

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 413

Introduced by Kolterman, 24.

Read first time January 13, 2017

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 24-708,
2 24-710.15, and 81-2025, Reissue Revised Statutes of Nebraska, and
3 section 81-2014, Revised Statutes Cumulative Supplement, 2016; to
4 redefine a term; to change a retirement application timeframe for
5 judges and Nebraska State Patrol officers as prescribed; to change
6 provisions relating to supplemental lump-sum cost-of-living
7 adjustments under the Judges Retirement Act; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-708, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-708 (1) Except as provided in section 24-721, a judge may retire
4 upon reaching the age of sixty-five years and upon making application to
5 the board. Upon retiring each such judge shall receive retirement
6 annuities as provided in section 24-710.

7 (2) Except as provided in section 24-721, a judge may retire upon
8 reaching the age of fifty-five years and elect to receive a reduced
9 monthly retirement income in lieu of a deferred vested annuity. The judge
10 may request that the reduced monthly retirement income commence at any
11 date, beginning on the first day of the month following the actual
12 retirement date and ending on the normal retirement date. The amount of
13 the reduced monthly retirement income shall be calculated based on the
14 length of creditable service and average compensation at the actual
15 retirement date. When a judge has elected to receive a reduced monthly
16 retirement income to commence at the age of sixty-four years, the monthly
17 payments shall be reduced by three percent. When a judge has elected to
18 receive a reduced monthly retirement income to commence at the age of
19 sixty-three years, the monthly payments shall be reduced by six percent.
20 When a judge has elected to receive a reduced monthly retirement income
21 to commence at the age of sixty-two years, the monthly payments shall be
22 reduced by nine percent. When a judge has elected to receive a reduced
23 monthly retirement income to commence prior to the age of sixty-two
24 years, the monthly payments shall be further reduced to an amount that is
25 actuarially equivalent to the amount payable at the age of sixty-two
26 years.

27 (3) Payment of any benefit provided under the Judges Retirement Act
28 may not be deferred later than April 1 of the year following the year in
29 which the judge has both attained at least age seventy and one-half years
30 and terminated his or her employment as a judge.

31 (4) The effective date of retirement payments shall be the first day

1 of the month following (a) the date a member qualifies for retirement as
2 provided in this section or (b) the date upon which a member's request
3 for retirement is received on an application form provided by the
4 retirement system, whichever is later. An application may be filed no
5 more than one hundred twenty ~~ninety~~ days in advance of qualifying for
6 retirement.

7 (5) The board shall make reasonable efforts to locate the member or
8 the member's beneficiary and distribute benefits by the required
9 beginning date as specified by section 401(a)(9) of the Internal Revenue
10 Code and the regulations issued thereunder. If the board is unable to
11 make such a distribution, the benefit shall be distributed pursuant to
12 the Uniform Disposition of Unclaimed Property Act and no amounts may be
13 applied to increase the benefits any member would otherwise receive under
14 the Judges Retirement Act.

15 Sec. 2. Section 24-710.15, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 24-710.15 (1) Beginning July 1, 2015, for judges who become members
18 on and after July 1, 2015, if the annual valuation made by the actuary,
19 as approved by the board, indicates that the system is fully funded and
20 has sufficient actuarial surplus to provide for a supplemental lump-sum
21 cost-of-living payment ~~adjustment~~, the board may, in its discretion,
22 elect to pay a maximum one and one-half percent supplemental lump-sum
23 cost-of-living payment ~~adjustment~~ to each retired member or beneficiary
24 based on the retired member's or beneficiary's total monthly benefit
25 through June 30 of the year for which the supplemental lump-sum cost-of-
26 living payment ~~adjustment~~ is being calculated. The supplemental lump-sum
27 cost-of-living payment shall be paid within sixty days after the board's
28 decision. In no event shall the board declare a supplemental lump-sum
29 cost-of-living payment ~~adjustment~~ if such payment ~~adjustment~~ would cause
30 the plan to be less than fully funded.

31 (2) For purposes of this section, fully funded means the unfunded

1 actuarial accrued liability, based on the lesser of the actuarial value
2 and the market value, under the entry age actuarial cost method is less
3 than zero on the most recent actuarial valuation date.

4 (3) Any decision or determination by the board to declare or not
5 declare a cost-of-living payment adjustment or as to whether the annual
6 valuation indicates a sufficient actuarial surplus to provide for a cost-
7 of-living payment adjustment shall be made in the sole, absolute, and
8 final discretion of the board and shall not be subject to challenge by
9 any member or beneficiary. In no event shall the Legislature be
10 constrained or limited in amending the system notwithstanding the effect
11 of any such change upon the actuarial surplus of the system and the
12 ability of the board to declare future cost-of-living payments
13 adjustments.

14 Sec. 3. Section 81-2014, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

17 (1) Actuarial equivalent means the equality in value of the
18 aggregate amounts expected to be received under different forms of
19 payment or to be received at an earlier retirement age than the normal
20 retirement age. The determinations shall be based on the 1994 Group
21 Annuity Mortality Table reflecting sex-distinct factors blended using
22 seventy-five percent of the male table and twenty-five percent of the
23 female table. An interest rate of eight percent per annum shall be
24 reflected in making the determinations until such percent is amended by
25 the Legislature;

26 (2) Board means the Public Employees Retirement Board;

27 (3)(a)(i) Compensation means gross wages or salaries payable to the
28 member for personal services performed during the plan year. Compensation
29 does not include insurance premiums converted into cash payments,
30 reimbursement for expenses incurred, fringe benefits, per diems, or
31 bonuses for services not actually rendered, including, but not limited

1 to, early retirement inducements, cash awards, and severance pay, except
2 for retroactive salary payments paid pursuant to court order,
3 arbitration, or litigation and grievance settlements. Compensation
4 includes overtime pay, member retirement contributions, and amounts
5 contributed by the member to plans under sections 125 and 457 of the
6 Internal Revenue Code as defined in section 49-801.01 or any other
7 section of the code which defers or excludes such amounts from income.

8 (ii) For any officer employed on or prior to January 4, 1979,
9 compensation includes compensation for unused sick leave or unused
10 vacation leave converted to cash payments.

11 (iii) For any officer employed after January 4, 1979, and prior to
12 July 1, 2016, compensation does not include compensation for unused sick
13 leave or unused vacation leave converted to cash payments and includes
14 compensation for unused holiday compensatory time and unused compensatory
15 time converted to cash payments.

16 (iv) For any officer employed on or after July 1, 2016, compensation
17 does not include compensation for unused sick leave, unused vacation
18 leave, unused holiday compensatory time, unused compensatory time, or any
19 other type of unused leave, compensatory time, or similar benefits,
20 converted to cash payments.

21 (b) Compensation in excess of the limitations set forth in section
22 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
23 shall be disregarded. For an employee who was a member of the retirement
24 system before the first plan year beginning after December 31, 1995, the
25 limitation on compensation shall not be less than the amount which was
26 allowed to be taken into account under the retirement system as in effect
27 on July 1, 1993;

28 (4) Creditable service means service granted pursuant to section
29 81-2034 and all service rendered while a contributing member of the
30 retirement system. Creditable service includes working days, sick days,
31 vacation days, holidays, and any other leave days for which the officer

1 is paid regular wages except as specifically provided in the Nebraska
2 State Patrol Retirement Act. Creditable service does not include
3 eligibility and vesting credit nor service years for which member
4 contributions are withdrawn and not repaid;

5 (5) Current benefit means the initial benefit increased by all
6 adjustments made pursuant to the Nebraska State Patrol Retirement Act;

7 (6) DROP means the deferred retirement option plan as provided in
8 section 81-2041;

9 (7) DROP account means an individual DROP participant's defined
10 contribution account under section 414(k) of the Internal Revenue Code;

11 (8) DROP period means the amount of time the member elects to
12 participate in DROP which shall be for a period not to exceed five years
13 from and after the date of the member's DROP election;

14 (9) Eligibility and vesting credit means credit for years, or a
15 fraction of a year, of participation in a Nebraska government plan for
16 purposes of determining eligibility for benefits under the Nebraska State
17 Patrol Retirement Act. Such credit shall be used toward the vesting
18 percentage pursuant to subsection (2) of section 81-2031 but shall not be
19 included as years of service in the benefit calculation;

20 (10) Initial benefit means the retirement benefit calculated at the
21 time of retirement;

22 (11) Officer means law enforcement an officer as that term is
23 defined in section 81-1401 and as provided for in sections 81-2001 to
24 81-2009, but does not include a law enforcement officer who has been
25 granted an appointment conditioned on satisfactory completion of a
26 training program approved by the Nebraska Police Standards Advisory
27 Council;

28 (12) Plan year means the twelve-month period beginning on July 1 and
29 ending on June 30 of the following year;

30 (13) Regular interest means interest fixed at a rate equal to the
31 daily treasury yield curve for one-year treasury securities, as published

1 by the Secretary of the Treasury of the United States, that applies on
2 July 1 of each year, which may be credited monthly, quarterly,
3 semiannually, or annually as the board may direct;

4 (14) Retirement application means the form approved and provided by
5 the retirement system for acceptance of a member's request for either
6 regular or disability retirement;

7 (15) Retirement date means (a) the first day of the month following
8 the date upon which a member's request for retirement is received on a
9 retirement application if the member is eligible for retirement and has
10 terminated employment or (b) the first day of the month following
11 termination of employment if the member is eligible for retirement and
12 has filed an application but has not yet terminated employment;

13 (16) Retirement system or system means the Nebraska State Patrol
14 Retirement System as provided in the act;

15 (17) Service means employment as a member of the Nebraska State
16 Patrol and shall not be deemed to be interrupted by (a) temporary or
17 seasonal suspension of service that does not terminate the employee's
18 employment, (b) leave of absence authorized by the employer for a period
19 not exceeding twelve months, (c) leave of absence because of disability,
20 or (d) military service, when properly authorized by the board. Service
21 does not include any period of disability for which disability retirement
22 benefits are received under subsection (1) of section 81-2025;

23 (18) Surviving spouse means (a) the spouse married to the member on
24 the date of the member's death if married for at least one year prior to
25 death or if married on the date of the member's retirement or (b) the
26 spouse or former spouse of the member if survivorship rights are provided
27 under a qualified domestic relations order filed with the board pursuant
28 to the Spousal Pension Rights Act. The spouse or former spouse shall
29 supersede the spouse married to the member on the date of the member's
30 death as provided under a qualified domestic relations order. If the
31 benefits payable to the spouse or former spouse under a qualified

1 domestic relations order are less than the value of benefits entitled to
2 the surviving spouse, the spouse married to the member on the date of the
3 member's death shall be the surviving spouse for the balance of the
4 benefits; and

5 (19) Termination of employment occurs on the date on which the
6 Nebraska State Patrol determines that the officer's employer-employee
7 relationship with the patrol is dissolved. The Nebraska State Patrol
8 shall notify the board of the date on which such a termination has
9 occurred. Termination of employment does not include ceasing employment
10 with the Nebraska State Patrol if the officer returns to regular
11 employment with the Nebraska State Patrol or another agency of the State
12 of Nebraska and there are less than one hundred twenty days between the
13 date when the employee's employer-employee relationship ceased and the
14 date when the employer-employee relationship commenced with the Nebraska
15 State Patrol or another state agency. Termination of employment does not
16 occur upon an officer's participation in DROP pursuant to section
17 81-2041. It is the responsibility of the employer that is involved in the
18 termination of employment to notify the board of such change in
19 employment and provide the board with such information as the board deems
20 necessary. If the board determines that termination of employment has not
21 occurred and a retirement benefit has been paid to a member of the
22 retirement system pursuant to section 81-2026, the board shall require
23 the member who has received such benefit to repay the benefit to the
24 retirement system.

25 Sec. 4. Section 81-2025, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-2025 (1) Every officer who has been in the employ of the state as
28 such and who becomes disabled and physically unfit to perform the duties
29 of an officer shall be entitled to retire and receive an annuity as
30 provided by law.

31 (2) Every officer who has been in the employ of the state as such

1 for ten years or more, as calculated in section 81-2033, and has attained
2 the age of fifty years or more shall be entitled to retire and receive an
3 annuity as provided by law. The right to retire at the age of fifty years
4 shall be at the option of the officer but such retirement shall be
5 mandatory upon the officer attaining the age of sixty years.

6 (3) Any officer who has attained the age of sixty years upon his or
7 her separation from state service but who has not been in the employ of
8 the state for ten years as such shall be entitled to the annuity as
9 provided for in the Nebraska State Patrol Retirement Act.

10 (4) Every officer who has been in the employ of the state as such
11 for twenty-five years or more, as calculated in section 81-2033, and has
12 attained the age of fifty years shall be entitled to retire and receive
13 an annuity as provided by law. The right to retire at the age of fifty
14 years with twenty-five years or more of creditable service shall be at
15 the option of the officer but such retirement shall be mandatory upon the
16 officer attaining the age of sixty years.

17 (5) Every officer who has been in the employ of the state as such
18 for thirty years or more, as calculated in section 81-2033, shall be
19 entitled to retire and receive an annuity as provided by law. The right
20 to retire with thirty years or more of creditable service shall be at the
21 option of the officer but such retirement shall be mandatory upon the
22 officer attaining the age of sixty years.

23 (6) Payment of any benefit provided under the act may not be
24 deferred later than April 1 of the year following the year in which the
25 officer has both attained at least age seventy and one-half years and
26 terminated his or her employment with the Nebraska State Patrol.

27 (7) The effective date of retirement payments shall be the first day
28 of the month following (a) the date a member qualifies for retirement as
29 provided in this section or (b) the date upon which a member's request
30 for retirement is received on an application form provided by the system,
31 whichever is later. An application may be filed no more than one hundred

1 ~~twenty ninety~~ days in advance of qualifying for retirement.

2 (8) The board shall make reasonable efforts to locate the officer or
3 the officer's beneficiary and distribute benefits by the required
4 beginning date as specified by section 401(a)(9) of the Internal Revenue
5 Code and the regulations issued thereunder. If the board is unable to
6 make such a distribution, the account shall be distributed pursuant to
7 the Uniform Disposition of Unclaimed Property Act and no amounts may be
8 applied to increase the benefits any officer would otherwise receive
9 under the Nebraska State Patrol Retirement Act.

10 Sec. 5. Original sections 24-708, 24-710.15, and 81-2025, Reissue
11 Revised Statutes of Nebraska, and section 81-2014, Revised Statutes
12 Cumulative Supplement, 2016, are repealed.