

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 683

Introduced by Kolterman, 24.

Read first time January 23, 2019

Committee: Nebraska Retirement Systems

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 79-978.01 and
- 2 84-1503, Revised Statutes Cumulative Supplement, 2018; to provide
- 3 for a work plan for terminated members to receive a lump sum payment
- 4 in lieu of the deferred retirement allowance under the Class V
- 5 School Employees Retirement Act; to require a report; to provide
- 6 duties for the Public Employees Retirement Board; to create a fund;
- 7 to harmonize provisions; and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-978.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 79-978.01 Sections 79-978 to 79-9,118 and sections 2 to 5 of this
4 act shall be known and may be cited as the Class V School Employees
5 Retirement Act.

6 Sec. 2. It is the intent of the Legislature that the Public
7 Employees Retirement Board develop a work plan, recommendations, and cost
8 estimates for a one-time option for certain members who have terminated
9 employment to receive a lump sum payment of a specified percentage of the
10 present value of such member's deferred retirement allowance in lieu of
11 all rights to receive retirement or other benefits from any Class V
12 school employees retirement system established under the Class V School
13 Employees Retirement Act.

14 Sec. 3. (1)(a) A work plan shall be undertaken by the Public
15 Employees Retirement Board in consultation with the stakeholders of any
16 Class V school employees retirement system including, but not limited to,
17 the Nebraska Retirement Systems Committee of the Legislature and the
18 board of trustees and employer of any Class V school employees retirement
19 system established under the Class V School Employees Retirement Act.

20 (b) The work plan shall include, but not be limited to, analyses and
21 recommendations regarding (i) the terminated members who should be
22 eligible to elect a lump sum payment in lieu of their deferred retirement
23 benefit; (ii) the percentage of the present value of the deferred
24 retirement benefit of an eligible terminated member that should be
25 offered as a lump sum payment alternative; (iii) the actuarial
26 assumptions to be used for the calculation of the present value of the
27 deferred retirement benefit that would be paid to eligible terminated
28 members; (iv) the period or periods that the lump sum payment option
29 should be made available to eligible terminated members; (v) the
30 information and disclosures that should be made to eligible terminated
31 members with regard to the election to receive a lump sum payment in lieu

1 of the deferred retirement benefit, including the comparison of the
2 projected lump sum payment with the amount of the member's projected
3 normal retirement benefit; and (vi) estimates of the effect of the lump
4 sum option on the current and projected actuarial liabilities and funded
5 ratios of any Class V school employees retirement system.

6 (2) The Public Employees Retirement Board shall electronically
7 report the work plan, including any recommendations, cost estimates, and
8 cost comparisons, to the Clerk of the Legislature no later than June 30,
9 2020.

10 (3) The Public Employees Retirement Board may quarterly bill, and
11 receive payment within forty-five calendar days after receipt of the bill
12 from, any Class V school employees retirement system for all work
13 performed by the Public Employees Retirement Board for services and
14 related expenses in completion of the work plan.

15 Sec. 4. The Class V School Employees Retirement System Management
16 Work Plan Fund is created. The purpose of the fund is to transfer funds
17 as specified in this section. The fund shall consist of the amounts
18 transferred from any Class V school employees retirement system for all
19 work performed by the Public Employees Retirement Board for services and
20 related expenses in completion of the work described in section 3 of this
21 act. The fund shall be administered by the Nebraska Public Employees
22 Retirement Systems. Any money in the fund available for investment shall
23 be invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 Sec. 5. Any Class V school employees retirement system shall remit
26 the payment described in section 3 of this act to the State Treasurer for
27 credit to the Class V School Employees Retirement System Management Work
28 Plan Fund for all work performed by the Public Employees Retirement Board
29 for services and related expenses in completion of the work plan
30 described in section 3 of this act.

31 Sec. 6. Section 84-1503, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 84-1503 (1) It shall be the duty of the Public Employees Retirement
3 Board:

4 (a) To administer the retirement systems provided for in the County
5 Employees Retirement Act, the Judges Retirement Act, the Nebraska State
6 Patrol Retirement Act, the School Employees Retirement Act, and the State
7 Employees Retirement Act. The agency for the administration of the
8 retirement systems and under the direction of the board shall be known
9 and may be cited as the Nebraska Public Employees Retirement Systems;

10 (b) To appoint a director to administer the systems under the
11 direction of the board. The appointment shall be subject to the approval
12 of the Governor and a majority of the Legislature. The director shall be
13 qualified by training and have at least five years of experience in the
14 administration of a qualified public or private employee retirement plan.
15 The director shall not be a member of the board. The salary of the
16 director shall be set by the board. The director shall serve without term
17 and may be removed by the board;

18 (c) To provide for an equitable allocation of expenses among the
19 retirement systems administered by the board, and all expenses shall be
20 provided from the investment income earned by the various retirement
21 funds unless alternative sources of funds to pay expenses are specified
22 by law;

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

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

28 (f) To hire an internal auditor to perform the duties described in
29 section 84-1503.04 who meets the minimum standards as described in
30 section 84-304.03;

31 (g) To adopt and implement procedures for reporting information by

1 employers, as well as testing and monitoring procedures in order to
2 verify the accuracy of such information. The information necessary to
3 determine membership shall be provided by the employer. The board may
4 adopt and promulgate rules and regulations and prescribe such forms
5 necessary to carry out this subdivision. Nothing in this subdivision
6 shall be construed to require the board to conduct onsite audits of
7 political subdivisions for compliance with statutes, rules, and
8 regulations governing the retirement systems listed in subdivision (1)(a)
9 of this section regarding membership and contributions; and

10 (h) To prescribe and furnish forms for the public retirement system
11 plan reports required to be filed pursuant to sections 2-3228, 12-101,
12 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
13 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

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

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

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

22 (c) To adopt and promulgate rules and regulations, as the board may
23 deem necessary, for the management of the board;

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

26 (e) To obtain, by a competitive, formal, and sealed bidding process
27 through the materiel division of the Department of Administrative
28 Services, actuarial services on behalf of the State of Nebraska as may be
29 necessary in the administration and development of the retirement
30 systems, including, but not limited to, preparation of an annual
31 actuarial valuation report of each of the defined benefit and cash

1 balance plans administered by the board. Such annual valuation reports
2 shall be presented by the actuary to the Nebraska Retirement Systems
3 Committee of the Legislature at a public hearing or hearings. Any
4 contract for actuarial services shall contain a provision allowing the
5 actuary, without prior approval of the board, to perform actuarial
6 studies of the systems as requested by entities other than the board, if
7 notice, which does not identify the entity or substance of the request,
8 is given to the board, all costs are paid by the requesting entity,
9 results are provided to the board, the Nebraska Retirement Systems
10 Committee of the Legislature, and the Legislative Fiscal Analyst upon
11 being made public, and such actuarial studies do not interfere with the
12 actuary's ongoing responsibility to the board. The term of the contract
13 shall be for up to three years. A competitive, formal, and sealed bidding
14 process shall be completed at least once every three years, unless the
15 board determines that such a process would not be cost effective under
16 the circumstances and that the actuarial services performed have been
17 satisfactory, in which case the contract may also contain an option for
18 renewal without a competitive, formal, and sealed bidding process for up
19 to three additional years. An actuary under contract for the State of
20 Nebraska shall be a member of the American Academy of Actuaries and meet
21 the academy's qualification standards to render a statement of actuarial
22 opinion;

23 (f) To direct the State Treasurer to transfer funds, as an expense
24 of the retirement systems, to the Legislative Council Retirement Study
25 Fund. Such transfer shall occur beginning on or after July 1, 2005, and
26 at intervals of not less than five years and not more than fifteen years
27 and shall be in such amounts as the Legislature shall direct;

28 (g) To adopt and promulgate rules and regulations, as the board may
29 deem necessary, to carry out the provisions of each retirement system
30 described in subdivision (1)(a) of this section, which includes, but is
31 not limited to, the crediting of military service, direct rollover

1 distributions, and the acceptance of rollovers;

2 (h) To obtain, by a competitive, formal, and sealed bidding process
3 through the materiel division of the Department of Administrative
4 Services, auditing services for a separate compliance audit of the
5 retirement systems to be completed by December 31, 2020, and from time to
6 time thereafter at the request of the Nebraska Retirement Systems
7 Committee of the Legislature, to be completed not more than every four
8 years but not less than every ten years. The compliance audit shall be in
9 addition to the annual audit conducted by the Auditor of Public Accounts.
10 The compliance audit shall include, but not be limited to, an examination
11 of records, files, and other documents and an evaluation of all policies
12 and procedures to determine compliance with all state and federal laws. A
13 copy of the compliance audit shall be given to the Governor, the board,
14 and the Nebraska Retirement Systems Committee of the Legislature and
15 shall be presented to the committee at a public hearing;

16 (i) To adopt and promulgate rules and regulations, as the board may
17 deem necessary, for the adjustment of contributions or benefits, which
18 includes, but is not limited to: (i) The procedures for refunding
19 contributions, adjusting future contributions or benefit payments, and
20 requiring additional contributions or repayment of benefits; (ii) the
21 process for a member, member's beneficiary, employee, or employer to
22 dispute an adjustment to contributions or benefits; (iii) establishing
23 materiality and de minimus amounts for agency transactions, adjustments,
24 and inactive account closures; and (iv) notice provided to all affected
25 persons. Following an adjustment, a timely notice shall be sent that
26 describes the adjustment and the process for disputing an adjustment to
27 contributions or benefits;

28 (j) To make a thorough investigation through the director or the
29 director's designee, of any overpayment of a benefit, when in the
30 judgment of the director such investigation is necessary, including, but
31 not limited to, circumstances in which benefit payments are made after

1 the death of a member or beneficiary and the retirement system is not
2 made aware of such member's or beneficiary's death. In connection with
3 any such investigation, the board, through the director or the director's
4 designee, shall have the power to compel the attendance of witnesses and
5 the production of books, papers, records, and documents, whether in
6 hardcopy, electronic form, or otherwise, and issue subpoenas for such
7 purposes. Such subpoenas shall be served in the same manner and have the
8 same effect as subpoenas from district courts; and

9 (k) To administer all retirement system plans in a manner which will
10 maintain each plan's status as a qualified plan pursuant to the Internal
11 Revenue Code, as defined in section 49-801.01, including: Section 401(a)
12 (9) of the Internal Revenue Code relating to the time and manner in which
13 benefits are required to be distributed, including the incidental death
14 benefit distribution requirement of section 401(a)(9)(G) of the Internal
15 Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to
16 the specification of actuarial assumptions; section 401(a)(31) of the
17 Internal Revenue Code relating to direct rollover distributions from
18 eligible retirement plans; section 401(a)(37) of the Internal Revenue
19 Code relating to the death benefit of a member whose death occurs while
20 performing qualified military service; and section 401(a) of the Internal
21 Revenue Code by meeting the requirements of section 414(d) of the
22 Internal Revenue Code relating to the establishment of retirement plans
23 for governmental employees of a state or political subdivision thereof.
24 The board may adopt and promulgate rules and regulations necessary or
25 appropriate to maintain such status including, but not limited to, rules
26 or regulations which restrict discretionary or optional contributions to
27 a plan or which limit distributions from a plan.

28 (3) By March 31 of each year, the board shall prepare a written plan
29 of action and shall present such plan to the Nebraska Retirement Systems
30 Committee of the Legislature at a public hearing. The plan shall include,
31 but not be limited to, the board's funding policy, the administrative

1 costs and other fees associated with each fund and plan overseen by the
2 board, member education and informational programs, the director's duties
3 and limitations, an organizational structure of the office of the
4 Nebraska Public Employees Retirement Systems, and the internal control
5 structure of such office to ensure compliance with state and federal
6 laws.

7 (4)(a) Beginning in 2016, and at least every four years thereafter
8 in even-numbered years or at the request of the Nebraska Retirement
9 Systems Committee of the Legislature, the board shall obtain an
10 experience study. Within thirty business days after presentation of the
11 experience study to the board, the actuary shall present the study to the
12 Nebraska Retirement Systems Committee at a public hearing. If the board
13 does not adopt all of the recommendations in the experience study, the
14 board shall provide a written explanation of its decision to the Nebraska
15 Retirement Systems Committee and the Governor. The explanation shall be
16 delivered within ten business days after formal action by the board to
17 not adopt one or more of the recommendations.

18 (b) The director shall provide an electronic copy of the first draft
19 and a final draft of the experience study and annual valuation reports to
20 the Nebraska Retirement Systems Committee and the Governor when the
21 director receives the drafts from the actuary. The drafts shall be deemed
22 confidential information. The draft copies obtained by the Nebraska
23 Retirement Systems Committee and the Governor pursuant to this section
24 shall not be considered public records subject to sections 84-712 to
25 84-712.09.

26 (c) For purposes of this subsection, business days shall be computed
27 by excluding the day the request is received, after which the designated
28 period of time begins to run. A business day shall not include a Saturday
29 or a Sunday or a day during which the Nebraska Public Employees
30 Retirement Systems office is closed.

31 (5) It shall be the duty of the board to direct the State Treasurer

1 to transfer funds, as an expense of the retirement system provided for
2 under the Class V School Employees Retirement Act, to and from the Class
3 V Retirement System Payment Processing Fund and the Class V School
4 Employees Retirement Fund for the benefit of a retirement system provided
5 for under the Class V School Employees Retirement Act to implement the
6 provisions of section 79-986. The agency for the administration of this
7 provision and under the direction of the board shall be known and may be
8 cited as the Nebraska Public Employees Retirement Systems.

9 (6) It shall be the duty of the board to carry out the work plan and
10 file the report described in sections 2 to 5 of this act and to contract
11 with, bill, and receive the payment described in section 3 of this act
12 from any Class V school employees retirement system for all services
13 performed in the conduct, completion, and report of such work plan.

14 Sec. 7. Original sections 79-978.01 and 84-1503, Revised Statutes
15 Cumulative Supplement, 2018, are repealed.