

LEGISLATIVE BILL 508

Approved by the Governor May 16, 2007

Introduced by Pahls, 31

FOR AN ACT relating to retirement; to amend section 79-956, Reissue Revised Statutes of Nebraska, and section 24-707, Revised Statutes Cumulative Supplement, 2006; to change and eliminate provisions relating to the payment of death benefits under the Judges Retirement Act and the School Employees Retirement Act; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 24-707, Revised Statutes Cumulative Supplement, 2006, is amended to read:

24-707 (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 those benefits which the surviving spouse would have been entitled to under subsection (3) of section 24-710 had the judge elected to have the retirement annuity paid as a joint and survivor annuity payable as long as either the judge or the judge's surviving spouse should survive and had the judge retired (a) on the date of death if his or her age at death is sixty-five or more or (b) at age sixty-five if his or her age at death is less than sixty-five. 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 ~~one hundred twenty days~~ 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) ~~Except as provided in subsection (1) of this section,~~ in 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.

Sec. 2. Section 79-956, Reissue Revised Statutes of Nebraska, is amended to read:

79-956 (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 ~~one hundred twenty days~~ 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 ~~one hundred twenty days~~ 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.

Sec. 3. Original section 79-956, Reissue Revised Statutes of Nebraska, and section 24-707, Revised Statutes Cumulative Supplement, 2006, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.