

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 503

Introduced by Nebraska Retirement Systems Committee:
Stuhr, 24, Chairperson; Bourne, 8; Erdman, 47;
Price, 26;

Read first time January 14, 2005

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to state officials; to amend sections 72-1238,
2 72-1239, 72-1243, 79-906, and 84-1309.01, Reissue Revised
3 Statutes of Nebraska, and sections 23-2312, 24-704,
4 81-2021, 84-1305.01, 84-1502, 84-1503, 84-1503.03, and
5 84-1512, Revised Statutes Supplement, 2004; to change
6 provisions relating to membership, per diems, and powers
7 and duties of the Nebraska Investment Council; to change
8 provisions relating to the Public Employees Retirement
9 Board and director of the retirement systems; to
10 harmonize provisions; to provide an operative date; to
11 repeal the original sections; and to declare an
12 emergency.

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

1 Section 1. Section 23-2312, Revised Statutes Supplement,
2 2004, is amended to read:

3 23-2312. (1) The director of the Nebraska Public
4 Employees Retirement Systems shall keep a complete record of all
5 members with respect to names, current addresses, ages,
6 contributions, and any other facts as may be necessary in the
7 administration of the County Employees Retirement Act. The
8 information in the records shall be provided by the employer in an
9 accurate and verifiable form, as specified by the director. The
10 director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing
11 procedures to verify the accuracy of such information. For the
12 purpose of obtaining such facts and information, the director shall
13 have access to the records of the various counties and state
14 departments and agencies. A certified copy of a birth certificate
15 or delayed birth certificate shall be prima facie evidence of the
16 age of the person named in the certificate.

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

22 Sec. 2. Section 24-704, Revised Statutes Supplement,
23 2004, is amended to read:

24 24-704. (1) The general administration of the retirement
25 system for judges provided for in the Judges Retirement Act, except
26 the investment of funds, is hereby vested in the board. The
27 Auditor of Public Accounts shall make an annual audit of the
28 retirement system and file an annual report of its condition with

1 the Clerk of the Legislature. Each member of the Legislature shall
2 receive a copy of the annual report by making a request for such
3 report to the Auditor of Public Accounts. The board shall adopt
4 and promulgate rules and regulations as may be necessary to carry
5 out the Judges Retirement Act.

6 (2) (a) The board shall employ a director and such
7 assistants and employees as may be necessary to efficiently
8 discharge the duties imposed by the act. The director shall keep a
9 record of all acts and proceedings taken by the board.

10 (b) The director shall keep a complete record of all
11 members with respect to name, current address, age, contributions,
12 length of service, compensation, and any other facts as may be
13 necessary in the administration of the act. The information in the
14 records shall be provided by the State Court Administrator in an
15 accurate and verifiable form, as specified by the director. The
16 director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing
17 procedures to verify the accuracy of such information. For the
18 purpose of obtaining such facts and information, the director shall
19 have access to the records of the various state departments and
20 agencies. A certified copy of a birth certificate or delayed birth
21 certificate shall be prima facie evidence of the age of the person
22 named in the certificate.

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

28 (3) Information necessary to determine membership in the

1 retirement system shall be provided by the State Court
2 Administrator.

3 (4) Any funds of the retirement system available for
4 investment shall be invested by the Nebraska Investment Council
5 pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act. Payment for investment services by the
7 council shall be charged directly against the gross investment
8 returns of the funds. Charges so incurred shall not be a part of
9 the board's annual budget request. The amounts of payment for such
10 services, as of December 31 of each year, shall be reported not
11 later than March 31 of the following year to the council, the
12 board, and the Nebraska Retirement Systems Committee. The state
13 investment officer shall sell any such securities upon request from
14 the director so as to provide money for the payment of benefits or
15 annuities.

16 Sec. 3. Section 72-1238, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 72-1238. ~~The~~ (1) Prior to July 1, 2005, the appointed
19 members of the council shall have at least ten years of experience
20 in the financial affairs of a public or private organization or
21 have at least five years of experience in the field of investment
22 management or analysis. For members appointed after July 1, 2005,
23 the appointed members of the council shall have at least seven
24 years of experience in the field of investment management or
25 analysis, or have at least twelve years of experience in the
26 financial management of a public or private organization. There is
27 a preference for members who are appointed to have experience in
28 investment management or analysis.

1 (2) The members serving on ~~July 19, 1996~~ July 1, 2005,
2 shall serve for the remainder of their five-year terms which will
3 be extended until the date on which the successor's appointment is
4 effective.

5 Sec. 4. Section 72-1239, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 72-1239. The purpose of the council is to formulate and
8 establish such policies as it may deem necessary and proper which
9 shall govern the methods, practices, and procedures followed by the
10 state investment officer for the investment or reinvestment of
11 state funds and funds described in section 83-133 and the purchase,
12 sale, or exchange of securities as provided by the Nebraska State
13 Funds Investment Act. The council shall meet from time to time as
14 directed by the Governor or the chairperson or as requested by the
15 state investment officer. The members of the council, except the
16 State Treasurer and the director of the Nebraska Public Employees
17 Retirement Systems, shall be paid ~~twenty~~ seventy-five dollars per
18 diem. The ~~7~~ ~~and all~~ members shall be reimbursed for their actual
19 and necessary expenses incurred in connection with the performance
20 of their duties as members as provided in sections 81-1174 to
21 81-1177.

22 Sec. 5. Section 72-1243, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 72-1243. (1) Except as otherwise specifically provided
25 by law, the state investment officer shall direct the investment
26 and reinvestment of money in all state funds not currently needed
27 and all funds described in section 83-133 and order the purchase,
28 sale, or exchange of securities for such funds. He or she shall

1 notify the State Treasurer of any payment, receipt, or delivery
2 that may be required as a result of any investment decision, which
3 notification shall be the authorization and direction for the State
4 Treasurer to make such disbursement, receipt, or delivery from the
5 appropriate fund.

6 (2) The council ~~and the Public Employees Retirement Board~~
7 shall ~~jointly~~ have an analysis made of the investment ~~return~~
8 returns that ~~has~~ have been achieved on the assets of each
9 retirement system administered by the ~~board~~ Public Employees
10 Retirement Board as provided in section 84-1503. By March ~~±~~ 15 of
11 each year, the analysis shall be presented to the board and the
12 Nebraska Retirement Systems Committee. The analysis shall be
13 prepared by an independent organization which has demonstrated
14 expertise to perform this type of analysis and for which there
15 exists no conflict of interest in the analysis being provided. The
16 analysis may be waived by the council for any retirement system
17 with assets of less than one million dollars.

18 (3) By March ~~±~~ 15 of each year, the council shall prepare
19 a written plan of action and shall present such plan to the
20 Nebraska Retirement Systems Committee at a public hearing. The
21 plan shall include, but not be limited to, the council's investment
22 ~~policy portfolio~~ portfolios, investment strategies, the duties and
23 limitations of the state investment officer, ~~and limits on his or~~
24 ~~her authority,~~ and an organizational structure of the council's
25 office.

26 Sec. 6. Section 79-906, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 79-906. (1) The director in charge of the retirement

1 system shall keep a complete record of all members with respect to
2 name, current address, age, contributions, and any other facts as
3 may be necessary in the administration of the School Employees
4 Retirement Act. The information in the records shall be provided
5 by the employer in an accurate and verifiable form, as specified by
6 the director. The director ~~may~~ shall, from time to time, carry out
7 ~~sampling~~ testing procedures to verify the accuracy of such
8 information. For the purpose of obtaining such facts and
9 information, the director shall have access to the records of the
10 various employers and state departments and agencies. A certified
11 copy of a birth certificate or delayed birth certificate shall be
12 prima facie evidence of the age of the person named in the
13 certificate.

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

19 Sec. 7. Section 81-2021, Revised Statutes Supplement,
20 2004, is amended to read:

21 81-2021. (1) The director in charge of the system shall
22 keep a record of all acts and proceedings taken by the board. He
23 or she shall keep a complete record of all members with respect to
24 name, current address, age, contributions, length of service,
25 compensation, and any other facts as may be necessary in the
26 administration of the Nebraska State Patrol Retirement Act. The
27 board shall prescribe the form in which such information shall be
28 reported by the Nebraska State Patrol to the board. The

1 information in the records shall be provided by the Nebraska State
2 Patrol in an accurate and verifiable form, as specified by the
3 director. The director ~~may~~ shall, from time to time, carry out
4 ~~sampling~~ testing procedures to verify the accuracy of such
5 information. For the purpose of obtaining such facts and
6 information, the director shall have access to the records of the
7 various state departments and agencies. A certified copy of a
8 birth certificate or delayed birth certificate shall be prima facie
9 evidence of the age of the person named in the certificate.

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

15 Sec. 8. Section 84-1305.01, Revised Statutes Supplement,
16 2004, is amended to read:

17 84-1305.01. (1) The director of the Nebraska Public
18 Employees Retirement Systems shall keep a complete record of all
19 members with respect to name, current address, age, contributions,
20 and any other facts as may be necessary in the administration of
21 the State Employees Retirement Act. The information in the records
22 shall be provided by the employer in an accurate and verifiable
23 form, as specified by the director. The director ~~may~~ shall, from
24 time to time, carry out ~~sampling~~ testing procedures to verify the
25 accuracy of such information. For the purpose of obtaining such
26 facts and information, the director shall have access to the
27 records of the various state departments and agencies. A certified
28 copy of a birth certificate or delayed birth certificate shall be

1 prima facie evidence of the age of the person named in the
2 certificate.

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

8 Sec. 9. Section 84-1309.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 84-1309.01. The board shall provide benefit liability
11 information and other assistance to the Nebraska Investment Council
12 for the establishment of policy portfolio objectives for the
13 investing and reinvesting of the assets of the retirement system.
14 The board shall verify that the investments of the assets of the
15 retirement system by the council and the state investment officer
16 are invested and reinvested for the exclusive purposes of providing
17 benefits to members and members' beneficiaries and that the assets
18 of the retirement system are not invested with the sole or primary
19 investment objective of economic development or social purposes or
20 objectives. Such verification shall be included in the ~~joint~~
21 ~~analysis of the investment return~~ written plan of action pursuant
22 to subsection (3) of section 84-1503.

23 Sec. 10. Section 84-1502, Revised Statutes Supplement,
24 2004, is amended to read:

25 84-1502. (1) Within thirty days after its appointment,
26 the board shall meet and select a chairperson and secretary.
27 Thereafter, the chairperson and the secretary shall be elected in
28 January of each year.

1 (2) The board shall meet upon call of the chairperson or
2 upon the request of three members of the board filed with the board
3 office. Meetings of the board shall be held in this state and may
4 be held by telecommunication equipment if the requirements of the
5 Open Meetings Act are met.

6 (3) The members of the board, except the state investment
7 officer, shall be paid fifty dollars per diem, and all members
8 shall be reimbursed for their actual and necessary expenses
9 incurred in connection with the performance of their duties as
10 board members as provided in sections 81-1174 to 81-1177.

11 Sec. 11. Section 84-1503, Revised Statutes Supplement,
12 2004, is amended to read:

13 84-1503. (1) It shall be the duty of the Public
14 Employees Retirement Board:

15 (a) To administer the retirement systems provided for in
16 the County Employees Retirement Act, the Judges Retirement Act, the
17 Nebraska State Patrol Retirement Act, the School Employees
18 Retirement Act, and the State Employees Retirement Act. The agency
19 for the administration of the retirement systems and under the
20 direction of the board shall be known and may be cited as the
21 Nebraska Public Employees Retirement Systems;

22 (b) To appoint a director to administer the systems under
23 the direction of the board. The appointment shall be subject to
24 the approval of the Governor and a majority of the Legislature.
25 The director shall be qualified by training and have at least five
26 years of experience in the administration of a qualified public or
27 private employee retirement plan. The director shall not be a
28 member of the board. The salary of the director shall be set by

1 the board. The director shall serve without term and may be
2 removed by the board;

3 (c) To provide for an equitable allocation of expenses
4 among the retirement systems administered by the board, and all
5 expenses shall be provided from the investment income earned by the
6 various retirement funds unless alternative sources of funds to pay
7 expenses are specified by law;

8 (d) To administer the deferred compensation program
9 authorized in section 84-1504;

10 (e) To hire an attorney, admitted to the Nebraska State
11 Bar Association, to advise the board in the administration of the
12 retirement systems listed in subdivision (a) of this subsection;

13 (f) To hire an internal auditor to perform the duties
14 described in section 12 of this act who meets the minimum standards
15 as described in section 84-304.03;

16 (g) To adopt and implement procedures for reporting
17 information by employers, as well as ~~sampling~~ testing and
18 monitoring procedures in order to verify the accuracy of such
19 information. The information necessary to determine membership
20 shall be provided by the employer. The board shall adopt and
21 promulgate rules and regulations and prescribe such forms necessary
22 to carry out this subdivision. Nothing in this subdivision shall
23 be construed to require the board to conduct onsite audits of
24 political subdivisions for compliance with statutes, rules, and
25 regulations governing the retirement systems listed in subdivision
26 (1) (a) of this section regarding membership and contributions; and

27 ~~(g)~~ (h) To prescribe and furnish forms for the public
28 retirement system plan reports required to be filed pursuant to

1 sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017,
2 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987
3 and to notify the Nebraska Retirement Systems Committee of the
4 Legislature of the failure of any governmental entity to file such
5 reports.

6 (2) In administering the retirement systems listed in
7 subdivision (1)(a) of this section, it shall be the duty of the
8 board:

9 (a) To determine, based on information provided by the
10 employer, the prior service annuity, if any, for each person who is
11 an employee of the county on the date of adoption of the retirement
12 system;

13 (b) To determine the eligibility of an individual to be a
14 member of the retirement system and other questions of fact in the
15 event of a dispute between an individual and the individual's
16 employer;

17 (c) To adopt and promulgate rules and regulations for the
18 management of the board;

19 (d) To keep a complete record of all proceedings taken at
20 any meeting of the board;

21 (e) To obtain, by a competitive, formal, and sealed
22 bidding process through the materiel division of the Department of
23 Administrative Services, actuarial services on behalf of the State
24 of Nebraska as may be necessary in the administration and
25 development of the retirement systems. Any contract for actuarial
26 services shall contain a provision allowing the actuary, without
27 prior approval of the board, to perform actuarial studies of the
28 systems as requested by entities other than the board, if notice,

1 which does not identify the entity or substance of the request, is
2 given to the board, all costs are paid by the requesting entity,
3 results are provided to the board upon being made public, and such
4 actuarial studies do not interfere with the actuary's ongoing
5 responsibility to the board. The term of the contract shall be for
6 up to three years. A competitive, formal, and sealed bidding
7 process shall be completed at least once in every three years,
8 unless the board determines that such a process would not be cost
9 effective under the circumstances and that the actuarial services
10 performed have been satisfactory, in which case the contract may
11 also contain an option for renewal without a competitive, formal,
12 and sealed bidding process for up to three additional years. An
13 actuary under contract for the State of Nebraska shall be a member
14 of the American Academy of Actuaries;

15 (f) To direct the State Treasurer to transfer funds, as
16 an expense of the retirement systems, to the Legislative Council
17 Retirement Study Fund. Such transfer shall occur beginning on or
18 after July 31, ~~1992~~ 1, 2005, and at intervals of not less than ~~ten~~
19 five years and not more than ~~fifteen~~ ten years and shall be in such
20 amounts as the Legislature shall direct; ~~7~~ except that up to
21 ~~seventy-five thousand dollars may be transferred in FY1993-94 to~~
22 ~~assist in completing the study authorized in Legislative Resolution~~
23 ~~328, Ninety-second Legislature, Second Session, 1992;~~

24 (g) To adopt and promulgate rules and regulations to
25 carry out the provisions of each retirement system described in
26 subdivision (1) (a) of this section, which shall include, but not be
27 limited to, the crediting of military service, direct rollover
28 distributions, and the acceptance of rollovers;

1 (h) To obtain, by a competitive, formal, and sealed
2 bidding process through the materiel division of the Department of
3 Administrative Services, auditing services for a separate
4 compliance audit of the retirement systems to be completed by
5 December 31, ~~1997~~ 2006, and from time to time thereafter at the
6 request of the Nebraska Retirement Systems Committee, to be
7 completed not more than every four years but not less than every
8 ten years. The compliance audit shall be in addition to the annual
9 audit conducted by the Auditor of Public Accounts. The compliance
10 audit shall include, but not be limited to, an examination of
11 records, files, and other documents and an evaluation of all
12 policies and procedures to determine compliance with all state and
13 federal laws. A copy of the compliance audit shall be given to the
14 Governor, the board, and the Nebraska Retirement Systems Committee
15 and shall be presented to the committee at a public hearing;

16 (i) To adopt and promulgate rules and regulations for the
17 adjustment of contributions or benefits, which shall include, but
18 not be limited to: (i) The procedures for refunding contributions,
19 adjusting future contributions or benefit payments, and requiring
20 additional contributions or repayment of benefits; (ii) the process
21 for a member, member's beneficiary, employee, or employer to
22 dispute an adjustment to contributions or benefits; and (iii)
23 notice provided to all affected persons. All notices shall be sent
24 prior to an adjustment and shall describe the process for disputing
25 an adjustment to contributions or benefits; and

26 (j) To administer all retirement system plans in a manner
27 which will maintain each plan's status as a qualified plan pursuant
28 to the Internal Revenue Code. The board shall adopt and promulgate

1 rules and regulations necessary or appropriate to maintain such
2 status including, but not limited to, rules or regulations which
3 restrict discretionary or optional contributions to a plan or which
4 limit distributions from a plan.

5 (3) The board and the Nebraska Investment Council shall
6 jointly have an analysis made of the investment return that has
7 been achieved on the assets of each retirement system administered
8 by the board. The analysis shall be prepared annually as of
9 January 1. The analysis shall be prepared by an independent
10 private organization which has demonstrated expertise to perform
11 this type of analysis and which is unrelated to any organization
12 offering investment advice or providing investment management
13 services to the retirement system. The analysis may be waived
14 jointly by the board and the council for any retirement system with
15 assets of less than ten million dollars. A copy of the analysis
16 shall be given to the board, the council, and the Nebraska
17 Retirement Systems Committee. By March 1 of each year, the
18 analysis shall be presented to the Nebraska Retirement Systems
19 Committee.

20 (4) By March 1 15 of each year, the board shall prepare a
21 written plan of action and shall present such plan to the Nebraska
22 Retirement Systems Committee at a public hearing. The plan shall
23 include, but not be limited to, the board's funding policy, the
24 administrative costs and other fees associated with each fund and
25 plan overseen by the board, member education and informational
26 programs, the director's duties and the limits on his or her
27 authority limitations, an organizational structure of the office of
28 the Nebraska Public Employees Retirement Systems, and the internal

1 control structure of such office to ensure compliance with state
2 and federal laws.

3 Sec. 12. The duties and responsibilities of the internal
4 auditor employed by the Public Employees Retirement Board shall be
5 consistent with the suggested standards for the professional
6 practice of internal auditing as adopted by the Institute of
7 Internal Auditors and include the following:

8 (1) Prepare a formal written three-year audit plan and
9 work schedule each year to the board;

10 (2) Conduct ongoing reviews of the internal procedures of
11 the Nebraska Public Employees Retirement Systems and recommend
12 improvements to the board;

13 (3) Ensure that the Nebraska Public Employees Retirement
14 Systems' internal accounting and operational controls are
15 appropriate and operating correctly and report inconsistencies to
16 the board;

17 (4) Examine and evaluate system records and operating
18 procedures; verify compliance with established plans, policies,
19 procedures, and control systems; assure compliance with regulatory
20 and statutory conditions; and adherence to generally accepted
21 accounting and auditing principles and report inconsistencies to
22 the board;

23 (5) Perform internal auditing functions, including review
24 of contributions received and creditable service granted; review
25 benefit payments for completeness of information, appropriateness,
26 accuracy, and timeliness; verify accuracy of data and financial
27 information reported to the systems' actuary for all applicable
28 plans; and verify accuracy of data and financial information

1 reported to the systems' record keeper for all applicable plans;
2 and

3 (6) Develop standards to be used by independent auditors
4 in their review of the practices and procedures used by various
5 employers to provide for employee participation in the respective
6 retirement systems included in subdivision (1)(a) of section
7 84-1503.

8 Sec. 13. Section 84-1503.03, Revised Statutes
9 Supplement, 2004, is amended to read:

10 84-1503.03. The director of the Nebraska Public
11 Employees Retirement Systems shall employ qualified personnel as
12 may be required to carry out the duties and responsibilities
13 required under sections 84-1501 to 84-1514. Such employees shall
14 be deemed state employees and covered by the State Personnel System
15 pursuant to sections 81-1301 to 81-1368 and other personnel rules
16 or regulations, and such employees shall include the internal
17 auditor and the attorney hired by the board pursuant to section
18 84-1503. The director shall be exempt from the State Personnel
19 System. All employees shall comply with state accounting
20 regulations and applicable state and federal laws in the discharge
21 of their duties.

22 Sec. 14. Section 84-1512, Revised Statutes Supplement,
23 2004, is amended to read:

24 84-1512. (1) The Public Employees Retirement Board, for
25 purposes of administering the various retirement systems under its
26 jurisdiction, shall receive from the Department of Administrative
27 Services and other employers such information as is necessary for
28 the efficient and accurate administration of the systems and shall

1 consult with the Department of Administrative Services and other
2 employers as to the form in which the information is to be
3 presented and received by the board. The information in the
4 records shall be provided by the employers in an accurate and
5 verifiable form, as specified by the director of the Nebraska
6 Public Employees Retirement Systems. The director ~~may~~ shall, from
7 time to time, carry out ~~sampling~~ testing procedures to verify the
8 accuracy of such information and shall have access to records
9 maintained by the Department of Administrative Services on the
10 Nebraska employees information system data base for the purpose of
11 obtaining any information which may be necessary to verify the
12 accuracy of information and administer the systems.

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

18 Sec. 15. This act becomes operative on July 1, 2005.

19 Sec. 16. Original sections 72-1238, 72-1239, 72-1243,
20 79-906, and 84-1309.01, Reissue Revised Statutes of Nebraska, and
21 sections 23-2312, 24-704, 81-2021, 84-1305.01, 84-1502, 84-1503,
22 84-1503.03, and 84-1512, Revised Statutes Supplement, 2004, are
23 repealed.

24 Sec. 17. Since an emergency exists, this act takes
25 effect when passed and approved according to law.