

ENGROSSED LEGISLATIVE BILL 821

Introduced by Nebraska Retirement Systems Committee: Ballard, 21, Chairperson; Clements, 2; Hardin, 48; Juarez, 5; Sorrentino, 39.

A BILL FOR AN ACT relating to retirement; to amend sections 84-1309.01 and 84-1503, Reissue Revised Statutes of Nebraska, and section 72-1243, Revised Statutes Cumulative Supplement, 2024; to eliminate provisions relating to certain verifications performed by the Public Employees Retirement Board and certain written plans of action; to provide for an annual report prepared by the Nebraska Investment Council; to provide for an annual report prepared by the Public Employees Retirement Board; and to repeal the original sections.

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

Section 1. Section 72-1243, Revised Statutes Cumulative Supplement, 2024, is amended to read:

72-1243 (1) Except as otherwise specifically provided by law, the state investment officer shall direct the investment and reinvestment of money in all state funds not currently needed and all funds described in section 83-133 and order the purchase, sale, or exchange of securities for such funds. He or she shall notify the State Treasurer of any payment, receipt, or delivery that may be required as a result of any investment decision, which notification shall be the authorization and direction for the State Treasurer to make such disbursement, receipt, or delivery from the appropriate fund.

(2)(a) No later than March 31 of each year, the Nebraska Investment Council shall:

(i) Have an analysis made of the investment returns that have been achieved on the assets of each retirement system administered by the Public Employees Retirement Board as provided in section 84-1503 and on the assets of each retirement system provided for under the Class V School Employees Retirement Act; and

(ii) Present such analysis to the board .

(b) Such analysis shall be prepared by an independent organization:

(i) That has demonstrated expertise to perform the type of analysis required by this subsection; and

(ii) For which there exists no conflict of interest in the analysis being provided.

(c) The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) No later than April 10 of each year, the council shall:

(a) Prepare an annual report that includes, but is not limited to, the council's investment portfolios, investment strategies, the duties and limitations of the state investment officer, an organizational structure of the council's office, and the analysis made pursuant to subsection (2) of this section; and

(b) Present such annual report to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

Sec. 2. Section 84-1309.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1309.01 The board shall provide benefit liability information and other assistance to the Nebraska Investment Council for the establishment of policy portfolio objectives for the investing and reinvesting of the assets of the retirement system.

Sec. 3. Section 84-1503, Reissue Revised Statutes of Nebraska, is amended to read:

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

(a) To administer the retirement systems provided for in the County Employees Retirement Act, the Judges Retirement Act, the Nebraska State Patrol Retirement Act, the School Employees Retirement Act, the State Employees Retirement Act, and, beginning September 1, 2024, the Class V School Employees Retirement Act. The agency for the administration of the retirement systems and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems;

(b) To appoint a director to administer the systems under the direction of the board. The appointment shall be subject to the approval of the Governor and a majority of the Legislature. Director qualifications shall include, but not be limited to, (i) supervisory or management experience and (ii) training in, experience with, or a demonstrated knowledge of qualified public employee retirement plan administration. The director shall not be a member of the board. The salary of the director shall be set by the board. The director shall serve without term and may be removed by the board;

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

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

(e) To hire an attorney to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection. The attorney shall be admitted to practice law in Nebraska, except that the board shall have the discretion to hire an attorney for a probationary period not to exceed six months pending such attorney's admission to practice law in Nebraska;

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

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

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

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

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

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

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

(e) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, actuarial services on behalf of the State of Nebraska as may be necessary in the administration and development of the retirement systems, including, but not limited to, preparation of an annual actuarial valuation report of each of the defined benefit and cash balance plans administered by the board. Such annual valuation reports shall be presented by the actuary to the Nebraska Retirement Systems Committee of the Legislature at a public hearing or hearings. Any contract for actuarial services shall contain a provision allowing the actuary, without prior approval of the board, to perform actuarial studies of the systems as requested by entities other than the board, if notice, which does not identify the entity or substance of the request, is given to the board, all costs are paid by the requesting entity, results are provided to the board, the Nebraska Retirement Systems Committee of the Legislature, and the Legislative Fiscal Analyst upon being made public, and such actuarial studies do not interfere with the actuary's ongoing responsibility to the board. The term of the contract shall be for up to three years. A competitive, formal, and sealed bidding process shall be completed at least once every three years, unless the board determines that such a process

would not be cost effective under the circumstances and that the actuarial services performed have been satisfactory, in which case the contract may also contain an option for renewal without a competitive, formal, and sealed bidding process for up to two additional three-year periods. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries and meet the academy's qualification standards to render a statement of actuarial opinion;

(f) To direct the State Treasurer to transfer funds, as an expense of the retirement systems, to the Legislative Council Retirement Study Fund. Such transfer shall be in such amounts as the Legislature shall direct;

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

(h) To obtain auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 2028, and from time to time at the request of the Nebraska Retirement Systems Committee of the Legislature, to be completed not more than every four years but not less than every ten years. The compliance audit shall be in addition to the annual audit conducted by the Auditor of Public Accounts. The compliance audit shall include, but not be limited to, an examination of records, files, and other documents and an evaluation of all policies and procedures to determine compliance with all state and federal laws. A copy of the compliance audit shall be given to the Governor, the board, and the Nebraska Retirement Systems Committee of the Legislature and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations, as the board may deem necessary, for the adjustment of contributions or benefits, which includes, but is not limited to: (i) The procedures for refunding contributions, adjusting future contributions or benefit payments, and requiring additional contributions or repayment of benefits; (ii) the process for a member, member's

beneficiary, employee, or employer to dispute an adjustment to contributions or benefits; (iii) establishing materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; and (iv) notice provided to all affected persons. Following an adjustment, a timely notice shall be sent that describes the adjustment and the process for disputing an adjustment to contributions or benefits;

(j)(i) To amend the deferred compensation plan to require that in the event of a member's death, except as provided in section 42-1107, the death benefit shall be paid to the following, in order of priority:

(A) To the member's surviving designated beneficiary on file with the board;

(B) To the spouse married to the member on the member's date of death if there is no surviving designated beneficiary on file with the board; or

(C) To the member's estate if the member is not married on the member's date of death and there is no surviving designated beneficiary on file with the board; and

(ii) The priority designations described in subdivision (2)(j)(i) of this section shall not apply if the member has retired under a joint and survivor benefit option;

(k) To make a thorough investigation through the director or the director's designee, of any overpayment of a benefit, when in the judgment of the director such investigation is necessary, including, but not limited to, circumstances in which benefit payments are made after the death of a member or beneficiary and the retirement system is not made aware of such member's or beneficiary's death. In connection with any such investigation, the board, through the director or the director's designee, shall have the power to compel the attendance of witnesses and the production of books, papers, records, and documents, whether in hardcopy, electronic form, or otherwise, and issue subpoenas for such purposes. Such subpoenas shall be served in the same manner and have the same effect as subpoenas from district courts; and

(l) To administer all retirement system plans in a manner that will

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

(3) No later than April 10 of each year, the board shall:

(a) Prepare an annual report that includes, but is not limited to, the board's funding policy, the administrative costs and other fees associated with each fund and plan overseen by the board, member education and informational programs, the director's duties and limitations, an organizational structure of the office of the Nebraska Public Employees Retirement Systems, and the internal control structure of such office to ensure compliance with state and federal laws; and

(b) Present such annual report to the Nebraska Retirement Systems Committee of the Legislature at a public hearing.

(4)(a) Beginning in 2016, and at least every four years thereafter in even-numbered years or at the request of the Nebraska Retirement Systems Committee of the Legislature, the board shall obtain an experience study. Within thirty business days after presentation of the experience study to the

board, the actuary shall present the study to the Nebraska Retirement Systems Committee at a public hearing. If the board does not adopt all of the recommendations in the experience study, the board shall provide a written explanation of its decision to the Nebraska Retirement Systems Committee and the Governor. The explanation shall be delivered within ten business days after formal action by the board to not adopt one or more of the recommendations.

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

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

(5) It shall be the duty of the board to direct the State Treasurer to transfer funds, as an expense of the retirement system provided for under the Class V School Employees Retirement Act, to and from the Class V Retirement System Payment Processing Fund and the Class V School Employees Retirement Fund for the benefit of a retirement system provided for under the Class V School Employees Retirement Act to implement section 79-986. The agency for the administration of this provision and under the direction of the board shall be known and may be cited as the Nebraska Public Employees Retirement Systems.

(6) Pursuant to section 79-9,121, it shall be the duty of the board to carry out the work plan, file the report, and contract with, bill, and receive payment from an employer of any Class V school employees retirement system established under the Class V School Employees Retirement Act for all services performed in the conduct, completion, and report of such work plan regarding

the transfer of management of any such Class V school employees retirement system.

(7) It shall be the duty of the board to complete the additional identification and examination of issues pursuant to section 79-9,124, to enter and carry out the plan for the transfer and transition of the management and administration of any Class V school employees retirement system established under the Class V School Employees Retirement Act pursuant to section 79-979.01, and to bill and receive payment from an employer of any such retirement system for the costs and expenses of the board in carrying out the plan and the transfer of the management and administration of the Class V school employees retirement system to the board.

Sec. 4. Original sections 84-1309.01 and 84-1503, Reissue Revised Statutes of Nebraska, and section 72-1243, Revised Statutes Cumulative Supplement, 2024, are repealed.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 821 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR