

LEGISLATIVE BILL 218

Approved by the Governor April 5, 1984

Introduced by Nebraska Retirement Systems Committee,
Fowler, 27, Chairperson; Vickers, 38;
Wesely, 26; Schmit, 23

AN ACT relating to retirement; to amend sections 81-2017 and 84-1308, Reissue Revised Statutes of Nebraska, 1943, sections 23-2307 and 24-703, Revised Statutes Supplement, 1982, and section 79-1056, Revised Statutes Supplement, 1983; to provide for the employer to pick up certain employee contributions; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 23-2307, Revised Statutes Supplement, 1982, be amended to read as follows:

23-2307. Each employee who is a member of the retirement system shall pay to the county or have picked up by the county a sum equal to three and two-tenths per cent of his or her salary for each pay period. The county shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The county shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated for all purposes of sections 23-2301 to 23-2331 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 2. That section 24-703, Revised Statutes Supplement, 1982, be amended to read as follows:

24-703. (1) Except as provided in subsection (2) of this section, each original member shall contribute monthly four per cent of his or her monthly salary to the

fund until the maximum benefit as limited in subsection (1) of section 24-710 has been earned. ~~but such contribution shall not be made from any supplemental salary provided by section 24-301-01 or 24-513.~~ It shall be the duty of the Director of Administrative Services in accordance with subsection (1) of this section to make a deduction of four per cent on the monthly payroll of each original member who is a Judge of the Supreme Court, or a judge of the district court, or a judge of a separate juvenile court, or a judge or associate judge of the county court or a judge of the Nebraska Workmen's Compensation Court showing the amount to be deducted and its credit to the fund. It shall be the duty of the city clerk in each city having a municipal court established by Chapter 26, article 1, in accordance with subsection (1) of this section to make a deduction of four per cent on the monthly payroll of each municipal judge who is an original member and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. This shall be done each month; PROVIDED, in the event such remittance would amount to less than twenty-five dollars per month, such city clerk may remit quarterly. The Director of Administrative Services and the State Treasurer shall credit the four per cent as shown on the payroll and the amounts received from the various counties and cities to the fund and remit the same to the executive officer in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2) Each original member who has made the election provided for in section 24-710.01 shall contribute monthly six per cent of his or her monthly salary to the fund until the maximum benefit as limited in subsection (2) of section 24-710 has been earned. ~~but such contribution shall not be made from any supplemental salary provided by section 24-301-01 or 24-513.~~ Such contributions shall be made in the manner provided by subsection (1) of this section.

(3) Each future member shall contribute monthly six per cent of his or her monthly salary to the fund until the maximum benefit as limited in subsection (3) of section 24-710 has been earned. ~~but such contribution shall not be made from any supplemental salary provided for in section 24-301-01 or 24-513.~~ It shall be the duty of the Director of Administrative Services to make a deduction of six per cent on the monthly payroll of each such future member who is a Judge of the Supreme Court, or a judge of the district court, or a judge of a separate juvenile court, or a judge or associate judge of the county court or a judge of the Nebraska Workmen's Compensation Court showing the amount to be deducted and its credit to the fund. It shall be the duty of the city clerk in each city having a municipal court established by Chapter 26,

article 1, in accordance with subsection (11) of this section to make a deduction of six per cent on the monthly payroll of each municipal judge, who is such a future member and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the six per cent as shown on the payroll and the amounts received from the various counties and cities to the fund and remit the same to the executive officer in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(4) A Nebraska Retirement Fund for Judges fee of one dollar shall be taxed as costs in each civil and criminal cause of action or proceeding filed in the district courts and the county courts and in county courts a sum equal to ten per cent of each fee provided by sections 33-125, 33-126, and 33-126.02, except on the fees provided for in section 33-125 for the dismissal of a cause, and in sections 33-126 and 33-126.02 for filing of report. A similar fee shall be charged in each cause of action or proceeding in municipal court, including prosecutions for violation of state law or any city ordinance. The fee established by this subsection shall not be collected for nonmoving traffic violations handled by a violations bureau established by the local governing body, nor shall it be collected in any cause or proceeding in a municipal court where the cause, proceeding, or defendant has been dismissed by the court. When collected by the clerk of the district, county, or municipal court, such fees shall be paid to the executive officer in charge of the judges retirement system on forms prescribed by the board by said clerk within ten days after the close of each calendar quarter. Such executive officer shall promptly thereafter remit the same to the state treasury. Upon the receipt thereof, the State Treasurer shall credit the same to the Nebraska Retirement Fund for Judges.

(5) The Nebraska Retirement Fund for Judges shall be divided into two separate funds: (a) The Original Members' Fund, and (b) the Future Members' Fund. All expenditures from the funds must be authorized by voucher in the manner prescribed in section 24-713. The funds shall be used for the payment of all annuities and other benefits, and for the expenses of administration.

(6) The Original Members' Fund shall be the fund into which shall be paid the total fund as of December 25, 1969, the contributions of original members as provided in subsections (1) and (2) of this section, the matching contributions for municipal judges as provided in section 24-703.01, all supplementary court fees as provided in subsection (4) of this section until such time as the assets in such fund equal the accrued liabilities of such

fund, and any required contributions of the state.

(7) The Future Members' Fund shall be the fund into which shall be paid the contributions of future members as provided in subsection (3) of this section, the matching contributions for municipal judges as provided in section 24-703.01, all supplementary court fees as provided in subsection (4) of this section after such time as the assets in the Original Members' Fund equal the accrued liabilities of such fund, and any required contributions of the state. Not later than January 1, of each year the State Treasurer shall transfer to the Future Members' Fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30, in excess of future member contributions for that fiscal year, and court fees as described above, if any, for that fiscal year plus any required contributions of the state, as provided in subsection (10) of this section.

(8) Except as provided in subsection (9) of this section, benefits under the retirement system to original members or to their beneficiaries shall be paid from the Original Members' Fund. All benefits under the retirement system to future members or to their beneficiaries shall be paid from the Future Members' Fund.

(9) Any member who is making contributions to the fund on December 25, 1969, may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board. The board shall thereupon direct the State Treasurer to transfer all contributions of such judge to the Future Members' Fund and such judge shall thereafter participate only in the Future Members' Fund.

(10) Not later than January 1 of each year the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the system by level payments up to January 1, 2000. Such required state contribution shall be divided each year between the Original Members' Fund and the Future Members' Fund in the ratio of the remaining unfunded accrued liability of each fund.

(11) The state or municipality shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the state or municipality shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be

included as gross income of the member until such time as they are distributed or made available. The state or municipality shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state or municipality shall pick up these contributions by a salary deduction either through a reduction in the salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated for all purposes of sections 24-701 to 24-714 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 3. That section 79-1056, Revised Statutes Supplement, 1983, be amended to read as follows:

79-1056. (1) If, at any future time, a majority of the eligible members of the system shall vote to be included under an agreement providing old age and ~~survivors~~ survivors' insurance under the Social Security Act of the United States, the contributions to be made by the member and the district for membership service, from and after the effective date of the agreement with respect to services performed subsequent to December 31, 1954, shall each be reduced from five to three per cent but not less than three per cent of the member's salary per annum, and the credits for membership service under this system, as provided in section 79-1044, shall thereafter be reduced from one and one half per cent to nine-tenths of one per cent and not less than nine-tenths of one per cent of salary or wage earned by the member during each fiscal year, and from one and sixty-five hundredths per cent to one per cent and not less than one per cent of salary or wage earned by the member during each fiscal year, and from two per cent to one and two-tenths per cent of salary or wage earned by the member during each fiscal year, and from two and four-tenths per cent to one and forty-four hundredths per cent of salary or wage earned by the member during each fiscal year, ~~except~~ ; ~~PROVIDED~~, that after September 1, 1963, and prior to September 1, 1969, all employees of the district shall contribute an amount equal to the membership contribution which shall be two and three-fourths per cent of salary covered by old age and ~~survivors~~ survivors' insurance, and five per cent above that amount. Commencing September 1, 1969, all employees of the district shall contribute an amount equal to the membership contribution which shall be two and three-fourths per cent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal year and five per cent of salary or wages earned above that amount in the same fiscal year. Commencing September 1, 1976, all employees of the district shall contribute an amount equal to the membership contribution which shall be two and nine-tenths per cent of the first seven thousand eight hundred dollars of salary or wages earned each fiscal

year and five and twenty-five hundredths per cent of salary or wages earned above that amount in the same fiscal year. Commencing on September 1, 1982, all employees of the district shall contribute an amount equal to the membership contribution which shall be four and nine-tenths per cent of the compensation earned in each fiscal year, and the contributions by the district shall be such amount as may be necessary to maintain the solvency of the system, as determined annually by the board upon recommendation of the actuary and the trustees. The employee's contribution shall be made in the form of a monthly deduction from compensation as provided in subsection (2) of this section. Every employee who is a member of the system shall be deemed to consent and agree to such deductions, and shall receipt in full for compensation, and payment to such employee of compensation less such deduction shall constitute a full and complete discharge of all claims and demands whatsoever for services rendered by such employee during the period covered by such payment, except as to benefits provided under sections 79-1032 to 79-1060. After September 1, 1963, and prior to September 1, 1969, all employees shall be credited with a membership service annuity which shall be nine-tenths of one per cent of salary or wage covered by old age and survivors survivors' insurance, and one and one half per cent of salary or wages above that amount, except that those employees who retire on or after August 31, 1969, shall be credited with a membership service annuity which shall be one per cent of salary or wages covered by old age and survivors survivors' insurance, and one and sixty-five hundredths per cent of salary or wages above that amount for service performed after September 1, 1963, and prior to September 1, 1969. Commencing September 1, 1969, all employees shall be credited with a membership service annuity which shall be one per cent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during each fiscal year and one and sixty-five hundredths per cent of salary or wages earned above that amount in the same fiscal year, except ; PROVIDED FURTHER, that all employees retiring on or after August 31, 1976, shall be credited with a membership service annuity which shall be one and forty-four hundredths per cent of the first seven thousand eight hundred dollars of salary or wages earned by the employee during such fiscal year and two and four-tenths per cent of salary or wages earned above that amount in the same fiscal year and ; AND PROVIDED FURTHER, that the retirement annuities of employees who have not retired prior to September 1, 1963, and who elected under the provisions of section 79-1041 not to become members of the system, shall not be less than they would have been had they remained under any preexisting system to date of retirement. Members of this system having the service qualifications

of members of the state school retirement system, as provided by section 79-1515, shall receive the state service annuity provided by sections 79-1522 to 79-1523.

(2) The district shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the district shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The district shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The district shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated for all purposes of sections 79-1032 to 79-1060 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 4. That section 81-2017, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2017. (1) Each patrolman while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eight per cent of his or her monthly salary. Such amounts shall be deducted monthly by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from salaries of members of the Nebraska State Patrol in accordance with subsection (2) of this section and the State Treasurer shall credit the amount of such warrant to the fund created by sections 81-2014 to 81-2034. The director shall cause a detailed report of all monthly deductions to be made each month to the Public Employees Retirement Board. In addition thereto, there shall be transferred from the General Fund monthly, by the State Treasurer, a sum equal to the amount of said salary deductions each month, the same to be credited to the fund created by sections 81-2014 to 81-2034. The fund shall further be supplemented annually by an appropriation in such amount as may be determined on the basis of an actuarial valuation prepared by a member of the American Academy of Actuaries to be sufficient to fully fund the unfunded accrued liabilities of the system by level payments up to January 1, 2005. Such valuation shall be on the basis of actuarial assumptions recommended by the actuary, approved by the board, and kept on file with the board.

(2) The state shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the state shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The state shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The state shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset against a future salary increase. Member contributions picked up shall be treated for all purposes of sections 81-2014 to 81-2034 in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 5. That section 84-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1308. (1) Each employee who is a member of the retirement system shall pay or have paid on his or her behalf a sum equal to three and six-tenths per cent of his or her monthly salary until such time as he or she has paid during any calendar year a total of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths per cent of his or her monthly salary for the remainder of such calendar year. Such amounts shall be deducted monthly pursuant to subsection (2) of this section by the Director of Administrative Services who shall draw a warrant monthly in the amount of the total deductions from salaries of employees who are members of the retirement system and the State Treasurer shall cause the amount of such warrant to be paid to the state investment officer. The director shall cause a detailed report of all monthly contributions to be submitted each month to the state investment officer and to the retirement board.

(2) The employer shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the employer shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income

of the employee until such time as they are distributed or made available. The employer shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The employer shall pick up these contributions by a deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated for all purposes of sections 84-1301 to 84-1331 in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 6. That original sections 81-2017 and 84-1308, Reissue Revised Statutes of Nebraska, 1943, sections 23-2307 and 24-703, Revised Statutes Supplement, 1982, and section 79-1056, Revised Statutes Supplement, 1983, are repealed.