

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 508

Introduced by Pahls, 31

Read first time January 17, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend section 79-956, Reissue
2 Revised Statutes of Nebraska, and sections 24-707,
3 24-709.02, and 79-951, Revised Statutes Cumulative
4 Supplement, 2006; to change and eliminate provisions
5 relating to the payment of disability and death benefits
6 under the Judges Retirement Act and the School Employees
7 Retirement Act; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

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

3 24-707 (1) In the event of the death of a judge prior
4 to retirement, if such judge shall have had five or more years
5 of creditable service, the surviving spouse of such judge shall
6 at his or her option, exercised within twelve months of the date
7 of death, be immediately entitled to receive ~~these benefits which~~
8 ~~the surviving spouse would have been entitled to under subsection~~
9 ~~(3) of section 24-710 had the judge elected to have the retirement~~
10 ~~annuity paid as a joint and survivor annuity payable as long as~~
11 ~~either the judge or the judge's surviving spouse should survive~~
12 ~~and had the judge retired (a) on the date of death if his or her~~
13 ~~age at death is sixty-five or more or (b) at age sixty-five if~~
14 ~~his or her age at death is less than sixty-five.~~ an annuity which
15 shall be equal to the amount that would have accrued to the member
16 had he or she elected to have the retirement annuity paid as a
17 one-hundred-percent joint and survivor annuity payable as long as
18 either the member or the member's spouse should survive and had the
19 member retired (a) on the date of death if his or her age at death
20 is sixty-five years or more or (b) at age sixty-five years if his
21 or her age at death is less than sixty-five years. If such option
22 is not exercised by such surviving spouse within one hundred twenty
23 days twelve months of the judge's death, if the surviving spouse
24 shall be entitled to receive such annuity benefits as they existed
25 on the date of such election rather than the date of death. If

1 there is no surviving spouse, or if the judge has not served for
2 five years, then the beneficiary, or the estate if the judge has
3 not filed a statement with the board naming a beneficiary, shall be
4 paid a lump sum equal to all contributions to the fund made by such
5 judge plus regular interest.

6 (2) Except as provided in subsection (1) of this section,
7 in the event of the death of a judge subsequent to retirement,
8 if such judge has not filed a statement of intent with the
9 board to elect to receive any other form of annuity which may be
10 provided for by section 24-710 or elected to make contributions
11 and receive benefits as provided in section 24-703.03, the amount
12 of annuities such judge has received under the provisions of the
13 Judges Retirement Act shall be computed and, if such amount shall
14 be less than the contributions to the fund made by such judge, plus
15 regular interest, the difference shall be paid to the beneficiary
16 or estate.

17 (3) Benefits to which the surviving spouse, beneficiary,
18 or estate of a judge shall be entitled shall commence immediately
19 upon the death of such judge.

20 Sec. 2. Section 24-709.02, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 24-709.02 (1) Clerk magistrates who were associate county
23 judges and members of the fund at the time of their appointment
24 as clerk magistrates shall have questions of disability decided by
25 the Public Employees Retirement Board. Any such clerk magistrate

1 may be retired as a result of disability either upon his or her
2 own application or upon the application of an employer or any
3 person acting in his or her behalf. Upon such retirement he or she
4 shall be entitled to receive the retirement annuity as provided in
5 section 24-710. Before any such clerk magistrate may be retired, a
6 medical examination shall be made at the expense of the Nebraska
7 Retirement Fund for Judges, which examination shall be conducted by
8 a disinterested physician legally authorized to practice medicine
9 under the laws of the state in which he or she practices, such
10 physician to be selected by the board, and the physician shall
11 certify to the board that the clerk magistrate is physically or
12 mentally incapable of further performing his or her duties and
13 should be retired. The application for disability retirement shall
14 be made ~~within one year of termination of employment.~~ at any time
15 prior to the date of normal retirement eligibility. Such disability
16 payments shall be deemed to begin on the date of certification of
17 the disability.

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

24 Sec. 3. Section 79-951, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 79-951 (1) A member shall be retired on account of
2 disability, either upon his or her own application or the
3 application of his or her employer or a person acting in his
4 or her behalf, if a medical examination, made at the expense of
5 the retirement system and conducted by a competent disinterested
6 physician legally authorized to practice medicine under the laws of
7 the state in which he or she practices, selected by the retirement
8 board, shows and the physician certifies to the retirement board
9 that the member is unable to engage in a substantially gainful
10 activity by reason of any medically determinable physical or mental
11 impairment which can be expected to result in death or be of
12 a long and indefinite duration. The medical examination may be
13 waived if, in the judgment of the retirement board, extraordinary
14 circumstances exist which preclude substantial gainful activity by
15 the member. Such circumstances shall include hospice placement or
16 similar confinement for a terminal illness or injury.

17 (2) The member shall have five years from the date he or
18 she terminates employment in a public school located in Nebraska
19 in which to may make application for disability retirement benefits
20 at any time prior to the date of normal retirement eligibility. if
21 the disability is related to employment in a public school located
22 in Nebraska. If the disability is not related to a public school
23 located in Nebraska, the member shall have one year from the date
24 he or she terminates employment in which to make application for
25 disability retirement benefits. Any application for retirement on

1 account of disability shall be made on a retirement application
2 provided by the retirement system. Upon approval by the board,
3 benefits shall be deemed to begin on the date of certification of
4 the disability. ~~retirement date.~~

5 Sec. 4. Section 79-956, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-956 (1) If a member dies before retirement, his
8 or her accumulated contributions shall be paid to his or her
9 estate, to an alternate payee pursuant to a qualified domestic
10 relations order as provided in section 42-1107, or to the
11 person he or she has nominated by designation duly executed
12 and filed with the retirement board. Except for payment to
13 an alternative payee pursuant to a qualified domestic relations
14 order, if no legal representative or beneficiary applies for such
15 accumulated contributions within five years following the date of
16 the deceased member's death, the contributions shall be distributed
17 in accordance with the Uniform Disposition of Unclaimed Property
18 Act.

19 (2) When the deceased member has not less than twenty
20 years of creditable service regardless of age or dies on or after
21 his or her sixty-fifth birthday and leaves a surviving spouse who
22 has been designated as beneficiary and who, as of the date of the
23 member's death, is the sole surviving primary beneficiary, such
24 beneficiary may elect, within ~~one hundred twenty days~~ twelve months
25 after the death of the member, to receive an annuity which shall

1 be equal to the amount that would have accrued to the member
2 had he or she elected to have the retirement annuity paid as a
3 one-hundred-percent joint and survivor annuity payable as long as
4 either the member or the member's spouse should survive and had the
5 member retired (a) on the date of death if his or her age at death
6 is sixty-five years or more or (b) at age sixty-five years if his
7 or her age at death is less than sixty-five years. If such election
8 is made after twelve months after the date of death, the surviving
9 spouse shall receive such annuity benefits as they existed on the
10 date of such election rather than the date of death.

11 (3) When the deceased member who was a school employee on
12 or after May 1, 2001, has not less than five years of creditable
13 service and less than twenty years of creditable service and dies
14 before his or her sixty-fifth birthday and leaves a surviving
15 spouse who has been designated in writing as beneficiary and who,
16 as of the date of the member's death, is the sole surviving primary
17 beneficiary, such beneficiary may elect, within ~~one hundred twenty~~
18 days twelve months after the death of the member, to receive
19 (a) a refund of the member's contribution account balance with
20 interest plus an additional one hundred one percent of the member's
21 contribution account balance with interest or (b) an annuity
22 payable monthly for the surviving spouse's lifetime which shall be
23 equal to the benefit amount that had accrued to the member at the
24 date of the member's death, commencing when the member would have
25 reached age sixty, or the member's age at death if greater, reduced

1 by three percent for each year payments commence before the member
2 would have reached age sixty-five, and adjusted for payment in the
3 form of a one-hundred-percent joint and survivor annuity. If such
4 election is made after twelve months after the date of death, the
5 surviving spouse shall receive such refund or annuity benefits as
6 they existed on the date of such election rather than the date of
7 death.

8 (4) If the requirements of subsection (2) or (3) of
9 this section are not met, then the beneficiary or the estate,
10 if the member has not filed a statement with the board naming a
11 beneficiary, shall be paid a lump sum equal to all contributions to
12 the fund made by such member plus regular interest.

13 (5) Benefits to which a surviving spouse, beneficiary, or
14 estate of a member shall be entitled pursuant to this section shall
15 commence immediately upon the death of such member.

16 Sec. 5. Original section 79-956, Reissue Revised Statutes
17 of Nebraska, and sections 24-707, 24-709.02, and 79-951, Revised
18 Statutes Cumulative Supplement, 2006, are repealed.