

LEGISLATIVE BILL 503

Approved by the Governor April 27, 2005

Introduced by Nebraska Retirement Systems Committee: Stuhr, 24, Chairperson;
Bourne, 8; Erdman, 47; Price, 26

AN ACT relating to retirement; to amend sections 72-1238, 72-1239, 72-1243, 79-902, 79-906, 79-958, and 84-1309.01, Reissue Revised Statutes of Nebraska, and sections 23-2309.01, 23-2310.05, 23-2312, 24-704, 79-1028, 81-2017, 81-2021, 84-1305.01, 84-1310.01, 84-1311.03, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised Statutes Supplement, 2004; to change contribution and investment provisions; to change provisions relating to membership, per diems, and powers and duties of the Nebraska Investment Council; to change provisions relating to the Public Employees Retirement Board and director of the retirement systems; to change school employee retirement calculations and tax levy provisions; to provide for an internal auditor; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 23-2309.01, Revised Statutes Supplement, 2004, is amended to read:

23-2309.01. (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options. The investment options shall include, but not be limited to, the following:

(a) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

~~(a)~~ (b) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

~~(b)~~ (c) An equities account which shall be invested by or under the direction of the state investment officer in equities;

~~(c)~~ (d) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

~~(d)~~ (e) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's 500 Index;

~~(e)~~ (f) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments; ~~and~~

~~(f)~~ (g) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(h) Beginning July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision ~~(a)~~ (b) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to

rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 2. Section 23-2310.05, Revised Statutes Supplement, 2004, is amended to read:

23-2310.05. (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options.

~~(a) Prior to July 16, 2004:~~

~~(i) Such investment options shall be limited to the following:~~

~~(A) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent equities and seventy-five percent fixed income instruments;~~

~~(B) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent equities and fifty percent fixed income instruments; and~~

~~(C) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent equities and twenty-five percent fixed income instruments; and~~

~~(ii) If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a)(i)(A), (a)(i)(B), or (a)(i)(C) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

~~(b) On and after July 16, 2004:~~

~~(i) Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 23-2309.01. + and (ii) If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the balanced account option described in subdivision (i)(e) (1)(d) of section 23-2309.01. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 23-2319.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the ~~state~~ county and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the county shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 3. Section 23-2312, Revised Statutes Supplement, 2004, is

amended to read:

23-2312. (1) The director of the Nebraska Public Employees Retirement Systems shall keep a complete record of all members with respect to names, current addresses, ages, contributions, and any other facts as may be necessary in the administration of the County Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various counties and state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 4. Section 24-704, Revised Statutes Supplement, 2004, is amended to read:

24-704. (1) The general administration of the retirement system for judges provided for in the Judges Retirement Act, except the investment of funds, is hereby vested in the board. The Auditor of Public Accounts shall make an annual audit of the retirement system and file an annual report of its condition with the Clerk of the Legislature. Each member of the Legislature shall receive a copy of the annual report by making a request for such report to the Auditor of Public Accounts. The board shall adopt and promulgate rules and regulations as may be necessary to carry out the Judges Retirement Act.

(2) (a) The board shall employ a director and such assistants and employees as may be necessary to efficiently discharge the duties imposed by the act. The director shall keep a record of all acts and proceedings taken by the board.

(b) The director shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the act. The information in the records shall be provided by the State Court Administrator in an accurate and verifiable form, as specified by the director. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(c) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

(3) Information necessary to determine membership in the retirement system shall be provided by the State Court Administrator.

(4) Any funds of the retirement system available for investment shall be invested by the Nebraska Investment Council pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Payment for investment services by the council shall be charged directly against the gross investment returns of the funds. Charges so incurred shall not be a part of the board's annual budget request. The amounts of payment for such services, as of December 31 of each year, shall be reported not later than March 31 of the following year to the council, the board, and the Nebraska Retirement Systems Committee. The state investment officer shall sell any such securities upon request from the director so as to provide money for the payment of benefits or annuities.

Sec. 5. Section 72-1238, Reissue Revised Statutes of Nebraska, is amended to read:

72-1238. ~~The~~ (1) Prior to July 1, 2005, the appointed members of the council shall have at least ten years of experience in the financial affairs of a public or private organization or have at least five years of experience in the field of investment management or analysis. For members appointed on or after July 1, 2005, the appointed members of the council shall have at least seven years of experience in the field of investment management

or analysis or have at least twelve years of experience in the financial management of a public or private organization. There is a preference for members who are appointed to have experience in investment management or analysis.

(2) The members serving on ~~July 19, 1996~~ July 1, 2005, shall serve for the remainder of their five-year terms which will be extended until the date on which the successor's appointment is effective.

Sec. 6. Section 72-1239, Reissue Revised Statutes of Nebraska, is amended to read:

72-1239. The purpose of the council is to formulate and establish such policies as it may deem necessary and proper which shall govern the methods, practices, and procedures followed by the state investment officer for the investment or reinvestment of state funds and funds described in section 83-133 and the purchase, sale, or exchange of securities as provided by the Nebraska State Funds Investment Act. The council shall meet from time to time as directed by the Governor or the chairperson or as requested by the state investment officer. The members of the council, except the State Treasurer and the director of the Nebraska Public Employees Retirement Systems, shall be paid ~~twenty~~ seventy-five dollars per diem. ~~The , and all~~ members shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties as members as provided in sections 81-1174 to 81-1177.

Sec. 7. Section 72-1243, Reissue Revised Statutes of Nebraska, 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) The council ~~and the Public Employees Retirement Board~~ shall ~~jointly~~ have an analysis made of the investment ~~return~~ returns that has have been achieved on the assets of each retirement system administered by the ~~board~~ Public Employees Retirement Board as provided in section 84-1503. By ~~March 15~~ March 15 of each year, the analysis shall be presented to the ~~board and the~~ Nebraska Retirement Systems Committee. The analysis shall be prepared by an independent organization which has demonstrated expertise to perform this type of analysis and for which there exists no conflict of interest in the analysis being provided. The analysis may be waived by the council for any retirement system with assets of less than one million dollars.

(3) By ~~March 15~~ March 15 of each year, the council shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be limited to, the council's investment ~~policy portfolio~~ portfolios, investment strategies, the duties and limitations of the state investment officer, and limits on his or her authority, and an organizational structure of the council's office.

Sec. 8. Section 79-902, Reissue Revised Statutes of Nebraska, is amended to read:

79-902. For purposes of the School Employees Retirement Act, unless the context otherwise requires:

(1) Accumulated contributions means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Retirement Fund together with regular interest thereon, compounded monthly, quarterly, semiannually, or annually;

(2) Beneficiary means any person in receipt of a school retirement allowance or other benefit provided by the act;

(3) Member means any person who has an account in the School Retirement Fund;

(4) County school official means (a) until July 1, 2000, the county superintendent or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate and (b) on or after July 1, 2000, the county superintendent, county school administrator, or district superintendent and any person serving in his or her office who is required by law to have a teacher's certificate;

(5) Creditable service means prior service for which credit is granted under sections 79-926 to 79-929, service credit purchased under sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement

with the employer. Creditable service does not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days, eligibility and vesting credit, nor service years for which member contributions are withdrawn and not repaid. Creditable service also does not include service rendered by a member for which the retirement board determines that the member was paid less in compensation than the minimum wage as provided in the Wage and Hour Act or service which the board determines was rendered with the intent to defraud the retirement system;

(6) Disability retirement allowance means the annuity paid to a person upon retirement for disability under section 79-952;

(7) Employer means the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees or to pay their compensation;

(8) Fiscal year means any year beginning July 1 and ending June 30 next following;

(9) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(10) School employee means a contributing member who earns service credit pursuant to section 79-927. For purposes of this section, contributing member means the following persons who receive compensation from a public school: (a) Regular employees; (b) regular employees having retired pursuant to the School Employees Retirement Act who subsequently provide compensated service on a regular basis in any capacity; and (c) regular employees hired by a public school on an ongoing basis to assume the duties of other regular employees who are temporarily absent. Substitute employees shall not be considered school employees;

(11) Prior service means service rendered as a school employee in the public schools of the State of Nebraska prior to July 1, 1945;

(12) Public school means any and all schools offering instruction in elementary or high school grades, as defined in section 79-101, which schools are supported by public funds and are wholly under the control and management of the State of Nebraska or any subdivision thereof, including (a) schools or other entities established, maintained, and controlled by the school boards of local school districts, except Class V school districts, (b) any educational service unit, and (c) any other educational institution wholly supported by public funds, except schools under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or the community college boards of governors for any community college areas;

(13) Retirement means qualifying for and accepting a school or disability retirement allowance granted under the School Employees Retirement Act;

(14) Retirement board or board means the Public Employees Retirement Board;

(15) Retirement system means the School Retirement System of the State of Nebraska;

(16) Required deposit means the deduction from a member's compensation as provided for in section 79-958 which shall be deposited in the School Retirement Fund;

(17) School year means one fiscal year which includes not less than one thousand instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five percent of the then legal school year;

(18) Service means employment as a school employee and shall not be deemed interrupted by (a) termination at the end of the school year of the contract of employment of an employee in a public school if the employee enters into a contract of employment in any public school, except a school in a Class V school district, for the following school year, (b) temporary or seasonal suspension of service that does not terminate the employee's employment, (c) leave of absence authorized by the employer for a period not exceeding twelve months, (d) leave of absence because of disability, or (e) military service when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under sections 79-951 to 79-953;

(19) School retirement allowance means the total of the savings annuity and the service annuity or formula annuity paid a person who has retired under sections 79-931 to 79-935. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date

of the award of annuity. The last payment shall be at the end of the calendar month in which such member dies or in accordance with the payment option chosen by the member;

(20) Service annuity means payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(21) State deposit means the deposit by the state in the retirement system on behalf of any member;

(22) State school official means the Commissioner of Education and his or her professional staff;

(23) Savings annuity means payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(24) Emeritus member means a person (a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-916, (b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a 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, or a community college board of governors or has become a state school official or county school official subsequent to such retirement, and (c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services;

(25) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five percent of the male table and seventy-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making these determinations except when a lump-sum settlement is made to an estate. If the lump-sum settlement is made to an estate, the interest rate will be determined by the Moody's Triple A Bond Index as of the prior June 30, rounded to the next lower quarter percent;

(26) Retirement date means (a) if the member has terminated employment, the first day of the month following the date upon which a member's request for retirement is received on a retirement application provided by the retirement system or (b) if the member has filed an application but has not yet terminated employment, the first day of the month following the date on which the member terminates employment. An application may be filed no more than ninety days prior to the effective date of the member's initial benefit;

(27) Disability retirement date means the first day of the month following the date upon which a member's request for disability retirement is received on a retirement application provided by the retirement system if the member has terminated employment in the school system and has complied with sections 79-951 to 79-954 as such sections refer to disability retirement;

(28) Retirement application means the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement;

(29) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the School Employees Retirement Act. Such credit shall not be included as years of creditable service in the benefit calculation;

(30) (a) Final average compensation means the sum of the member's total compensation during the three twelve-month periods of service as a school employee in which such compensation was the greatest divided by thirty-six.

(b) If a member has such compensation for less than thirty-six months, his or her final average compensation shall be determined by dividing his or her total compensation in all months by the total number of months of his or her creditable service therefor.

(c) Payments under the Retirement Incentive Plan pursuant to section 79-855 and Staff Development Assistance pursuant to section 79-856 shall not be included in the determination of final average compensation;

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

(32) Current benefit means (a) until July 1, 2000, the initial benefit increased by all adjustments made pursuant to section 79-947.02 and (b) on or after July 1, 2000, the initial benefit increased by all adjustments

made pursuant to the School Employees Retirement Act;

(33) Initial benefit means the retirement benefit calculated at the time of retirement;

(34) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits;

(35) (a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(b) Compensation does not include amounts which (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts determines were fraudulently obtained, compensation for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, ~~or~~ (vi) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (vii) beginning on the effective date of Legislative Bill 329, Ninety-ninth Legislature, First Session, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514. ~~except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.~~

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

~~(e)~~ (d) (i) In the determination of compensation for members on or after July 1, 2002, through June 30, 2005, that part of a member's compensation for the fiscal year which exceeds the member's compensation with the same employer for the preceding fiscal year by more than ten percent shall be excluded unless (A) the member experienced a substantial change in employment position or (B) the excess compensation occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee.

(ii) For purposes of this subdivision: ~~τ~~

(A) ~~category~~ Category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both; and

(B) ~~recognized~~ Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

(e) (i) In the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base during the sixty months preceding the member's retirement shall be excluded unless (A) the member experienced a substantial change in employment position, (B) the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category

of school employee, or (C) the excess compensation occurred as the result of a districtwide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35) (a) (iv) of this section.

(ii) For purposes of this subdivision:

(A) Category of school employee means either all certificated employees of the employer or all noncertificated employees of the employer or both;

(B) Compensation base means (I) for current members employed with the same employer, the member's compensation for the plan year ending June 30, 2005, or (II) for members newly hired or hired by a separate employer on or after July 1, 2005, the member's compensation for the first full plan year following the member's date of hiring. Thereafter, the member's compensation base shall be increased each plan year by seven percent of the member's preceding plan year's compensation base; and

(C) Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board;

(36) Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer. The employer shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment if the member subsequently provides service on a regular basis in any capacity for any school district other than a Class V school district within one hundred eighty calendar days after ceasing employment or if the board determines that a purported termination was not a bona fide separation from service with the employer;

(37) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(38) Substitute employee means a person hired by a public school as a temporary employee on an intermittent basis to assume the duties of regular employees due to the temporary absence of the regular employees. Substitute employee does not mean a person hired as a regular employee on an ongoing basis to assume the duties of other regular employees who are temporarily absent;

(39) Participation means qualifying for and making required deposits to the retirement system during the course of a plan year;

(40) Regular employee means an employee hired by a public school or under contract in a regular full-time or part-time position who works a full-time or part-time schedule on an ongoing basis for fifteen or more hours per week; and

(41) Temporary employee means an employee hired by a public school who is not a regular employee.

Sec. 9. Section 79-906, Reissue Revised Statutes of Nebraska, is amended to read:

79-906. (1) The director in charge of the retirement system shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the School Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various employers and state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) If a member's compensation for a plan year exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent of the compensation base, then the employer shall, within thirty days of such occurrence, provide information indicating to the director that the member's compensation has exceeded seven percent of the compensation base. Such information shall be provided in an accurate and verifiable form as specified by the director.

(3) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 10. Section 79-958, Reissue Revised Statutes of Nebraska, is amended to read:

79-958. (1) ~~For~~ Prior to September 1, 2005, and after August 31, 2007, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and twenty-five hundredths percent of compensation. Beginning on September 1, 2005, and ending August 31, 2006, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and ninety-eight hundredths percent of compensation. Beginning on September 1, 2006, and ending August 31, 2007, for the purpose of providing the funds to pay for formula annuities, every employee shall be required to deposit in the School Retirement Fund seven and eighty-three hundredths percent of compensation. Such deposits shall be transmitted at the same time and in the same manner as required employer contributions.

(2) For the purpose of providing the funds to pay for formula annuities, every employer shall be required to deposit in the School Retirement Fund one hundred one percent of the required contributions of the school employees of each employer. Such deposits shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions.

(3) The employer shall pick up the member contributions required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code as defined in section 49-801.01, 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 code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer shall pick up these contributions by a compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the School Employees Retirement Act in the same manner and to the same extent as member contributions made prior to the date picked up.

(4) The employer shall pick up the member contributions made through irrevocable payroll deduction authorizations pursuant to sections 79-921, 79-933.03 to 79-933.06, and 79-933.08, and the contributions so picked up shall be treated as employer contributions in the same manner as contributions picked up under subsection (3) of this section.

Sec. 11. Section 79-1028, Revised Statutes Supplement, 2004, is amended to read:

79-1028. (1) A Class II, III, IV, V, or VI school district may exceed the local system's applicable allowable growth rate for (a) expenditures in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity or joint public agency, (b) expenditures to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (c) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, (d) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment, or (e) expenditures to pay for lease-purchase contracts approved on or after July 1, 1997, and before July 1, 1998, to the extent the lease payments were not budgeted expenditures for fiscal year 1997-98.

(2) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The department shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5

250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1, the department shall make available to districts which have been allowed additional growth pursuant to this subsection the necessary document to recalculate the actual formula students of such district. Such document shall be filed with the department under subsection (1) of section 79-1024.

(3) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a Class II, III, IV, V, or VI district to exceed the local system's applicable allowable growth rate by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall notify the district on or before July 1 of the recovery of the additional growth pursuant to this subsection.

(4) A Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the department that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 79-855 or the Staff Development Assistance authorized in section 79-856. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

(5) A Class II, III, IV, or V district may exceed its applicable allowable growth rate by the specific dollar amount of incentive payments or base fiscal year incentive payments to be received in such school fiscal year pursuant to section 79-1011.

(6) For school fiscal year 2005-06, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed seventy-four hundredths percent of the amount budgeted for employee salaries for such school fiscal year. For school fiscal year 2006-07, a Class II, III, IV, V, or VI district may exceed its applicable allowable growth rate by a specific dollar amount not to exceed fifty-nine hundredths percent of the amount budgeted for employee salaries for such school fiscal year.

Sec. 12. Section 81-2017, Revised Statutes Supplement, 2004, is amended to read:

81-2017. (1) Prior to July 1, 1995, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eight percent of his or her monthly compensation. Commencing July 1, 1995, and through June 30, 1996, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to ten percent of his or her monthly compensation. Commencing July 1, 1996, and through June 30, 2004, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to eleven percent of his or her monthly compensation. Commencing ~~7~~ ~~except that commencing~~ July 1, 2004, and through June 30, 2005, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to twelve percent of his or her monthly compensation. Commencing July 1, 2005, and through June 30, 2007, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to thirteen percent of his or her monthly compensation. Commencing July 1, 2007, each officer while in the service of the Nebraska State Patrol shall pay or have paid on his or her behalf a sum equal to twelve percent of his or her monthly compensation. 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 the compensation of members of the Nebraska State Patrol in accordance with subsection ~~(2)~~ (4) of this section, and the State Treasurer shall credit the amount of such warrant to the State Patrol Retirement Fund. The director

shall cause a detailed report of all monthly deductions to be made each month to the board.

(2) In addition, through June 30, 2004, there shall be transferred from the General Fund monthly by the State Treasurer a sum equal to the amount of such compensation deductions each month which shall be credited to the State Patrol Retirement Fund. Commencing ~~7, except that commencing~~ July 1, 2004, and through June 30, 2005, there shall be transferred from the General Fund monthly by the State Treasurer a sum equal to the amount of twelve percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2005, and through June 30, 2007, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of fifteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. Commencing July 1, 2007, there shall be assessed against the appropriation of the Nebraska State Patrol a sum equal to the amount of thirteen percent of each officer's monthly compensation which shall be credited to the State Patrol Retirement Fund. The fund shall further be supplemented annually by an appropriation in such amount, if any, 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 liability of the system as of June 30, 1988, by January 1, 2005.

(3) For the fiscal year beginning on July 1, 2002, and each fiscal year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate, plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of July 1, 2002, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the funded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act, there shall be a supplemental appropriation sufficient to pay for the differences between the actuarially required contribution rate and the rate of all contributions required pursuant to the Nebraska State Patrol Retirement Act. 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)~~ (4) 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 Internal Revenue Code as defined in section 49-801.01, 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 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 compensation deduction through a reduction in the cash compensation of the member. Member contributions picked up shall be treated for all purposes of the Nebraska State Patrol Retirement Act in the same manner and to the extent as member contributions made prior to the date picked up.

Sec. 13. Section 81-2021, Revised Statutes Supplement, 2004, is amended to read:

81-2021. (1) The director in charge of the system shall keep a record of all acts and proceedings taken by the board. He or she shall keep a complete record of all members with respect to name, current address, age, contributions, length of service, compensation, and any other facts as may be necessary in the administration of the Nebraska State Patrol Retirement Act. The board shall prescribe the form in which such information shall be reported by the Nebraska State Patrol to the board. The information in the records shall be provided by the Nebraska State Patrol in an accurate and verifiable

form, as specified by the director. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 14. Section 84-1305.01, Revised Statutes Supplement, 2004, is amended to read:

84-1305.01. (1) The director of the Nebraska Public Employees Retirement Systems shall keep a complete record of all members with respect to name, current address, age, contributions, and any other facts as may be necessary in the administration of the State Employees Retirement Act. The information in the records shall be provided by the employer in an accurate and verifiable form, as specified by the director. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures pursuant to section 84-1512 to verify the accuracy of such information. For the purpose of obtaining such facts and information, the director shall have access to the records of the various state departments and agencies and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named in the certificate.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 15. 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. The board shall verify that the investments of the assets of the retirement system by the council and the state investment officer are invested and reinvested for the exclusive purposes of providing benefits to members and members' beneficiaries and that the assets of the retirement system are not invested with the sole or primary investment objective of economic development or social purposes or objectives. Such verification shall be included in the joint analysis of the investment return written plan of action pursuant to subsection (3) of section 84-1503.

Sec. 16. Section 84-1310.01, Revised Statutes Supplement, 2004, is amended to read:

84-1310.01. (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employee account to various investment options. Such investment options shall include, but not be limited to, the following:

(a) An investor select account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy substantially similar to the investment allocations made by the state investment officer for the defined benefit plans under the retirement systems described in subdivision (1)(a) of section 84-1503. Investments shall most likely include domestic and international equities, fixed income investments, and real estate, as well as potentially additional asset classes;

~~(a)~~ (b) A stable return account which shall be invested by or under the direction of the state investment officer in one or more guaranteed investment contracts;

~~(b)~~ (c) An equities account which shall be invested by or under the direction of the state investment officer in equities;

~~(c)~~ (d) A balanced account which shall be invested by or under the direction of the state investment officer in equities and fixed income instruments;

~~(d)~~ (e) An index fund account which shall be invested by or under the direction of the state investment officer in a portfolio of common stocks designed to closely duplicate the total return of the Standard and Poor's 500

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~~(e)~~ (f) A fixed income account which shall be invested by or under the direction of the state investment officer in fixed income instruments; ~~and~~
~~(f)~~ (g) A money market account which shall be invested by or under the direction of the state investment officer in short-term fixed income securities; and

(h) Beginning on July 1, 2006, an age-based account which shall be invested under the direction of the state investment officer with an asset allocation and investment strategy that changes based upon the age of the member. The board shall develop an account mechanism that changes the investments as the employee nears retirement age. The asset allocation and asset classes utilized in the investments shall move from aggressive, to moderate, and then to conservative as retirement age approaches.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision ~~(a)~~ (b) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except for restrictions on transfers to or from the stable return account pursuant to rule or regulation. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employee account.

Sec. 17. Section 84-1311.03, Revised Statutes Supplement, 2004, is amended to read:

84-1311.03. (1) Each member employed and participating in the retirement system prior to January 1, 2003, who has elected not to participate in the cash balance benefit, shall be allowed to allocate all contributions to his or her employer account to various investment options.

~~(a) Prior to July 16, 2004:~~

~~(i) Such investment options shall be limited to the following:~~

~~(A) An account which shall be invested by or under the direction of the state investment officer in approximately twenty-five percent equities and seventy-five percent fixed income instruments;~~

~~(B) An account which shall be invested by or under the direction of the state investment officer in approximately fifty percent equities and fifty percent fixed income instruments; and~~

~~(C) An account which shall be invested by or under the direction of the state investment officer in approximately seventy-five percent equities and twenty-five percent fixed income instruments; and~~

~~(ii) If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in one of the options described in subdivision (a)(i)(A), (a)(i)(B), or (a)(i)(C) of this subsection as determined by the board. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

~~(b) On and after July 16, 2004:~~

~~(i) Such investment options shall be the same as the investment options of the employee account as provided in subsection (1) of section 84-1310.01. + and (ii) If a member fails to select an option or combination of options, all of his or her funds in the employer account shall be placed in the balanced account option described in subdivision (1)(e) (1)(d) of section 84-1310.01. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.~~

(2) Each member of the retirement system may allocate contributions to his or her employer account to the investment options in percentage increments as set by the board in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options. The board shall adopt and promulgate rules and regulations for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

(3) The board shall develop a schedule for the allocation of administrative costs of maintaining the various investment options and shall assess the costs so that each member pays a reasonable fee as determined by the board. The money forfeited pursuant to section 84-1321.01 shall not be used to pay the administrative costs incurred pursuant to this section.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or record-keeping services. No agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

(5) The state, the board, the state investment officer, the members of the Nebraska Investment Council, or the agency shall not be liable for any investment results resulting from the member's exercise of control over the assets in the employer account.

Sec. 18. Section 84-1502, Revised Statutes Supplement, 2004, is amended to read:

84-1502. (1) Within thirty days after its appointment, the ~~board~~ Public Employees Retirement Board shall meet and select a chairperson and secretary. Thereafter, the chairperson and the secretary shall be elected in January of each year.

(2) The board shall meet upon call of the chairperson or upon the request of three members of the board filed with the board office. Meetings of the board shall be held in this state and may be held by telecommunication equipment if the requirements of the Open Meetings Act are met.

(3) The members of the board, except the state investment officer, shall be paid fifty dollars per diem, and all members shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties as board members as provided in sections 81-1174 to 81-1177.

Sec. 19. Section 84-1503, Revised Statutes Supplement, 2004, 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, and the State 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. The director shall be qualified by training and have at least five years of experience in the administration of a qualified public or private employee retirement plan. 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, admitted to the Nebraska State Bar Association, to advise the board in the administration of the retirement systems listed in subdivision (a) of this subsection;

(f) To hire an internal auditor to perform the duties described in section 20 of this act who meets the minimum standards as described in section 84-304.03;

(g) To adopt and implement procedures for reporting information by employers, as well as ~~sampling~~ 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 shall 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; and

~~(g)~~ (h) To prescribe and furnish forms for the public retirement system plan reports required to be filed pursuant to sections 2-3228, 12-101, 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118, 23-3526, 71-1631.02, and 79-987 and to notify the Nebraska Retirement Systems Committee of the Legislature of the failure of any governmental entity to file such reports.

(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 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. 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 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 in 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 three additional years. An actuary under contract for the State of Nebraska shall be a member of the American Academy of Actuaries;

(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 occur beginning on or after July 31, 1992, 1, 2005, and at intervals of not less than ~~ten~~ five years and not more than fifteen years and shall be in such amounts as the Legislature shall direct; ~~except that up to seventy-five thousand dollars may be transferred in FY1993-94 to assist in completing the study authorized in Legislative Resolution 328, Ninety-second Legislature, Second Session, 1992;~~

(g) To adopt and promulgate rules and regulations to carry out the provisions of each retirement system described in subdivision (1) (a) of this section, which shall include, but not be limited to, the crediting of military service, direct rollover distributions, and the acceptance of rollovers;

(h) To obtain, by a competitive, formal, and sealed bidding process through the materiel division of the Department of Administrative Services, auditing services for a separate compliance audit of the retirement systems to be completed by December 31, 1997, 2007, and from time to time thereafter at the request of the Nebraska Retirement Systems Committee, 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 and shall be presented to the committee at a public hearing;

(i) To adopt and promulgate rules and regulations for the adjustment of contributions or benefits, which shall include, but not be 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; and (iii) notice provided to all affected persons. All notices shall be sent prior to an adjustment and shall describe the process for disputing an adjustment to contributions or benefits; and

(j) To administer all retirement system plans in a manner which will maintain each plan's status as a qualified plan pursuant to the Internal Revenue Code. The board shall adopt and promulgate rules and regulations necessary or appropriate to maintain such status including, but not limited to, rules or regulations which restrict discretionary or optional contributions to a plan or which limit distributions from a plan.

(3) ~~The board and the Nebraska Investment Council shall jointly have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. The analysis shall be prepared annually as of January 1. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or providing investment management services to the retirement system. The analysis may be waived jointly by the board and the council for any retirement system with assets of less than ten million dollars. A copy of the analysis shall be given to the board, the council, and the Nebraska Retirement Systems Committee. By March 1 of each year, the analysis shall be presented to the Nebraska Retirement Systems Committee.~~

(4) ~~By March 15 of each year, the board shall prepare a written plan of action and shall present such plan to the Nebraska Retirement Systems Committee at a public hearing. The plan shall include, but not be 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 the limits on his or her authority 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.~~

Sec. 20. The duties and responsibilities of the internal auditor employed by the Public Employees Retirement Board shall be consistent with the suggested standards for the professional practice of internal auditing as adopted by the Institute of Internal Auditors and include the following:

(1) Prepare a formal written three-year audit plan and work schedule each year and present them to the board;

(2) Conduct ongoing reviews of the internal procedures of the Nebraska Public Employees Retirement Systems and recommend improvements to the board;

(3) Ensure that the Nebraska Public Employees Retirement Systems' internal accounting and operational controls are appropriate and operating correctly and report inconsistencies to the board;

(4) Examine and evaluate system records and operating procedures; verify compliance with established plans, policies, procedures, and control systems; assure compliance with regulatory and statutory conditions; and assure adherence to generally accepted accounting and auditing principles and report inconsistencies to the board;

(5) Perform internal auditing functions, including review of contributions received and creditable service granted; review benefit payments for completeness of information, appropriateness, accuracy, and timeliness; verify accuracy of data and financial information reported to the systems' actuary for all applicable plans; and verify accuracy of data and financial information reported to the systems' record keeper for all applicable plans; and

(6) Develop standards to be used by independent auditors in their review of the practices and procedures used by various employers to provide for employee participation in the respective retirement systems included in subdivision (1)(a) of section 84-1503.

Sec. 21. Section 84-1503.03, Revised Statutes Supplement, 2004, is amended to read:

84-1503.03. The director of the Nebraska Public Employees Retirement Systems shall employ qualified personnel as may be required to carry out the duties and responsibilities required under sections 84-1501 to 84-1514. Such employees shall be deemed state employees and covered by the State Personnel System pursuant to sections 81-1301 to 81-1368 and other personnel rules or regulations, and such employees shall include the internal auditor and the attorney hired by the board pursuant to section 84-1503. The director shall be exempt from the State Personnel System. All employees shall comply with state accounting regulations and applicable state and federal laws in the discharge of their duties.

Sec. 22. Section 84-1512, Revised Statutes Supplement, 2004, is

amended to read:

84-1512. (1) The Public Employees Retirement Board, for purposes of administering the various retirement systems under its jurisdiction, shall receive from the Department of Administrative Services and other employers such information as is necessary for the efficient and accurate administration of the systems and shall consult with the Department of Administrative Services and other employers as to the form in which the information is to be presented and received by the board. The information in the records shall be provided by the employers in an accurate and verifiable form, as specified by the director of the Nebraska Public Employees Retirement Systems. The director ~~may~~ shall, from time to time, carry out ~~sampling~~ testing procedures to verify the accuracy of such information. The director and shall have access to records maintained by the Department of Administrative Services on the Nebraska employees information system data base for the purpose of obtaining any information which may be necessary to verify the accuracy of information and administer the systems and the holder of the records shall comply with a request by the director for access by providing such facts and information to the director in a timely manner. By January 1, 2006, the director shall develop procedures necessary to carry out the testing procedures described in this section and sections 23-2312, 24-704, 79-906, 81-2021, and 84-1305.01.

(2) The director shall develop and implement an employer education program using principles generally accepted by public employee retirement systems so that all employers have the knowledge and information necessary to prepare and file reports as the board requires.

Sec. 23. Sections 1, 2, 16, 17, and 25 of this act become operative three calendar months after adjournment of this legislative session. The other sections of this act become operative on July 1, 2005.

Sec. 24. Original sections 72-1238, 72-1239, 72-1243, 79-902, 79-906, 79-958, and 84-1309.01, Reissue Revised Statutes of Nebraska, and sections 23-2312, 24-704, 79-1028, 81-2017, 81-2021, 84-1305.01, 84-1502, 84-1503, 84-1503.03, and 84-1512, Revised Statutes Supplement, 2004, are repealed.

Sec. 25. Original sections 23-2309.01, 23-2310.05, 84-1310.01, and 84-1311.03, Revised Statutes Supplement, 2004, are repealed.

Sec. 26. Since an emergency exists, this act takes effect when passed and approved according to law.