

LEGISLATIVE BILL 160

Approved by the Governor March 31, 1988

Introduced by Pappas, 42; Hartnett, 45; Haberman, 44

AN ACT relating to schools; to amend sections 79-1522.01, 79-1522.02, 79-1529, 79-1531, and 79-1533, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to formula annuity retirement allowances; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 79-1522.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1522.01. In lieu of the school retirement allowance provided by section 79-1522, 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 79-1520 may receive a formula annuity retirement allowance.

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 service for which such member would otherwise receive the service annuity provided by section 79-1522 (1) by one and one-quarter percent of his or her final average compensation, (2) by one and one-half percent of his or her final average compensation, or (3) by one and sixty-five hundredths percent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed thirty-five 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 sixty-fifth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity at the date it begins shall be reduced by three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday. If the annuity begins on or after the sixtieth birthday of the member and the member has completed at least thirty but less than thirty-five years of creditable service, the annuity at the date it begins shall be reduced by three percent for each year

by which the member's years of creditable service is less than thirty-five years or for each year by which the member is less than sixty-five years of age, whichever provides the greater annuity. A member must shall have acquired the equivalent of one-half year of service or more as a public school employee under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter percent of his or her final average compensation as one of the factors, must shall have acquired the equivalent of one-half year of service or more as a public school employee under the school retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one-half percent of his or her final average compensation as one of the factors, or must shall have acquired the equivalent of one-half year of service or more as a public school employee under the school retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths percent of his or her final average compensation as one of the factors.

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 shall be continued to his or her estate or to such beneficiary as he or she shall have designated until 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 79-1530.

Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member has such compensation for less than three such fiscal years his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year. A member must shall have acquired the equivalent

of one-half year of service or more as a public school employee under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using only five fiscal years in the determination of his or her final average compensation.

All formula annuities shall be paid from the Annuity Reserve Fund. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Fund: (a) From the Service Annuity Fund, the value of the service annuity which would otherwise be payable; (b) from the School Employees' Savings Fund, the accumulated contributions of the member; and (c) from the School Employer's Deposit Fund, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Fund and the School Employees' Savings Fund. The amounts transferred from the Service Annuity Fund at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis.

For the purpose of providing the funds to be transferred from the School Employer's Deposit Fund for formula annuities, every employer shall be required to make deposits in the School Employer's Deposit Fund. Such deposits shall be a uniform percentage of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. In the fiscal year commencing July 1, 1968, such uniform percentage shall be twenty percent of the required school employee contributions. For each fiscal year thereafter, such uniform percentage shall be determined by the retirement board upon recommendation of the actuary and shall be determined by deducting from the then present value of all future amounts to be transferred from the School Employer's Deposit Fund the amount then credited to such fund and dividing the remainder by the present value of the prospective future required contributions of all employees of the school districts covered by this section.

Sec. 2. That section 79-1522.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1522.02. No provision of section 79-1512, 79-1522.01, 79-1531, 79-1533, or 79-1540 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 school retirement system following July 1, 1984.

No provision of ~~sections~~ section 79-1522.01, 79-1529, 79-1531, or 79-1533 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 school retirement system following July 1, 1986.

No provision of section 79-1522.01, 79-1529, 79-1531, or 79-1533 which would result in an increase in benefits that would have been payable prior to the effective date of this act 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 school retirement system during or after fiscal year 1987-88.

Sec. 3. That section 79-1529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1529. If any member ceases to be a school employee for any reason other than death, before qualifying for retirement under section 79-1520, the board shall, upon request, issue him or her 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, 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 the retirement allowance provided in sections 79-1522 and 79-1522.01. Any deferred formula annuity provided shall be based on the member's salary 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 and before his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section 79-1522.01. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Sec. 4. That section 79-1531, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

79-1531. (1) For the purpose of providing the funds to be transferred from the School Employees' Savings Fund for formula annuities, every employee shall be required to make deposits in the School Employees' Savings Fund. Such deposits shall be a percentage of total compensation and shall be transmitted at the same time and in the same manner as required employer contributions. For each fiscal year, such percentage shall be determined by the retirement board upon recommendation of the actuary and shall be equal to forty-nine and seventy-five hundredths percent of the amount determined by deducting from the then actuarial present value of all future liabilities to be funded by transfers from the School Employer's Deposit Fund and the School Employees' Savings Fund the amount then credited to such funds and dividing the remainder by the actuarial present value of one percent of future compensation for current active members.

(2) For the purpose of providing the funds to be transferred from the School Employer's Deposit Fund for formula annuities, every employer shall be required to make deposits in the School Employer's Deposit Fund. Such deposits shall be one hundred one percent of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. Each member of the retirement system shall be required to make a deposit, or have a deposit made on his or her behalf, in the School Employees' Savings Fund equal to five and four-tenths percent of all compensation. All amounts deposited by or on behalf of any school employee shall be held for the benefit of the individual school employee in the School Employees' Savings Fund and shall be credited to his or her account in this fund for the purpose of providing an annuity or other benefit as provided in sections 79-1501 to 79-1557.

{2} (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 United States Internal Revenue Code, 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 United States 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 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 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 for all purposes of sections 79-1501 to 79-1565 in the same manner and to the same extent as member contributions made prior to the date picked up.

Sec. 5. That section 79-1533, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1533. Every employer shall deduct and withhold an amount from the compensation as a school employe of each member on each and every payroll period after such school employe becomes a member of the retirement system ~~five and four-tenths percent of such compensation of such member~~ pursuant to section 79-1531. The employer, through its proper agents, the city or county superintendent, or the secretary of the school board or board of education, shall transmit monthly, quarterly, or semiannually if the retirement board shall so direct a copy of such payroll, in such form as shall be approved by the retirement board, and a remittance payable to the order of the State Treasurer for all deductions from the compensation of members on such payroll. The remittances may be by draft, money order, check, or otherwise according to ~~the rule~~ rules and regulations adopted and promulgated by the retirement board. All such amounts due to the retirement board shall bear interest at the rate of six percent per annum if the payment of the same is delayed more than thirty days after the time prescribed for payment. The proceeds of the interest charge shall be used to reimburse the account of each school employe, deprived of interest by the delay, with regular interest, and the balance shall be paid into the School Employees' Savings Fund. ~~of the retirement system.~~

Sec. 6. That original sections 79-1522.01, 79-1522.02, 79-1529, 79-1531, and 79-1533, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.