, § 2; Laws 2010, LB950, § 28.

84-1505. Deferred compensation; treatment; investment.

(1) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall be held in trust for the exclusive benefit of participants and their beneficiaries by the State of Nebraska until such time as payments shall be paid under the terms of the deferred compensation plan. All such assets held in trust shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall be the custodian of the funds and securities of the deferred compensation plan and may deposit the funds and securities in any financial institution approved by the Nebraska Investment Council. All disbursements therefrom shall be paid by him or her only upon vouchers duly authorized by the retirement board. The State Treasurer shall furnish annually to the retirement board a sworn statement of the amount of the funds in his or her custody belonging to the deferred compensation plan, which statement shall be as of the calendar year ending December 31 of each year.

(3) All compensation deferred under the plan, all property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, property, or rights shall not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall not be assignable.

Source: Laws 1973, LB 428, § 2; R.S.Supp.,1974, § 84-1329.02; Laws 1994, LB 460, § 2; Laws 1996, LB 847, § 56; Laws 1997, LB 623, § 50; Laws 1998, LB 1191, § 80.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

84-1506. Deferred compensation; availability and distribution of funds; Deferred Compensation Fund; created.

(1) Under the deferred compensation plan, any amount shall not be available to the participant or beneficiary prior to (a) the calendar year in which the participant attains age seventy and one-half years, (b) when the participant is separated from service with the state, or (c) when the participant has an unforeseeable emergency as determined by the Public Employees Retirement Board. The deferred compensation plan shall meet the minimum distribution requirements of section 457 of the Internal Revenue Code. Distribution shall be made as provided in subsection (2) of this section or sections 84-1509 and 84-1510.

(2) For amounts under the deferred compensation plan which are not provided for under an administrative services agreement pursuant to section 84-1509, payments and benefits shall be deposited in the Deferred Compensation Fund which is hereby created. The State Treasurer shall make payments to the employees from the Deferred Compensation Fund.

Source: Laws 1973, LB 428, § 3; R.S.Supp.,1974, § 84-1329.03; Laws 1979, LB 411, § 2; Laws 1994, LB 460, § 3; Laws 1996, LB 847, § 57.

84-1506.01. Deferred Compensation Expense Fund; created; use; investment.

All expenses necessary in connection with the administration and operation of the deferred compensation plan authorized in section 84-1504 shall be paid from the Deferred Compensation Expense Fund which is hereby created. The fund shall be credited with the proportionate share of administration expenses from the deferred compensation plan assets and income as directed by the Public Employees Retirement Board for the proper administration of the plan. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1997, LB 623, § 51.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

84-1507. Actuarial reports; statement of actuarial assumptions and methods; actuarial valuations and experience investigations; prepared; actuary; certified by Public Employees Retirement Board.

All actuarial reports, statements of actuarial assumptions and methods, and actuarial valuations and experience investigations required for any retirement system in Nebraska covering employees of any political subdivision in the state and supported, in whole or in part, by Nebraska tax dollars shall be prepared and signed by an actuary certified as qualified by the Public Employees Retirement Board. Such certification may be applied for by written request to the Public Employees Retirement Board.

Source: Laws 1973, LB 297, § 1; R.S.Supp.,1974, § 84-1315.01.

84-1509. Administrative services agreement; authorized.

The Public Employees Retirement Board may enter into an administrative services agreement with an organization authorized to conduct business in Nebraska and to administer public employee deferred compensation retirement plans. No such agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

Source: Laws 1979, LB 411, § 3; Laws 1994, LB 460, § 4; Laws 1996, LB 847, § 58.

84-1510. Administrative services agreement; terms.

The agreement authorized by section 84-1509 shall provide:

(1) That the organization shall make all disbursements under the contract or contracts issued by it, such disbursements to be made in such manner and amounts as directed by the state whether on account of retirement, termination of services, total disability, or death;

(2) That the organization shall include with each disbursement a statement showing the gross payment, any taxes withheld, and the net amount paid and an annual statement of account;

(3) That the organization shall furnish to the board a monthly statement of all disbursements and withholdings as stipulated in the agreement;

(4) Hold-harmless clauses protecting each party thereto from the negligent acts of the other or for any loss or claim against one party resulting from release of incorrect or misleading information furnished by the other party;

(5) For the right of the state, either directly or through independent auditors, to examine and audit the organization's records and accounts relating to disbursements made under the agreement;

(6) Protection to the state against assignment of the agreement or the subletting of work done or services furnished under the agreement;

(7) For termination of the agreement; and

(8) Such other terms as may be agreed upon and which the board determines to be in the best interest of the state and its participating employees.

Source: Laws 1979, LB 411, § 4; Laws 1987, LB 549, § 16; Laws 1994, LB 460, § 5.

84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.

(1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to the Class V School Employees Retirement Act, the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act. The program shall provide information and advice regarding the many changes employees face upon retirement including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Source: Laws 1986, LB 311, § 1; Laws 1992, Third Spec. Sess., LB 14, § 31; Laws 1995, LB 369, § 9; Laws 1996, LB 900, § 1076; Laws 1996, LB 1044, § 979; Laws 1997, LB 624, § 44; Laws 1998, LB 497, § 29.

Cross References

Class V School Employees Retirement Act, see section 79-978.01.

County Employees Retirement Act, see section 23-2331.

Judges Retirement Act, see section 24-701.01.

Nebraska State Patrol Retirement Act, see section 81-2014.01.

School Employees Retirement Act, see section 79-901.

State Employees Retirement Act, see section 84-1331.

84-1511.01. Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.

(1) The Public Employees Retirement Board shall establish a comprehensive retirement education and financial planning program for all members of the State Employees Retirement System of the State of Nebraska and for all members of the Retirement System for Nebraska Counties, who are under age fifty and not eligible to attend the preretirement planning program established in section 84-1511. The program may be provided to members in a single-day format, or may be provided in equivalent partial-day segments.

(2) The retirement education and financial planning program shall include discussion on the retirement system, financial planning, and budgeting as well as any other planning information valuable to employees before they reach age fifty.

(3) The employer shall provide each eligible employee leave with pay to attend a retirement education and financial planning program twice prior to age fifty. For purposes of this subsection, leave with pay means time off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. Leave with pay shall be provided to each eligible employee in order that the employee may attend the full retirement education and financial planning program, whether it is provided in a single-day program or in the equivalent partial-day segments. An employee may choose to attend a full program more than twice, but leave to attend any additional single-day programs or equivalent segments shall be at the expense of the employee and shall be at the discretion of the employer. An employee may not attend a full program more than once per fiscal year.

(4) Funding to cover the expense of the retirement education and financial planning program shall be charged proportionately to the State Employees Retirement Fund and the County Employees Retirement Fund.

(5) A nominal registration fee shall be charged each person attending a retirement education and financial planning program to cover the costs for meals or meeting rooms or other expenses incurred for the program.

Source: Laws 1991, LB 254, § 1; Laws 1995, LB 369, § 10; Laws 2004, LB 1097, § 39.

84-1512. Board; access to records; director; duties; employer education program.

(1) The Public Employees Retirement Board, for purposes of administering the various retirement systems under its jurisdiction, shall receive from the Department of Administrative Services and other employers such information as is necessary for the efficient and accurate administration of the systems and shall consult with the Department of Administrative Services and other employers as to the form in which the information is to be presented and received by the board. The information in the records shall be provided by the employers in an accurate and verifiable form, as specified by the director of the Nebraska Public Employees Retirement Systems. The director shall, from time to time, carry out testing procedures to verify the accuracy of such information. The director shall have access to records maintained by the Department of Administrative Services on the Nebraska employees information system data base for the purpose of obtaining any information which may be necessary to verify the accuracy of information and administer the systems and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

(3) The information obtained by the board pursuant to this section shall not be considered public records subject to sections 84-712 to 84-712.09, except that the following information shall be considered public records: The member's name, the retirement system in which the member is a participant, the date the member's participation in the retirement system commenced, and the date the member's participation in the retirement system ended, if applicable.

Source: Laws 1986, LB 311, § 41; Laws 2000, LB 1192, § 26; Laws 2005, LB 503, § 22; Laws 2009, LB188, § 19.

84-1513. Board; members; personal liability.

No member of the Public Employees Retirement Board shall be personally liable, except in cases of willful dishonesty, gross negligence, or intentional violations of law, for actions relating to administrative decisions pertaining to the retirement funds of retirement plans administered by the board.

Source: Laws 1986, LB 311, § 42; Laws 1998, LB 1191, § 81.

CHAPTER 85 – STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

ARTICLE 1 – UNIVERSITY OF NEBRASKA

- 85-106. Board of Regents; general powers; duties; retirement benefits; requirements.
- 85-106.04. Retirement benefits; certain employees; cost-of-living adjustment; how computed.
- 85-1,119. Kearney State College; transfer of property, obligations, and employees; collective bargaining.

ARTICLE 3 – STATE COLLEGES

- 85-320. State colleges; retirement plan; establishment; terms; investment of funds.

ARTICLE 6 – PUBLIC INSTITUTIONS OF EDUCATION

(b) RETIREMENT

- 85-606. University of Nebraska, state colleges, community colleges; permissive retirement; compulsory retirement; exceptions; retirement contributions; faculty member; revocation of tenure; rights.
- 85-606.01. University of Nebraska; state colleges; community colleges; retirement annuity contracts; purchase.

ARTICLE 14 – COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

- 85-1411. Commission; executive director, employees, consultants; compensation; recruitment expenses; rules and regulations; duties.

ARTICLE 1

UNIVERSITY OF NEBRASKA

85-106. Board of Regents; general powers; duties; retirement benefits; requirements.

The Board of Regents shall have the power:

- (1) To enact laws for the government of the university;
- (2) To elect a president, vice presidents, chancellors, vice chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally of the university and to provide for academic tenure for professors, associate professors, and assistant professors;
- (3) To prescribe the duties of such persons not inconsistent with section 85-1,105;
- (4) To fix their compensation;
- (5) To provide, in its discretion, retirement benefits for present and future employees of the university, subject to the following:
 - (a) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the university budget in the same way as any other operating expense;
 - (b) The university contribution under any such retirement plan shall be (i) the rate established by the Board of Regents and not more than eight percent of each university employee's full-time salary or wage earnings for any calendar year before any agreement for

reduction of salary or wage earnings and (ii) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings;

(c) Each employee's contribution shall be the rate established by the Board of Regents and shall not be required to exceed the university's contribution under subdivision (5)(b)(i) of this section, except that in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the Board of Regents of annuity contracts for such employee, under the provisions of the Internal Revenue Code, but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to March 29, 1972;

(d) The retirement benefits of any employee for service prior to September 1, 1961, shall be those provided under the retirement plan then in force, which benefits shall not be abridged, except that such retirement benefits shall become fully vested in the event of an employee's termination of employment if such employee has at least ten years of service at the date of termination;

(e) Continued contributions to the system until the date of retirement as provided in section 85-606; and

(f) The investment of retirement funds shall be pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, but no change in the type of investment of such funds shall be made without the prior approval of the Board of Regents;

(6) To equalize and provide for uniform benefits for all present and future employees, including group life insurance, group hospital-medical insurance, group long-term disability income insurance, and retirement benefits;

(7) To provide, through the University Extension Division, for the holding of classes at various localities throughout the state avoiding unnecessary duplication of courses offered by other educational institutions in such localities and consistent with the orders of the Coordinating Commission for Postsecondary Education issued pursuant to sections 85-1413 and 85-1414;

(8) To remove the president, vice presidents, chancellors, vice chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally, when the interests of the university require it; and

(9) To pay expenses for recruitment of academic, administrative, professional, and managerial personnel.

The Board of Regents shall institute a continuing program of preventive maintenance and a program of deferred maintenance consistent with the provisions of the Deferred Building Renewal Act and shall consult with the Nebraska Arts Council and acquire works of art for the original construction of any public building under its supervision consistent with sections 82-317 to 82-329 and 85-106.01 to 85-106.03.

Source: Laws 1869, § 6, p. 173; Laws 1875, § 2, p. 154; R.S.1913, § 7086; C.S.1922, § 6718; C.S.1929, § 85-106; R.S.1943, § 85-106; Laws 1949, c. 311, § 1, p. 1028; Laws 1959, c. 458, § 1, p. 1524; Laws 1959, c. 459, § 1, p. 1526; Laws 1967, c. 621, § 1, p. 2083; Laws 1969, c. 848, § 1, p. 3190; Laws 1969, c. 849, § 1, p. 3191; Laws 1969, c. 584, § 120, p. 2423; Laws 1972, LB 1176, § 1; Laws 1973, LB 248, § 2; Laws 1973, LB 149, § 2; Laws 1973, LB 423, § 1; Laws 1977, LB 309, § 20; Laws 1978, LB 664, § 9; Laws 1980, LB 817, § 1; Laws 1981, LB 463, § 2; Laws 1991, LB 663, § 59; Laws 1994, LB 1066, § 134; Laws 1995, LB 574, § 89.

Cross References

Deferred Building Renewal Act, see section 81-190.

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

State Capitol, improvement district, powers of board, see section 81-1108.31.

85-106.04. Retirement benefits; certain employees; cost-of-living adjustment; how computed.

Commencing on July 22, 1978, to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement of certain persons of the University of Nebraska who have earned retirement benefits while in the employ of the University of Nebraska prior to September 1, 1961, and who have retired prior to July 22, 1978:

(1) The total accumulation of retirement benefits earned under the retirement plan in force prior to September 1, 1961, shall be adjusted by the percentage of increase in the employer's wage levels which shall mean the average of salaries paid for the nine-month academic year to employees from the year of each person's retirement to the fiscal year ending June 30, 1977, which total, as adjusted, shall then be the total accumulation of retirement benefits prior to September 1, 1961; and

(2) The two thousand four hundred dollar maximum benefits provision under the university retirement plan in effect prior to September 1, 1961, shall be removed.

Source: Laws 1978, LB 198, § 1.

85-1,119. Kearney State College; transfer of property, obligations, and employees; collective bargaining.

(1) On July 1, 1991, all property rights, titles, assets, contracts, obligations, and choses in action of any kind existing as of June 30, 1991, owned, held, or controlled by Kearney State College or the Board of Trustees of the Nebraska State Colleges for the benefit of Kearney State College shall be transferred to, assumed by, and carried out by the Board of Regents of the University of Nebraska for the operation and benefit of the University of Nebraska at Kearney subject, however, to the following:

(a)(i) Title to (A) facilities on the campus of Kearney State College and all or any portion of the revenue derived from such facilities which have been pledged to the payment of the principal of and interest on revenue bonds of the board of trustees or (B) facilities on the campus of Kearney State College which have been constructed, repaired, or renovated with the proceeds of revenue bonds payable from student fees shall remain vested in the board of trustees until the bonds outstanding with respect to such facilities have been discharged. Upon the discharge of the bonds outstanding with respect to any such facility, title to such facility shall be transferred to and vested in the Board of Regents without any further or additional action by the board of trustees or the Board of Regents.

(ii) All facilities specified in subdivision (a)(i) of this subsection shall be leased by the board of trustees to the Board of Regents as of July 1, 1991, upon such terms and conditions as the board of trustees and the Board of Regents shall determine, except that (A) payments from the Board of Regents to the board of trustees pursuant to such leases shall be sufficient to pay the principal of and interest on the bonds outstanding with respect to such facilities and shall include a reasonable fee set by and paid to the board of trustees to cover actual and necessary expenses incurred by the board of trustees for managing the bond program of the University of Nebraska at Kearney until all bonds which are outstanding as of July 1, 1991, and which were issued with respect to the leased facilities have matured and are retired, (B) the Board of Regents shall have the right to establish rents, charges, rates, and fees for the use of such facilities and to receive and collect all revenue, rents, fees, income, profits, and charges of whatever nature and howsoever derived from such facility, and (C) the Board of Regents shall keep, perform, satisfy,

and comply with all terms, covenants, conditions, and agreements contained in the documents relating to the issuance of the bonds outstanding with respect to each such facility;

(b) The obligations for the payment of money of the board of trustees incurred pursuant to Laws 1983, LB 410, Laws 1987, LB 218, and Laws 1987, LB 784, shall remain the obligations of the board of trustees. All other obligations of the board of trustees incurred pursuant to such laws shall, upon July 1, 1991, be and become obligations of the Board of Regents. Unless title to the property acquired and the facilities constructed, repaired, remodeled, or renovated pursuant to such laws is required to remain vested with the board of trustees pursuant to subdivision (a)(i) of this subsection, title to such property and facilities shall vest in the Board of Regents on July 1, 1991; and

(c) Prior to July 1, 1991, the board of trustees and the Board of Regents shall enter into such agreements as they deem necessary and appropriate to carry out the provisions of sections 85-1,119 to 85-1,123 for the conveyance and transfer of the properties, rights, and obligations provided under such sections, to make appropriate provisions with respect to existing debt obligations, including revenue bonds, of the board of trustees and the Nebraska State Colleges Facilities Corporation pertaining to Kearney State College, and to provide for an orderly transition and assumption by the Board of Regents of the activities and operations of Kearney State College. The board of trustees, acting as a corporation for the revenue bond program for Kearney State College or the Nebraska State College Facilities Corporation, and its officers and staff shall be reimbursed for any expenses incurred in carrying out any action modifying the revenue bond program pursuant to sections 85-1,119 to 85-1,123.

(2)(a) On July 1, 1991, all employees of Kearney State College shall be transferred to the University of Nebraska. The transferred employees shall retain all benefits and status of employment accrued through June 30, 1991, including retirement benefits not vested.

(b) On July 1, 1991, the transferred employees, except academic, faculty, and teaching employees who are included in a collective-bargaining unit and represented by a certified collective-bargaining agent, shall cease participation in the employee fringe benefit programs of Kearney State College and shall begin participation in the University of Nebraska systemwide fringe benefits program and be entitled to receive the same fringe benefits of employment made available to other employees of the University of Nebraska under such program.

(c) On July 1, 1990, the Board of Regents of the University of Nebraska shall have authority to enter into a collective-bargaining agreement with any certified collective-bargaining agent for academic, faculty, and teaching employees of Kearney State College who are represented by a certified collective-bargaining agent covering any period beginning on or after July 1, 1991. The Board of Regents shall bargain and negotiate in good faith with any such bargaining agent pursuant to the State Employees Collective Bargaining Act. On July 1, 1991, all academic, faculty, and teaching employees of the University of Nebraska at Kearney shall cease participation in the retirement program of Kearney State College and shall begin participation in the systemwide retirement program of the University of Nebraska on the same basis as other academic, faculty, and teaching employees of the University of Nebraska.

Source: Laws 1989, LB 247, § 7; Laws 2003, LB 68, § 9.

Cross References

State Employees Collective Bargaining Act, see section 81-1369.

Annotations

Since five judges of the court do not hold that this section is unconstitutional, the section is constitutional.
State ex rel. Spire v. Beermann, 235 Neb. 384, 455 N.W.2d 749 (1990).

ARTICLE 3

STATE COLLEGES

85-320. State colleges; retirement plan; establishment; terms; investment of funds.

The Board of Trustees of the Nebraska State Colleges shall have power, in its discretion, to provide retirement benefits for present and future employees of the board, subject to the following: (1) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the budgets in the same way as any other operating expense, (2) the state contribution under such retirement plan shall be (a) the amount established by the board before any agreement for reduction of salary or wage earnings, and (b) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings, (3) each employee's contribution shall be the amount established by the board and shall not be required to exceed the state's contribution under subdivision (2)(a) of this section, except that in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the board of annuity contracts for such employee, under the provisions of the Internal Revenue Code, but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to January 1, 1973, (4) continued contributions to the system shall be made until the date of retirement as provided in section 85-606, and (5) the retirement benefits of any employee for service prior to the effective date of any retirement plan established under the provisions of this section shall be those provided under the retirement plan then in force which benefits shall not be abridged. The investment for such a retirement plan shall be made by the state investment officer, but the state investment officer shall not change the type of investment for such retirement plan without the approval of the Board of Trustees of the Nebraska State Colleges.

Source: Laws 1963, c. 539, § 1, p. 1685; Laws 1967, c. 621, § 2, p. 2084; Laws 1969, c. 852, § 17, p. 3204; Laws 1969, c. 849, § 4, p. 3194; Laws 1969, c. 584, § 130, p. 2430; Laws 1973, LB 423, § 3; Laws 1980, LB 817, § 3; Laws 1981, LB 463, § 3; Laws 1995, LB 574, § 90.

ARTICLE 6

PUBLIC INSTITUTIONS OF HIGHER EDUCATION

(b) RETIREMENT

85-606. University of Nebraska, state colleges, community colleges; permissive retirement; compulsory retirement; exceptions; retirement contributions; faculty member; revocation of tenure; rights.

(1) Employees of the state colleges, community colleges, and the University of Nebraska may retire upon reaching the age of sixty-five. Any law enforcement personnel reaching the age of seventy shall retire, except that, with the annual approval of the governing board of the institution and the employee, such employee may continue his or her employment beyond the attainment of age seventy.

(2) Any employee continuing to work after age sixty-five shall continue to make contributions to the appropriate retirement system until the date of retirement.

(3) No faculty member of the University of Nebraska, the Nebraska State Colleges, or the community colleges shall have his or her tenure status revoked without due process.

Source: Laws 1979, LB 15, § 1; Laws 1981, LB 463, § 4; Laws 1982, LB 287, § 6; Laws 1987, LB 296, § 5; Laws 1997, LB 623, § 52.

85-606.01. University of Nebraska; state colleges; community colleges; retirement annuity contracts; purchase.

The Board of Trustees of the Nebraska State Colleges, any community college area board, and the Board of Regents of the University of Nebraska shall have the authority to purchase retirement annuity contracts for any or all of their employees at the direction of the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and may enter into contracts with their employees providing for the purchase of such retirement annuity contracts under the provisions of the Internal Revenue Code. Such employment contracts may provide that the amounts contributed by the employer for such annuity contracts shall be the result of an agreement of the employee to take a reduction in salary or to forego an increase in salary, but only to the extent such amounts are earned by the employee after the agreement becomes effective. Such an agreement must be legally binding and irrevocable with respect to amounts earned while the agreement is in effect. The right of an employee to such an annuity contract is nonforfeitable, except for failure to pay future premiums. Such an annuity contract is nontransferable.

Source: Laws 1967, c. 256, § 1, p. 677; Laws 1969, c. 851, § 1, p. 3198; Laws 1969, c. 852, § 1, p. 3199; Laws 1969, c. 849, § 3, p. 3194; Laws 1969, c. 584, § 129, p. 2429; Laws 1975, LB 54, § 1; Laws 1978, LB 756, § 54; Laws 1980, LB 817, § 2; R.S.1943, (1981), § 85-195; Laws 1995, LB 7, § 153; Laws 1995, LB 574, § 91.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 14

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

85-1411. Commission; executive director, employees, consultants; compensation; recruitment expenses; rules and regulations; duties.

To assist it in carrying out its duties, the commission shall:

(1) Employ an executive director and all other employees of the office of the commission and hire consultants as may be necessary and prescribe their duties;

(2) Except as may be provided pursuant to the State Employees Collective Bargaining Act, fix the compensation of the officers and employees of the office and provide benefits for all present or future employees of the commission, including retirement benefits, group life insurance, group hospital-medical insurance, and group long-term disability income insurance;

(3) Pay expenses for the recruitment of administrative and professional personnel for the commission; and

(4) Adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act or as otherwise provided in the Coordinating Commission for Postsecondary Education Act

to carry out the Coordinating Commission for Postsecondary Education Act and the powers and duties of the commission, except that for sections 85-1402 and 85-1413 to 85-1416, the provisions in section 84-908 for approval of the adoption, amendment, or repeal of any rule or regulation by the Governor shall not apply.

Source: Laws 1991, LB 663, § 14.

Cross References

Administrative Procedure Act, see section 84-920.

State Employees Collective Bargaining Act, see section 81-1369.

This page left intentionally blank.

LIST OF PUBLIC RETIREMENT LAWS

CONSTITUTION OF NEBRASKA

ARTICLE III – LEGISLATIVE POWER

- Sec. 19. Compensation; increase when; extra compensation to public officers and contractors prohibited; retirement benefits; adjustment.

ARTICLE V – JUDICIAL

- Sec. 30. Judges; discipline; removal from office; grounds; procedure.

ARTICLE XV – MISCELLANEOUS PROVISIONS

- Sec. 17. Retirement and pension funds; investment.

STATUTES OF NEBRASKA

CHAPTER 2 – AGRICULTURE

ARTICLE 16 – COUNTY EXTENSION WORK

- 2-1608. Joint county extension organizations; employees; retirement system; organizations; duties.

ARTICLE 32 – NATURAL RESOURCES

- 2-3228. Districts; powers; Nebraska Association of Resources Districts; retirement plan reports; duties.

CHAPTER 3—AERONAUTICS

ARTICLE 5 – CITY AIRPORT AUTHORITY

- 3-506. Airport authority; city officers and employees; transfer; retention of privileges; social security and pension plans; continuance of coverage.

ARTICLE 6 – COUNTY AIRPORT AUTHORITY

- 3-616. Officers and employees of county; transfer to authority; effect.

CHAPTER 4 – ALIENS

- 4-108. Public benefits; state agency or political subdivision; verification of lawful presence; employee; participation in retirement system; restriction.

CHAPTER 13 – CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

ARTICLE 5 -- BUDGETS

(d) NEBRASKA BUDGET ACT

- 13-503. Terms, defined.

ARTICLE 24 – RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES

- 13-2401. Transfer between political subdivisions; rights of employee; transferring and receiving entities; powers and duties.

CHAPTER 14 – CITIES OF THE METROPOLITAN CLASS

ARTICLE 5 – FISCAL MANAGEMENT, REVENUE, AND FINANCES
(g) PENSION BOARD

- 14-567. Pension board; duties; retirement plan reports.

ARTICLE 18 – METROPOLITAN TRANSIT AUTHORITY

- 14-1805. Metropolitan transit authority; general powers.
14-1805.01. Metropolitan transit authority; retirement plan reports; duties.

ARTICLE 21 – PUBLIC UTILITIES

- 14-2111. Utilities district; employees; retirement and other benefits; terms and conditions; reports.

CHAPTER 15 – CITIES OF THE PRIMARY CLASS

ARTICLE 10 – PENSIONS

- 15-1017. Pension funds; investment; reports.
15-1026. Fire and police pension fund; authorized; tax levy; authorized.
15-1027. Pension or benefits; existing system; rights retained.

CHAPTER 16 – CITIES OF THE FIRST CLASS

ARTICLE 10 – RETIREMENT SYSTEMS

(a) POLICE OFFICERS RETIREMENT

- 16-1001. Applicability of sections.
16-1002. Terms, defined.
16-1003. Police officer; prior service; how treated.
16-1004. Police Officers Retirement System Fund; administration; transfer of contributions; system funding; separate investment accounts.
16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.
16-1006. Contributions by city; amount; how credited; interest; when.
16-1007. Retiring officer; annuity options; how determined; lump-sum payment option.
16-1008. Retirement options; retirement date.
16-1009. Police officer; death other than in the line of duty; pension benefit payable.
16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits.
16-1011. Police officer; disability in the line of duty; benefit; requirements.
16-1012. Police officer; temporary disability; workers' compensation benefits; how treated.
16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule.
16-1014. Retirement committee; established; governing body; responsibilities.
16-1015. Retirement committee; members; terms; vacancy.
16-1016. Retirement system funds; contracts for investments.
16-1017. Retirement committee; duties.
16-1018. Termination of employment; transfer of benefits; when.
16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

(b) FIREFIGHTERS RETIREMENT

- 16-1020. Applicability of sections.
- 16-1021. Terms, defined.
- 16-1022. Firefighter; prior service; how treated.
- 16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.
- 16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.
- 16-1025. Contributions by city; amount; how credited; interest.
- 16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment.
- 16-1028. Retirement options; retirement date.
- 16-1029. Firefighter; death other than in the line of duty; pension benefit payable.
- 16-1030. Firefighter; death in the line of duty; retirement benefits.
- 16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.
- 16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated.
- 16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule.
- 16-1034. Retirement committee; established; governing body; responsibilities; powers and duties; allocation.
- 16-1035. Retirement committee; members; terms; vacancy; expenses.
- 16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.
- 16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation.
- 16-1037. Retirement committee; officers; duties.
- 16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.
- 16-1039. Firefighter serving on August 7, 1965; pension benefits.
- 16-1040. Firefighter subject to prior law; contributions; reimbursement.
- 16-1041. Benefits under prior law, how construed.
- 16-1042. Termination of employment; transfer of benefits; when.

CHAPTER 18 – CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

ARTICLE 12 – MISCELLANEOUS TAXES

- 18-1221. Pension or retirement system; tax; amount; use.

ARTICLE 17 – MISCELLANEOUS

- 18-1723. Firefighter; police officer; presumption of death or disability; rebuttable.
- 18-1749. Pension or retirement plan; employee contribution authorized; manner of payment.

CHAPTER 19 – CITIES AND VILLAGES; LAWS APPLICABLE TO MORE THAN ONE AND LESS THAN ALL CLASSES

ARTICLE 35 – PENSION PLANS (Applicable to cities of the first or second class and villages.)

- 19-3501. Pension plans authorized; employees covered; contributions; funding past service benefits; joinder in plan by two or more cities; reports.

CHAPTER 23 – COUNTY GOVERNMENT AND OFFICERS

ARTICLE 11 – SALARIES OF COUNTY OFFICERS

- 23-1118. Employees of certain counties or municipal counties; retirement benefits; establish; approval of voters; contribution rates; funds; investment; employees, defined; reports.

ARTICLE 23 – COUNTY EMPLOYEES RETIREMENT

- 23-2301. Terms, defined.
- 23-2302. Retirement System for Nebraska Counties; establish; purpose; acceptance of contributions.
- 23-2305. Public Employees Retirement Board; duties; rules and regulations.
- 23-2305.01. Board; power to adjust contributions and benefits.
- 23-2306. Retirement system; members; employees; elected officials; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 23-2306.02. Retirement system; transferred employee; payment to system.
- 23-2306.03. Retirement system; municipal county employee; participation in another governmental plan; how treated.
- 23-2307. Retirement system; members; contribution; amount; county pay.
- 23-2308. Retirement system; county clerk; payment; fees.
- 23-2308.01. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 23-2309. Defined contribution benefit; employee account, defined; interest credited to account.
- 23-2309.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 23-2310. Defined contribution benefit; employer account, defined; state investment officer; duties.
- 23-2310.03. State Treasurer; duties.
- 23-2310.04. County Employees Retirement System Expense Fund; created; use; investment.
- 23-2310.05. Defined contribution benefit; employer account; investment options; procedures; administration.
- 23-2312. Retirement system; records; contents; employer education program.
- 23-2313. Retirement system; Auditor of Public Accounts; audit; report.
- 23-2314. Retirement system; powers.
- 23-2315. Retirement system; retirement; when; conditions; application for benefits; deferment of payment; board; duties.
- 23-2315.01. Retirement for disability; application; when; medical examination.
- 23-2316. Retirement system; retirement value for employee.
- 23-2317. Retirement system; future service retirement benefit; when payable; how computed; selection of annuity; board; provide tax information.
- 23-2317.01. County Equal Retirement Benefit Fund; created; use.
- 23-2319. Termination of employment; termination benefit; vesting.
- 23-2319.01. Termination of employment; account forfeited; when.
- 23-2319.02. County Employer Retirement Expense Fund; State Employer Retirement Expense Fund; use.
- 23-2320. Employee; reemployment; status; how treated.
- 23-2321. Retirement system; employee; death before retirement; death benefit.
- 23-2322. Retirement system; retirement benefits; exemption from legal process; exception.
- 23-2323.01. Reemployment; military service; contributions; effect.
- 23-2323.02. Direct rollover; terms, defined; distributee; powers; board; duties.
- 23-2323.03. Retirement system; accept payments and rollovers; limitations; board; duties.
- 23-2323.04. Retirement system; accept transfers; limitations; how treated.
- 23-2324. Retirement system; membership status; not lost while employment continues.
- 23-2325. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 23-2326. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 23-2328. Retirement system; elected officials and employees having regular term; when act operative.
- 23-2329. Retirement system; when effective.
- 23-2330. Retirement system; adoption; certification; list of eligible employees to retirement board.
- 23-2330.01. Limitation of actions.
- 23-2330.02. Retirement system contributions, property, and rights; how treated.
- 23-2330.03. Termination of system or contributions; effect.
- 23-2330.04. Municipal county; duties.
- 23-2331. Act, how cited.
- 23-2332. County in excess of 85,000; commissioned law enforcement personnel; supplemental retirement plan.
- 23-2332.01. County of 85,000 or less; commissioned law enforcement personnel; supplemental retirement plan.

- 23-2333. Retirement; prior service annuity; how computed.
- 23-2334. Retirement; prior service retirement benefit; how determined.

ARTICLE 25 -- CIVIL SERVICE SYSTEM

(e) COUNTIES OF 150,000 TO 300,000 INHABITANTS

- 23-2518.02. Transfer of employees; retirement benefits; calculation; funding.

ARTICLE 35 – MEDICAL AND MULTIUNIT FACILITIES

(a) GENERAL PROVISIONS

- 23-3526. Retirement plan; authorized; reports.
- 23-3527. Retirement system; option to discontinue participation under County Employees Retirement Act; future participation in a retirement system, option.

CHAPTER 24 – COURTS

ARTICLE 7 – JUDGES, GENERAL PROVISIONS

(a) JUDGES RETIREMENT

- 24-701. Terms, defined.
- 24-701.01. Act, how cited.
- 24-701.02. Changes to act; operative; when.
- 24-702. Nebraska Retirement Fund for Judges; Nebraska Judges Retirement Act Expense Fund; created; use.
- 24-703. Judges; contributions; payment; funding of system.
- 24-703.01. Participation in retirement system; requirements.
- 24-703.03. Elections authorized.
- 24-704. Administration of system; Public Employees Retirement Board, Auditor of Public Accounts, and Nebraska Investment Council; duties; employer education program.
- 24-704.01. Board; power to adjust contributions and benefits.
- 24-705. Technical and administrative employees; actuary; report; expenses.
- 24-706. Termination of employment; return of contributions, when; rejoining system.
- 24-706.01. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 24-707. Death of judge; benefits spouse entitled to receive; contributions paid to beneficiary; when.
- 24-707.01. Surviving spouse; benefits; applicable, when.
- 24-708. Retirement of judge; when; deferment of payment; board; duties.
- 24-708.01. Retired member; reemployment; how treated.
- 24-709. Judge; physically or mentally disabled; retirement; Commission on Judicial Qualifications; application; examination; benefits.
- 24-709.01. Judicial retirement proceedings before Commission on Judicial Qualifications; confidential.
- 24-709.02. Certain clerk magistrates; disabled; retirement; Public Employees Retirement Board; application; examination; benefits.
- 24-710. Judges; retirement annuity; amount; how computed; cost-of-living adjustment.
- 24-710.01. Judges; alternative contribution rate and retirement benefit; election; notice.
- 24-710.02. Retirement benefits; exemption from legal process; exception.
- 24-710.03. Judges; purchase of service credit; application of section.
- 24-710.04. Reemployment; military service; credit; effect.
- 24-710.05. Direct rollover; terms, defined; distributee; powers; board; duties.
- 24-710.06. Retirement system; accept payments and rollovers; limitations; board; duties.
- 24-710.07. Benefits; adjustment.
- 24-710.09. Annual benefit adjustment; terms, defined.
- 24-710.10. Annual benefit adjustment; minimum accrual rate.
- 24-710.11. Annual benefit adjustment; calculations.
- 24-710.12. Retirement system; accept transfers; limitations; how treated.
- 24-711. Retired judge; statement of facts; contents; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 24-712. Annuity payments; continuation; physical examinations, when; cost.
- 24-713. State Treasurer; duties; warrants.

- 24-713.01. Limitation of actions.
- 24-713.02. Retirement system contributions, property, and rights; how treated.
- 24-713.03. Termination of system or contributions; effect.
- 24-714. Retirement of judge; effect; filling of vacancy.

(b) JUDICIAL DISCIPLINE

- 24-721. Commission; complaint or request filed by citizen; investigation; proceedings; rights of judge or justice; special master; commission; recommendations; rules.
- 24-723. Supreme Court; record of proceedings; review; order; retirement, removal, or suspension; effect.
- 24-723.01. Justice or judge; disqualification without loss of salary; Supreme Court order; when.
- 24-728. Judge or justice; own discipline, removal, or retirement; participation prohibited.

(c) RETIRED JUDGES

- 24-729. Judges; retired; assignment; when; retired judge, defined.
- 24-730. Retired judge; temporary duty; compensation.
- 24-732. Retired judge; temporary duty; not contribute to retirement fund; retirement benefits not affected.
- 24-733. Retired judge; temporary duty; request for compensation and expenses.

CHAPTER 25 – COURTS; CIVIL PROCEDURE

ARTICLE 28 – SMALL CLAIMS COURT

- 25-2804. Actions, how commenced; fee; hearing; notice; setoff or counterclaim; limitations.

CHAPTER 30 – DECEDENTS' ESTATES; PROTECTION OF PERSONS AND PROPERTY

ARTICLE 32 – FIDUCIARIES

- 30-3209. Corporate trustee; retirement or pension funds of governmental employees; investments authorized.

CHAPTER 33 – FEES AND SALARIES

ARTICLE 1 – FEES AND SALARIES

- 33-103. Court of Appeals or Supreme Court; docketing and clerk's fees.
- 33-103.01. Court of Appeals; review by Supreme Court; docket fee.
- 33-106. Clerk of the district court; fees; enumerated.
- 33-106.02. Clerk of the district court; fees; report; disposition.
- 33-123. County court; civil matters; fees.
- 33-124. County court; criminal cases; fee.
- 33-125. County court; probate fees; how determined.
- 33-126.02. County court; guardianships; conservatorships; fees; how determined.
- 33-126.03. County court; inheritance tax proceedings; fees; by whom paid.
- 33-126.06. County court; matters relating to trusts; fees.

CHAPTER 35 -- FIRE COMPANIES AND FIREFIGHTERS

ARTICLE 10 – DEATH OR DISABILITY

- 35-1001. Death or disability as a result of cancer; death or disability as a result of certain diseases; prima facie evidence.

CHAPTER 42 – HUSBAND AND WIFE

ARTICLE 11 – SPOUSAL PENSION RIGHTS ACT

- 42-1101. Act, how cited.
- 42-1102. Terms, defined.
- 42-1103. Qualified domestic relations order; requirements.
- 42-1104. Order; payment of benefits; alternate payee.
- 42-1105. Order; form of benefit payment.
- 42-1106. Death of alternate payee; effect.
- 42-1107. Order; surviving spouse; payment option.
- 42-1108. Order; alternate payee; file with board; notice.
- 42-1109. Rules and regulations.
- 42-1110. Qualified domestic relations order; how determined; procedure.
- 42-1111. Director; separate accounting required; when; investment authority.
- 42-1112. Order filed prior to July 19, 1996; applicability.
- 42-1113. Liability.

CHAPTER 48 – LABOR

ARTICLE 1 – WORKERS' COMPENSATION

PART IV - NEBRASKA WORKERS' COMPENSATION COURT

- 48-155.01 Judges; appointment of substitute; compensation.

ARTICLE 6 – EMPLOYMENT SECURITY

- 48-609. Personnel; powers of commissioner; bond or insurance; retirement system.

ARTICLE 14 – DEFERRED COMPENSATION

- 48-1401. Political subdivisions; exception; deferred compensation plan; provisions; investment.

CHAPTER 50 – LEGISLATURE

ARTICLE 4 – LEGISLATIVE COUNCIL

- 50-416.01. Nebraska Retirement Systems Committee; members.
- 50-417. Nebraska Retirement Systems Committee; public retirement systems; existing or proposed; duties.
- 50-417.02. Act, how cited.
- 50-417.03. Terms, defined.
- 50-417.04. Law enforcement officers retirement plans survey; purpose; report; actuarial survey.
- 50-417.05. Political subdivisions and state; provide information; confidentiality.
- 50-417.06. State and political subdivisions; liability.

- 50-438. Legislative Council Retirement Study Fund; created; use; transfers; investment.

CHAPTER 55 – MILITIA

ARTICLE 1 – MILITARY CODE

- 55-161. Military leave of absence; rights of officer or employee.

CHAPTER 60 – MOTOR VEHICLES

ARTICLE 13 – WEIGHING STATIONS

- 60-1303. (Operative date January 1, 2005.) Weighing stations; portable scales; operation; carrier enforcement division; rules and regulations; Carrier Enforcement Cash Fund; created; use; investment.
- 60-1304. Carrier enforcement officers; transfer; retirement options.

CHAPTER 68 – PUBLIC ASSISTANCE

ARTICLE 6 – SOCIAL SECURITY

- 68-601. Social security; policy.
- 68-602. Terms, defined.
- 68-603. Agreement with federal government; state agency; approval of Governor.
- 68-604. Agreement with federal government; instrumentality jointly created with other state.
- 68-605. Contributions by state employees; amount.
- 68-606. Contribution by state employees; collection.
- 68-607. Contribution by state employees; adjustments.
- 68-608. Coverage by political subdivisions; plan; modification; approval by state agency.
- 68-609. Coverage by political subdivisions; refusal, amendment, or termination of plan; notice; hearing.
- 68-610. Coverage by political subdivisions; amount; payment.
- 68-611. Coverage by political subdivisions; delinquent payments; penalty; collection.
- 68-620. Cities and villages; special levy; addition to levy limitations; contribution to state agency.
- 68-621. Terms, defined.
- 68-622. Referendum; persons eligible to vote; Governor; powers.
- 68-623. Referendum; how conducted.
- 68-624. Referendum; completion; certification; notice; contents.
- 68-625. Referendum; state agency; prepare plan; modification of state agreement.
- 68-626. Referendum; state agency; forms; make available; aid political subdivisions.
- 68-627. Referendum; supervision.
- 68-629. Referendum; Governor; appointment of agency to conduct; cost; payment.
- 68-630. Political subdivisions; delinquency in payment; manner of collection.
- 68-631. Metropolitan utilities district; social security; employees; separate group; referendum; effect.

CHAPTER 70 – POWER DISTRICTS AND CORPORATIONS

ARTICLE 11 -- RETAIL ELECTRIC SERVICE

- 70-1104. Public power districts; municipal operation; employees' rights respected.

CHAPTER 71 – PUBLIC HEALTH AND WELFARE

ARTICLE 16 – LOCAL HEALTH SERVICES

(b) LOCAL PUBLIC HEALTH DEPARTMENTS

- 71-1631. Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.
- 71-1631.01. Local boards of health; rules and regulations; violations; penalty.
- 71-1631.02. Local boards of health; retirement plan; reports.

CHAPTER 72 – PUBLIC LANDS, BUILDINGS, AND FUNDS

ARTICLE 12 – INVESTMENT OF STATE FUNDS

(a) NEBRASKA STATE FUNDS INVESTMENT ACT

- 72-1237. Nebraska Investment Council; created; members; appointment; term; vacancy; immunity.
- 72-1238. Nebraska Investment Council; members; qualifications.
- 72-1239. Nebraska Investment Council; purpose; members; meetings; compensation.
- 72-1239.01. Nebraska Investment Council; duties and responsibilities.
- 72-1243. State investment officer; investment and reinvestment of funds; duties; council and Public Employees Retirement Board; analysis required; plan; contents.

CHAPTER 77 – REVENUE AND TAXATION

ARTICLE 7 -- DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION

- 77-701. Property assessment division; established; Property Tax Administrator; powers and duties; appeal rights.

ARTICLE 13 – ASSESSMENT OF PROPERTY

- 77-1340.02. Transfer of assessment function; transferred employee; retirement rights.
- 77-1340.05. Transfer of assessment function to county; transferred employee; retirement rights.

ARTICLE 27 -- SALES AND INCOME TAX

(c) INCOME TAX

- 77-27,119. Income tax; Tax Commissioner; administer and enforce sections; prescribe forms; content; examination of return or report; uniform school district numbering system; audit by Auditor of Public Accounts or Legislative Auditor; wrongful disclosure; exception; penalty.

CHAPTER 79 – SCHOOLS

ARTICLE 1 -- DEFINITIONS AND CLASSIFICATIONS

- 79-102. School districts; classification.

ARTICLE 4 -- SCHOOL ORGANIZATION AND REORGANIZATION

(b) LEGAL STATUS, FORMATION, AND TERRITORY

- 79-408. Class IV school district; boundaries; body corporate; powers; retirement plans; restrictions.

ARTICLE 8 -- TEACHERS AND ADMINISTRATORS

(e) UNIFIED SYSTEM OR REORGANIZED SCHOOL DISTRICTS

- 79-854. Reduction in force; Retirement Incentive Plan; Staff Development Assistance; continued employment; notification; limitation.
- 79-855. Retirement Incentive Plan; eligibility; benefit; costs; allocation.
- 79-856. Staff Development Assistance; eligibility; agreement; contents; costs; allocation.
- 79-857. Allocation of certificated employees; procedure.
- 79-858. Other agreements; responsibility.

ARTICLE 9 – SCHOOL EMPLOYEES RETIREMENT SYSTEMS

(a) EMPLOYEES OF OTHER THAN CLASS V DISTRICT

- 79-901. Act, how cited.
- 79-902. Terms, defined.
- 79-903. School retirement system; established; purpose.
- 79-904. School retirement system; administration; retirement board; powers and duties; rules and regulations.
- 79-904.01. Board; power to adjust contributions and benefits.
- 79-905. Retirement board; duties.

- 79-906. Director; records; contents; employer education program.
- 79-907. Statement of information; board; powers and duties.
- 79-908. State Treasurer; duties.
- 79-909. Auditor of Public Accounts; annual audit; report.
- 79-910. Retirement system; membership; separate employment; effect.
- 79-910.01. Retirement system; participation.
- 79-911. Retirement system; emeritus member; retirement, when.
- 79-912. Retirement system; employees previously electing nonmembership; election to hold membership; effect.
- 79-913. Retirement system; membership; election of nonmembership; when.
- 79-915. Retirement system; membership; nonresident; temporary employees.
- 79-916. Retirement system; membership; member of any other system; transfer of funds; when; Service Annuity Fund; created; use; investment.
- 79-917. New employee; participation in another governmental plan; how treated.
- 79-918. Current employee; participation in another governmental plan; how treated.
- 79-919. Retirement system; membership; employees of postsecondary schools excluded.
- 79-920. State school official; department employee; retirement system options.
- 79-921. Retirement system; membership; termination; reinstatement; repayment of accumulated contributions; exception.
- 79-922. Retiree; return to employment; effect; waiver of payments.
- 79-923. Reretirement; benefits; how computed.
- 79-924. Credit for prior years of service; payment; rules and regulations; election; provisions applicable.
- 79-925. Retirement system; prior member; repayment authorized; limitation.
- 79-926. Retirement system; members; statement of service record; requirements for prior service credit; exception; reemployment; military service; credit; effect.
- 79-927. Service credit; computation.
- 79-928. Board; verify service record.
- 79-929. Board; issue prior service certificate; modification.
- 79-931. Retirement; when; application.
- 79-932. Retirement; deferment of payment; board; duties.
- 79-933. Retirement; member; amount of allowance.
- 79-933.01. Direct rollover; terms, defined; distributee; powers; board; duties.
- 79-933.02. Retirement system; accept payments and rollovers; limitations; board; duties.
- 79-933.03. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.04. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.05. Contributing member; credit for service in other schools; limitation; procedure; payment.
- 79-933.06. Contributing member; credit for leave of absence; limitation; procedure; payment.
- 79-933.07. Purchase of service credit; rules and regulations.
- 79-933.08. Purchase of service credit within twelve months of retirement; agreement authorized.
- 79-933.09. Retirement system; accept transfers; limitations; how treated.
- 79-934. Formula annuity retirement allowance; eligibility; formula; payment.
- 79-935. Retirement; increase in benefits; when applicable.
- 79-938. Retirement allowance; method of payment; election.
- 79-939. Retirement system; benefits; paid by retirement board.
- 79-940. Supplemental retirement benefit; determination.
- 79-941. Total monthly benefit, defined; how computed.
- 79-942. Supplemental retirement benefit; how computed.
- 79-943. Supplemental retirement benefit; not applicable; when.
- 79-944. Supplemental retirement benefit; receipt by beneficiary.
- 79-945. Supplemental retirement benefit; receipt by beneficiary; duration.
- 79-946. Retired Teachers Supplementary Benefits Fund; created; termination.
- 79-947. Adjusted supplemental retirement benefit; determination; computation; payment; funding.
- 79-947.01. Benefits; adjustment.
- 79-947.03. Annual benefit adjustment; terms, defined.
- 79-947.04. Annual benefit adjustment; minimum accrual rate.
- 79-947.05. Annual benefit adjustment; calculations.

- 79-948. Retirement benefits; exemption from taxation and legal process; exception.
- 79-949. False or fraudulent actions; prohibited acts; refusal to furnish information; violations; penalties; denial of benefits.
- 79-950. Appeal; procedure.
- 79-951. Retirement; disability; conditions; application.
- 79-952. Retirement; disability; allowance; formula.
- 79-953. Retirement; disability; annual medical examination; refusal; effect.
- 79-954. Retirement; disability; restoration; effect.
- 79-955. Termination of membership; accumulated contributions; return.
- 79-956. Death of member before retirement; contributions; how treated.
- 79-957. Termination of employment before retirement date; certified service record; statement of accumulated contributions; termination benefits, when.
- 79-958. Employee; employer; required deposits and contributions.
- 79-959. Account of member; credit with regular interest.
- 79-960. Employer; deduction; remittances; fees; interest charge.
- 79-962. Contracts of employment; specify subject to provisions of act.
- 79-963. Director; employer and employee; furnish information.
- 79-964. Employer; pay to board; withholding of excess deduction.
- 79-965. Payment of compensation less required deductions; discharge of claims for service.
- 79-966. School Retirement Fund; state deposits; amount; determination.
- 79-966.01. School Retirement Fund; annual actuarial valuations.
- 79-967. Board; determine rates of benefits; adjustments; distribution of gains and savings.
- 79-968. Retirement system; assets; funds; account; investment.
- 79-971. Accumulated contributions; use.
- 79-972.01. School Retirement Fund; created; use.
- 79-973. Contingent Account; created; use.
- 79-974. Expense Fund; created; use.
- 79-976. Investment services; charges; report; state investment officer; duty.
- 79-977. School district expenditures; not exempt from limitations on spending.
- 79-977.01. Limitation of actions.
- 79-977.02. Retirement system contributions, income, property, and rights; how treated.
- 79-977.03. Termination of system or contributions; effect.

(b) EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS

- 79-978. Terms, defined.
- 79-978.01. Act, how cited.
- 79-979. Class V school district; employees' retirement system; established.
- 79-980. Employees retirement system; administration; trustees.
- 79-981. Employees retirement system; board of education; rules and regulations; administrator; employees compensation.
- 79-982. Employees retirement system; trustees; meetings; duties.
- 79-983. Employees retirement system; administrator; executive officer.
- 79-984. Employees retirement system; actuary; employment; duties.
- 79-985. Employees retirement system; attorney.
- 79-986. Employees retirement system; school district as treasurer; duties.
- 79-987. Employees retirement system; audit; cost; reports.
- 79-988. Employees retirement system; membership; separate employment; effect.
- 79-988.01. Transfer of funds by the state.
- 79-989. Employees retirement system; board of education; records available.
- 79-990. Employees retirement system; time served in armed forces or on leave of absence; resignation for maternity purposes; effect.
- 79-991. Employees retirement system; member; prior service credit; how obtained.
- 79-992. Employees retirement system; discontinuance of employment; refunds; reemployment.
- 79-993. Reemployment; repay contributions; limitation; effect.
- 79-994. Employee of another school district; contribution; limitation; effect.
- 79-995. Reemployment; military service; leave of absence; contribution; limitation; effect.
- 79-996. Contributions; how paid; interest.

- 79-997. Employee of educational service unit; contribution; limitation; effect.
- 79-998. Additional service credits; accept payments and rollovers; limitations; how treated; tax consequences.
- 79-999. Employees retirement system; annuity; how credited.
- 79-9,100. Employees retirement system; formula retirement annuity; computation.
- 79-9,101. Employees retirement system; annuity; election; remaining payments.
- 79-9,102. Employees retirement system; annuity benefit; limitations.
- 79-9,103. Annuity payment; cost-of-living adjustment; additional adjustments.
- 79-9,104. Employees retirement system; annuities; benefits; exempt from claims of creditors; exceptions.
- 79-9,105. Employees retirement system; member; disability; benefits.
- 79-9,106. Employees retirement system; member; death; effect; survivorship annuity; amount.
- 79-9,107. Employees retirement system; funds; investment; violations.
- 79-9,108. Employees retirement system; funds; investment manager; duties; board of education; investments; approve or disapprove.
- 79-9,109. Employees retirement system; investments; default of principal or interest; trustees; powers and duties.
- 79-9,110. Employees retirement system; investments; mortgages on real property, when.
- 79-9,111. Employees retirement system; investments; trustees; powers and duties.
- 79-9,113. Employees retirement system; federal Social Security Act; state retirement plan; how affected; required contributions; payment; membership service annuity; computations.
- 79-9,114. Employees retirement system; federal Social Security Act; agreement; coverage group.
- 79-9,115. Employees retirement fund; created; use.
- 79-9,116. Applicability of sections.

ARTICLE 10 -- SCHOOL TAXATION, FINANCE, AND FACILITIES --

(a) TAX EQUITY AND EDUCATIONAL OPPORTUNITIES SUPPORT ACT

- 79-1003. Terms, defined.
- 79-1017.01. Local system formula resources; amounts included.
- 79-1028. School years prior to 2008-09; applicable allowable growth rate; Class II, III, IV, V, or VI district may exceed; situations enumerated.
- 79-1028.01. School fiscal years; district may exceed certain limits; situations enumerated; state board; duties.
- 79-1028.03. Retirement aid; calculation.

CHAPTER 81 – STATE ADMINISTRATIVE DEPARTMENTS

ARTICLE 9 -- STATE COOPERATION WITH FEDERAL GOVERNMENT

- 81-917. Surplus and excess property program; employees of Department of Roads; transferred to Department of Correctional Services; conditions; benefits.

ARTICLE 13 – PERSONNEL

(b) STATE PERSONNEL SERVICE

- 81-1325. Employee; retirement; death; payment for unused sick leave benefits.

ARTICLE 14 – LAW ENFORCEMENT

(d) LAW ENFORCEMENT RESERVE FORCES

- 81-1442. Law enforcement reserve officer; not eligible for participation in certain pension funds or retirement systems.

ARTICLE 20 – NEBRASKA STATE PATROL

(b) RETIREMENT SYSTEM

- 81-2014. Terms, defined.
- 81-2014.01. Act, how cited.
- 81-2015. Nebraska State Patrol Retirement System; creation.

- 81-2016. Retirement system; membership; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 81-2017. Retirement system; contributions; payment; funding of system.
- 81-2018. State Patrol Retirement Fund; State Patrol Retirement Act Expense Fund; created; use.
- 81-2019. Retirement system; administration; Public Employees Retirement Board; duties; rules and regulations.
- 81-2019.01. Board; power to adjust contributions and benefits.
- 81-2020. State Treasurer; duties; warrants.
- 81-2021. Retirement system; director; records; employer education program.
- 81-2022. Retirement system; funds; investment; charges.
- 81-2023. Auditor of Public Accounts; annual audit; report to Clerk of the Legislature.
- 81-2024. Retirement system; powers.
- 81-2025. Retirement; conditions; deferment of payment; board; duties.
- 81-2026. Retirement; annuity; officers; surviving spouse; children; benefit; disability or death in line of duty; benefit; maximum benefit.
- 81-2027. Retirement benefit; adjusted by increase in cost of living.
- 81-2027.03. Benefits; adjustment.
- 81-2027.05. Annual benefit adjustment; terms, defined.
- 81-2027.06. Annual benefit adjustment; minimum accrual rate.
- 81-2027.07. Annual benefit adjustment; calculations.
- 81-2028. Retirement; disability; exceptions.
- 81-2029. Retirement; disability; proof.
- 81-2030. Retirement; disability; medical examinations; expense.
- 81-2031. Termination of employment; return of contributions, when; rejoining system; deferred annuity.
- 81-2031.01. Retirement system; reemployment; election to repay system; amount; status; exception.
- 81-2031.02. Retirement system; current employee; participation in another governmental plan; how treated.
- 81-2031.03. Direct rollover; terms, defined; distributee; powers; board; duties.
- 81-2031.04. Retirement system; accept payments and rollovers; limitations; board; duties.
- 81-2031.05. Retired officer; reemployment; how treated.
- 81-2031.06. Termination of employment prior to eligibility to retire; rejoining system; effect.
- 81-2031.07. Retirement system; accept transfers; limitations; how treated.
- 81-2032. Retirement system; funds; exemption from legal process; exception.
- 81-2033. Retirement; total service credit.
- 81-2034. Retirement; method of crediting for time served in armed forces; effect.
- 81-2035. Annuity; adjustment; amount.
- 81-2036. Annuity; additional adjustment; changes in family unit.
- 81-2037. Limitation of actions.
- 81-2038. False or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 81-2039. Retirement system contributions, property, and rights; how treated.
- 81-2040. Termination of system or contributions; effect.
- 81-2041. DROP participation authorized; requirements; fees.

CHAPTER 84 – STATE OFFICERS

ARTICLE 7 -- GENERAL PROVISIONS AS TO STATE OFFICERS

- 84-712.05. Records which may be withheld from the public; enumerated.

ARTICLE 13 – STATE EMPLOYEES RETIREMENT ACT

- 84-1301. Terms, defined.
- 84-1302. State Employees Retirement System; established; operative date; official name; acceptance of contributions.
- 84-1305. Retirement board; duties.
- 84-1305.01. Records; employer education program.
- 84-1305.02. Retirement board; power to adjust contributions and benefits.

- 84-1307. Retirement system; membership; composition; exercise of option to join; effect; new employee; participation in another governmental plan; how treated; separate employment; effect.
- 84-1308. Retirement system; contribution of employees; method of payment; amount; employer pick up contributions.
- 84-1309. State Employees Retirement Fund; established; amounts credited; disbursements.
- 84-1309.01. Board; provide benefit liability information; verify investments.
- 84-1309.02. Cash balance benefit; election; effect; administrative services agreements; authorized.
- 84-1310. Defined contribution benefit; employee account.
- 84-1310.01. Defined contribution benefit; employee account; investment options; procedures; administration.
- 84-1311. Defined contribution benefit; employer account; investment.
- 84-1311.03. Defined contribution benefit; employer account; investment options; procedures; administration.
- 84-1312. Direct rollover; terms, defined; distributee; powers; board; duties.
- 84-1313. Retirement system; accept payments and rollovers; limitations; board; duties.
- 84-1313.01. Retirement system; accept transfers; limitations; how treated.
- 84-1313.02. Retirement system; transfer deferred compensation as plan-to-plan transfer; conditions.
- 84-1314. State Employees Retirement System Expense Fund; created; use; investment.
- 84-1315. Auditor of Public Accounts; annual audit of retirement system; annual report to Clerk of the Legislature.
- 84-1316. Retirement system; sue and be sued; actions; representation by Attorney General.
- 84-1317. Employees; retirement date; application for benefits; deferment of benefits; board; duties.
- 84-1318. Employees; benefits; retirement value; how computed.
- 84-1319. Future service retirement benefits; when payable; how computed; selection of annuity; board; provide tax information; deferment of benefits.
- 84-1319.01. State Equal Retirement Benefit Fund; created; use.
- 84-1320. Prior service retirement benefits; when payable; how computed; deferment; reduction in amount, when.
- 84-1321. Employees; termination of employment; benefits; when; how computed; vesting; deferment of benefits.
- 84-1321.01. Termination of employment; account forfeited; when.
- 84-1322. Employees; reemployment; status; how treated.
- 84-1323. Employees; death before retirement; death benefit; amount.
- 84-1323.01. Employee; retirement; disability; medical examination.
- 84-1324. Retirement benefits; exemption from legal process; exception.
- 84-1325. Employees; military service; credit; payments.
- 84-1326. Retirement system; membership status; not lost while employment continues.
- 84-1326.01. Retirement system; member; employee status changed to behavioral health region or community mental health center benefits retained; application; immediate participation; when.
- 84-1327. Retirement system; false or fraudulent actions; prohibited acts; penalty; denial of benefits.
- 84-1328. Retirement benefits; declared additional to benefits under federal Social Security Act.
- 84-1329. Limitation of actions.
- 84-1329.04. Retirement system contributions, property, and rights; how treated.
- 84-1329.05. Termination of system or contributions; effect.
- 84-1330. Elected officials and employees having regular term; sections, when operative.
- 84-1330.01. State Employees Retirement Fund; elected officials and employees having a regular term; sections, when operative.
- 84-1331. Act, how cited.
- 84-1332. City or county employee changed by Legislature to state employee; vesting of prior service retirement benefits; application; vested benefits.
- 84-1333. County employee changed by law to judge; vesting of prior service retirement benefits; vested benefits.

ARTICLE 15 – PUBLIC EMPLOYEES RETIREMENT BOARD

- 84-1501. Public Employees Retirement Board; created; members; qualifications; appointment; terms; expenses; removal.
- 84-1502. Board; chairperson; secretary; election; meetings.
- 84-1503. Board; duties.
- 84-1503.02. Board, duties and responsibilities.
- 84-1503.03. Director; employ personnel; employees; duties.
- 84-1503.04. Internal auditor; duties and responsibilities.
- 84-1504. Deferred compensation; treatment.
- 84-1505. Deferred compensation; treatment; investment.
- 84-1506. Deferred compensation; availability and distribution of funds; Deferred Compensation Fund; created.
- 84-1506.01. Deferred Compensation Expense Fund; created; use; investment.
- 84-1507. Actuarial reports; statement of actuarial assumptions and methods; actuarial valuations and experience investigations; prepared; actuary; certified by Public Employees Retirement Board.
- 84-1509. Administrative services agreement; authorized.
- 84-1510. Administrative services agreement; terms.
- 84-1511. Board; establish preretirement planning program; for whom; required information; funding; attendance; fee.
- 84-1511.01. Board; retirement education and financial planning program; for whom; required information; funding; attendance; fee.
- 84-1512. Board; access to records; employer education program.
- 84-1513. Board; members; personal liability.

CHAPTER 85 – STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION

ARTICLE 1 – UNIVERSITY OF NEBRASKA

- 85-106. Board of Regents; general powers; duties; retirement benefits; requirements.
- 85-106.04. Retirement benefits; certain employees; cost-of-living adjustment; how computed.
- 85-1,119. Kearney State College; transfer of property, obligations, and employees; collective bargaining.

ARTICLE 3 – STATE COLLEGES

- 85-320. State colleges; retirement plan; establishment; terms; investment of funds.

ARTICLE 6 – PUBLIC INSTITUTIONS OF EDUCATION

(b) RETIREMENT

- 85-606. University of Nebraska, state colleges, community colleges; permissive retirement; compulsory retirement; exceptions; retirement contributions; faculty member; revocation of tenure; rights.
- 85-606.01. University of Nebraska; state colleges; community colleges; retirement annuity contracts; purchase.

ARTICLE 14 – COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

(a) COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION ACT

- 85-1411. Commission; executive director, employees, consultants; compensation; recruitment expenses; rules and regulations; duties.

This page left intentionally blank.

SUBJECT INDEX OF PUBLIC RETIREMENT LAWS

	Page
AGRICULTURE (Chapter 2)	7
COUNTY EXTENSION WORK (Article 16)	
JOINT COUNTY EXTENSION ORGANIZATIONS	
RETIREMENT SYSTEM.....	7
NATURAL RESOURCES (Article 32)	
RETIREMENT PLAN REPORTS	7
AERONAUTICS (Chapter 3)	11
CITY AIRPORT AUTHORITY (Article 5)	
SOCIAL SECURITY AND PENSION PLANS.....	11
COUNTY AIRPORT AUTHORITY (Article 6)	11
ALIENS (Chapter 4)	13
PARTICIPATION IN RETIREMENT SYSTEM – RESTRICTION	
COUNTY EMPLOYEES RETIREMENT ACT (Chapter 23)	67
JUDGES RETIREMENT ACT (Chapter 24)	101
NEBRASKA STATE PATROL RETIREMENT SYSTEM (Chapter 81)	287
PUBLIC BENEFITS (Chapter 4)	13
SCHOOL EMPLOYEES RETIREMENT ACT (Chapter 79)	199
STATE EMPLOYEES RETIREMENT ACT (Chapter 84)	313
CARRIER ENFORCEMENT OFFICERS (See MOTOR VEHICLES)	
CITIES	
FIRST CLASS (Chapter 16)	27
RETIREMENT SYSTEMS (Article 10).....	27
FIREFIGHTERS RETIREMENT	43
POLICE OFFICER RETIREMENT	29
METROPOLITAN CLASS (Chapter 14)	19
FISCAL MANAGEMENT, REVENUE, AND FINANCES (Article 5).....	19
PENSION BOARD	19
METROPOLITAN TRANSIT AUTHORITY (Article 18).....	20
PUBLIC UTILITIES (Article 21).....	23
PRIMARY CLASS (Chapter 15).....	25
PENSIONS (Article 10)	
INVESTMENT, TAX LEVY, RIGHTS	25
OTHER POLITICAL SUBDIVISIONS (Chapter 13)	15
RETIREMENT BENEFITS OF TRANSFERRED EMPLOYEES (Article 24)	16

CITIES AND VILLAGES

LAWS APPLICABLE TO ALL (Chapter 18).....59
 EMPLOYEE CONTRIBUTIONS (Article 17)59
 TAXES FOR RETIREMENT PLANS (Article 12)59
PARTICULAR CLASSES (Chapter 19)61
 PENSION PLANS (Article 35).....61

CIVIL SERVICE SYSTEM (See COUNTY GOVERNMENT AND OFFICERS)

COUNTY EMPLOYEES RETIREMENT (See COUNTY GOVERNMENT AND OFFICERS)

COUNTY GOVERNMENT AND OFFICERS (Chapter 23)63
 CIVIL SERVICE SYSTEM (Article 25)
 TRANSFER OF EMPLOYEES; RETIREMENT BENEFIT CALCULATIONS95
 COUNTY EMPLOYEES RETIREMENT ACT (Article 23).....67
 MEDICAL AND MULTIUNIT FACILITIES (Article 35)
 RETIREMENT PLAN.....97
 SALARIES OF COUNTY OFFICERS (Article 11)
 CONTRIBUTION RATES64

COURTS (Chapter 24) (Also see JUDICIAL).....99
 JUDGES, GENERAL PROVISIONS (Article 7)99
 JUDGES RETIREMENT ACT.....101
 JUDICIAL DISCIPLINE.....123
 RETIRED JUDGES125
 CIVIL PROCEDURE (Chapter 25).....127
 SMALL CLAIMS COURT (Article 28)
 FEES127

DECEDENTS' ESTATES (Chapter 30)129
 FIDUCIARIES (Article 32)
 PENSION FUNDS OF GOVERNMENTAL EMPLOYEES.....129

EMPLOYMENT SECURITY (See LABOR)

FEES AND SALARIES (Chapter 33) (Article 1)131

FIRE COMPANIES AND RETIREMENT (Chapter 35)139
 DEATH OR DISABILITY (Article 10)139

FIREFIGHTERS RETIREMENT (See CITIES, FIRST CLASS)

HUSBAND AND WIFE (Chapter 42)141
 SPOUSAL PENSION RIGHTS ACT (Article 11)
 QUALIFIED DOMESTIC RELATIONS ORDER.....141

INDEPENDENT RETIREMENT SYSTEM (See LABOR)	
INVESTMENT COUNCIL, NEBRASKA (See PUBLIC LANDS, BUILDINGS AND FUNDS)	
INVESTMENT OF RETIREMENT FUNDS (Neb. Const. Art. XV)	5
JUDICIAL (Neb. Const. Art. V) (Also see COURTS).....	3
LABOR (Chapter 48)	147
EMPLOYMENT SECURITY (Article 6)	
INDEPENDENT RETIREMENT SYSTEM.....	148
DEFERRED COMPENSATION (Article 14)	149
WORKERS' COMPENSATION (Article 1).....	147
NEBRASKA WORKERS' COMPENSATION COURT (Part IV)	
JUDGES APPOINTMENT--COMPENSATION).....	147
LEGISLATIVE POWER (Neb. Const. Art. III).....	1
LEGISLATURE (Chapter 50).....	151
LEGISLATIVE COUNCIL (Article 4)	
NEBRASKA RETIREMENT SYSTEMS COMMITTEE	151
LAW ENFORCEMENT RETIREMENT PLAN SURVEY.....	151
LEGISLATIVE COUNCIL RETIREMENT STUDY FUND.	151
MILITIA (Chapter 55)	155
MILITARY CODE (Article 1)	
MILITARY LEAVE OF ABSENCE—EMPLOYEE RIGHTS.....	155
MOTOR VEHICLES (Chapter 60).....	157
WEIGHING STATIONS (Article 13)	
TRANSFER OF CARRIER ENFORCEMENT OFFICERS;	
RETIREMENT OPTIONS.....	157
POLICE OFFICER RETIREMENT (See CITIES, FIRST CLASS)	
POWER DISTRICTS AND CORPORATIONS (Chapter 70)	169
RETAIL ELECTRIC SERVICE (Article 11)	
EMPLOYEES RIGHTS.....	169
PUBLIC ASSISTANCE (Chapter 68)	159
SOCIAL SECURITY (Article 6)	159
PUBLIC EMPLOYEES RETIREMENT BOARD (See STATE OFFICERS)	
PUBLIC EMPLOYEES RETIREMENT SYSTEMS, NEBRASKA (See STATE . OFFICERS)	

PUBLIC HEALTH AND WELFARE (Chapter 71).....	171
LOCAL PUBLIC HEALTH DEPARTMENTS (Article 16)	
PENSION PLANS.....	171
LOCAL HEALTH SERVICES.....	171
PUBLIC LANDS, BUILDINGS, AND FUNDS (Chapter 72)	175
INVESTMENT OF STATE FUNDS (Article 12)	
NEBRASKA STATE FUNDS INVESTMENT ACT.....	175
QUALIFIED DOMESTIC RELATIONS ORDER (See HUSBAND AND WIFE)	
RESTRICTION FROM PARTICIPATING IN PUBLIC RETIREMENT PLAN (See ALIENS)	
RETIREMENT INCENTIVE PLAN (See SCHOOLS)	
RETIREMENT SYSTEMS COMMITTEE, NEBRASKA (See LEGISLATURE)	
REVENUE AND TAXATION (Chapter 77)	179
ASSESSMENT OF PROPERTY (Article 13)	180
DEPARTMENT OF PROPERTY ASSESSMENT AND TAXATION (Article 7)	
TRANSFERRED EMPLOYEES; RETIREMENT RIGHTS.....	179
SALES AND INCOME TAX (Article 27)	181
SCHOOLS (Chapter 79)	187
DEFINITIONS AND CLASSIFICATIONS (Article 1)	190
SCHOOL EMPLOYEES RETIREMENT SYSTEMS (Article 9)	197
EMPLOYEES OF OTHER THAN CLASS V DISTRICT.....	199
EMPLOYEES RETIREMENT SYSTEM IN CLASS V DISTRICTS.....	241
SCHOOL ORGANIZATION AND REORGANIZATION (Article 4)	
RETIREMENT PLAN RESTRICTIONS	191
TEACHERS AND ADMINISTRATORS (Article 8)	
REDUCTION IN FORCE; RETIREMENT INCENTIVE PLAN.....	192
SOCIAL SECURITY (See PUBLIC ASSISTANCE)	
SPOUSAL PENSION RIGHTS ACT (See HUSBAND AND WIFE)	
STATE ADMINISTRATIVE DEPARTMENTS (Chapter 81).....	283
NEBRASKA STATE PATROL RETIREMENT SYSTEM (Article 20).....	287
STATE EMPLOYEES RETIREMENT ACT (See STATE OFFICERS)	
STATE OFFICERS (Chapter 84)	309
GENERAL PROVISIONS AS TO STATE OFFICERS (Article 7)	
RECORDS WHICH MAY BE WITHHELD FROM THE PUBLIC	310
PUBLIC EMPLOYEES RETIREMENT BOARD (Article 15)	341
STATE EMPLOYEES RETIREMENT ACT (Article 13)	313

STATE PATROL RETIREMENT SYSTEM (See STATE ADMINISTRATIVE DEPARTMENTS)

STATE UNIVERSITY, STATE COLLEGES, AND POSTSECONDARY EDUCATION (Chapter 85).....353

- UNIVERSITY OF NEBRASKA (Article 1)
 - RETIREMENT BENEFITS; COLA ADJUSTMENTS353
- STATE COLLEGES (Article 3)
 - RETIREMENT PLAN; INVESTMENT OF FUNDS357
- PUBLIC INSTITUTIONS OF HIGHER EDUCATION (Article 6)
 - PERMISSIVE, COMPULSORY RETIREMENT; CONTRIBUTIONS357
- COORDINATING COMMISSION FOR SECONDARY EDUCATION (Article 14).....358

TEACHERS AND ADMINISTRATORS (See SCHOOLS)

WORKERS' COMPENSATION COURT (See LABOR)