

LEGISLATIVE BILL 292

Approved by the Governor June 4, 1993

Introduced by Crosby, 29; Fisher, 35

AN ACT relating to school employees retirement; to amend sections 79-1501.01, 79-1522.01, 79-1545, and 79-1549, Revised Statutes Supplement, 1992; to change retirement benefit provisions; to create a fund; to provide uses for the fund; to provide duties for the Public Employees Retirement Board; to state intent; to provide that certain expenditures are subject to budget limitations as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 79-1501.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1501.01. Sections 79-1501 to 79-1566 and sections 3 and 6 of this act shall be known and may be cited as the School Employees Retirement Act.

Sec. 2. That section 79-1522.01, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1522.01. In lieu of the school retirement allowance provided by section 79-1522, any member who is not an employee of a Class V school district and who becomes eligible to make application for and receive a school retirement allowance under section 79-1520 may receive a formula annuity retirement allowance if it is greater than the school retirement allowance provided by section 79-1522.

Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of service for which such member would otherwise receive the service annuity provided by section 79-1522 (1) by one and one-quarter percent of his or her final average compensation, (2) by one and one-half percent of his or her final average compensation, ~~or~~ (3) by one and sixty-five hundredths percent of his or her final average compensation, or (4) by one and seventy-three hundredths percent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed ~~thirty-five~~ thirty or more years of creditable service and is at least sixty years of age, the annuity shall not be reduced. If the annuity begins on or after the sixtieth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity shall be reduced by three percent for each year by which the member's age is less than the age at which the member's age plus years of service would have totaled ninety or three percent for each year after the

~~member's sixtieth birthday and prior to his or her sixty-fifth birthday, whichever provides the greater annuity. If the annuity begins prior to the sixty-fifth birthday of the member and the member has completed five or more but less than thirty years of creditable service, the annuity at the date it begins shall be reduced by three percent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday. If the annuity begins on or after the sixtieth birthday of the member and the member has completed at least thirty but less than thirty-five years of creditable service, the annuity at the date it begins shall be reduced by three percent for each year by which the member's years of creditable service is less than thirty-five years or for each year by which the member is less than sixty-five years of age, whichever provides the greater annuity.~~

A member shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter percent of his or her final average compensation as one of the factors, shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one-half percent of his or her final average compensation as one of the factors, or shall have acquired the equivalent of one-half year of service or more as a public school employee under the retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths percent of his or her final average compensation as one of the factors. A member shall be actively employed as a public school employee under the retirement system or under contract with an employer on June 1, 1993, to be eligible for computation of his or her formula annuity using one and seventy-three hundredths percent of his or her final average compensation as one of the factors.

The normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued to his or her estate or to the beneficiary he or she has designated until sixty monthly payments have been made. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-1530.

Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member has such compensation for less than three such fiscal years, his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years

of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year. ~~A member shall have required the equivalent of one-half year of service or more as a public school employee under the retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using only five fiscal years in the determination of his or her final average compensation.~~

All formula annuities shall be paid from the Annuity Reserve Account. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Account: (a) From the Service Annuity Account, the value of the service annuity which would otherwise be payable; (b) from the School Employees Savings Account, the accumulated contributions of the member; and (c) from the School Employers Deposit Account, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Account and the School Employees Savings Account. The amounts transferred from the Service Annuity Account at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis.

A person receiving a retirement benefit may accept employment in a postsecondary school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, the Community College Board of Governors for each community college area established by section 79-2638, or any other state agency without having to waive retirement payments, without having to notify the retirement board, and without being subject to any withholding of future retirement payments relating to any retirement system which is provided for a public school.

Sec. 3. (1) There is hereby created the School Employees Retirement System Reserve Fund. Required deposits from the compensation of members and employers shall be accumulated in the fund to provide a cost-of-living benefit adjustment for each person who is retired or each surviving beneficiary who is receiving a retirement annuity from the School Retirement System of the State of Nebraska. The purpose of the cost-of-living benefit adjustment shall be to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.

(2) Commencing July 1, 1993, member contributions into the fund shall equal three-tenths of one percent of compensation and employer contributions into the fund shall be one hundred one percent of member contributions to the fund. Member and employer contributions shall be nonrefundable.

(3) Upon verification by the actuary, when amounts accumulated in the fund are sufficient to provide a three percent cost-of-living benefit adjustment for all qualified persons, the retirement board shall determine the amount of the cost-of-living benefit adjustment as provided by this section for each member and beneficiary. The retirement board shall make transfers to and from the School Employees

Retirement System Reserve Fund and any other fund of the School Retirement System of the State of Nebraska administered by the retirement board in order to comply with this section.

(4) It is the intent of the Legislature that a cost-of-living benefit adjustment provided in this section shall be granted automatically in future years whenever funds are sufficient for such a benefit and the increase in the cost of living or wage levels justifies the adjustment as provided by this section. The cost-of-living benefit adjustment shall be the equivalent of three percent of benefits provided pursuant to the School Employees Retirement Act. The cost-of-living benefit adjustment shall be paid to a retired person or surviving beneficiary during his or her life.

(5) For members who retired prior to the operative date of this act, the cost-of-living benefit adjustment shall be calculated based on the amount of benefit the member is receiving on the operative date of this act. For members who retire on or after the operative date of this act, the cost-of-living benefit adjustment shall be calculated based on the amount of benefit the member receives on the date of retirement. Any subsequent cost-of-living benefit adjustment shall be calculated based on three percent of the amount of benefit the member is receiving on the operative date of this act or three percent of the amount of benefit the member will receive on the date of retirement if he or she retires subsequent to the operative date of this act.

Sec. 4. That section 79-1545, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1545. All assets of the retirement system shall be credited, according to the purpose for which they are held, to the Expense Fund, to the School Employees Retirement System Reserve Fund, or to one of five accounts in the School Retirement Fund, namely, the School Employees Savings Account, the School Employers Deposit Account, the Service Annuity Account, the Annuity Reserve Account, and the Contingent Account. Any money in these accounts or funds available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276.

Sec. 5. That section 79-1549, Revised Statutes Supplement, 1992, be amended to read as follows:

79-1549. A Contingent Account is hereby created (1) to facilitate the crediting of regular interest on the amounts in the various other accounts, with the exception of the Expense Fund, (2) to fund the adjusted supplemental retirement benefit provided by section 79-1566, and (3) to provide an account to cover any special requirements of the Annuity Reserve Account or the Expense Fund, insofar as the state is responsible for such accounts or fund. All income, interest, and dividends derived from the deposits and investments authorized by the School Employees Retirement Act shall be paid into the Contingent Account. The retirement board may accept gifts, devises, and bequests. Any funds which may come into the possession of the retirement system in this manner or which may be transferred from the School Employees Savings Account by reason of the lack of a claimant or because of a surplus in any fund or

account described in section 79-1545 other than the School Employees Retirement System Reserve Fund, or any other money the disposition of which is not otherwise provided for in the act, shall be credited to the Contingent Account. The interest allowed by the retirement board to each of the funds or accounts shall be paid to such funds or accounts from the Contingent Account or shall be used to fund the adjusted supplemental retirement benefit provided by section 79-1566. Any deficit occurring in the Annuity Reserve Account or in the Expense Fund, insofar as the state is responsible for such account or fund, shall be met by payments to the fund or account in question from the Contingent Account. Annually the retirement board shall estimate the amount of money deemed necessary to pay the obligation levied against the Contingent Account, including regular interest. If such amount exceeds the revenue estimated to accrue to the fund or account for that year, such excess shall be certified to the State Treasurer and shall, on warrant of the Director of Administrative Services, be transferred from funds appropriated by the state for such purpose to the Contingent Account.

Sec. 6. Any expenditure made by a school district pursuant to sections 79-1522.01, 79-1545, and 79-1549 as changed by this legislative bill and section 3 of this act shall be considered a general fund expenditure of the district and shall not be exempt from the growth limitations placed on district spending by the Tax Equity and Educational Opportunities Support Act.

Sec. 7. This act shall become operative on June 1, 1993.

Sec. 8. That original sections 79-1501.01, 79-1522.01, 79-1545, and 79-1549, Revised Statutes Supplement, 1992, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.