

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 565

Introduced by Bolz, 29.

Read first time January 22, 2019

Committee:

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2331,
2 79-901, and 84-1331, Reissue Revised Statutes of Nebraska, and
3 sections 79-978.01 and 84-1503, Revised Statutes Cumulative
4 Supplement, 2018; to state legislative intent relating to a
5 designated beneficiary determination under the Retirement System for
6 Nebraska Counties, the School Employees Retirement System of the
7 State of Nebraska, any school employees retirement system
8 established under the Class V School Employees Retirement Act, and
9 the State Employees Retirement System of the State of Nebraska; to
10 provide a duty for the Public Employees Retirement Board as
11 prescribed; to harmonize provisions; and to repeal the original
12 sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2331, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 23-2331 Sections 23-2301 to 23-2332.01 and section 2 of this act
4 shall be known and may be cited as the County Employees Retirement Act.

5 Sec. 2. It is the intent of the Legislature that if a member of the
6 retirement system is married at the time of his or her death and there is
7 no designated beneficiary on file with the board, then the spouse married
8 to the member on the date of the member's death is determined to be the
9 beneficiary. If the member is not married on the date of his or her death
10 and there is no surviving designated beneficiary on file with the board,
11 then the benefit shall be paid to the member's estate.

12 Sec. 3. Section 79-901, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 79-901 Sections 79-901 to 79-977.03 and section 4 of this act shall
15 be known and may be cited as the School Employees Retirement Act.

16 Sec. 4. It is the intent of the Legislature that if a member of the
17 retirement system is married at the time of his or her death and there is
18 no designated beneficiary on file with the board, then the spouse married
19 to the member on the date of the member's death is determined to be the
20 beneficiary. If the member is not married on the date of his or her death
21 and there is no surviving designated beneficiary on file with the board,
22 then the benefit shall be paid to the member's estate.

23 Sec. 5. Section 79-978.01, Revised Statutes Cumulative Supplement,
24 2018, is amended to read:

25 79-978.01 Sections 79-978 to 79-9,118 and section 6 of this act
26 shall be known and may be cited as the Class V School Employees
27 Retirement Act.

28 Sec. 6. It is the intent of the Legislature that if a member of any
29 retirement system established under the Class V School Employees
30 Retirement Act is married at the time of his or her death and there is no
31 designated beneficiary on file with the board of trustees, then the

1 spouse married to the member on the date of the member's death is
2 determined to be the beneficiary. If the member is not married on the
3 date of his or her death and there is no surviving designated beneficiary
4 on file with the board of trustees, then the benefit shall be paid to the
5 member's estate.

6 Sec. 7. Section 84-1331, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 84-1331 Sections 84-1301 to 84-1331 and section 8 of this act shall
9 be known and may be cited as the State Employees Retirement Act.

10 Sec. 8. It is the intent of the Legislature that if a member of the
11 retirement system is married at the time of his or her death and there is
12 no designated beneficiary on file with the board, then the spouse married
13 to the member on the date of the member's death is determined to be the
14 beneficiary. If the member is not married on the date of his or her death
15 and there is no surviving designated beneficiary on file with the board,
16 then the benefit shall be paid to the member's estate.

17 Sec. 9. Section 84-1503, Revised Statutes Cumulative Supplement,
18 2018, is amended to read:

19 84-1503 (1) It shall be the duty of the Public Employees Retirement
20 Board:

21 (a) To administer the retirement systems provided for in the County
22 Employees Retirement Act, the Judges Retirement Act, the Nebraska State
23 Patrol Retirement Act, the School Employees Retirement Act, and the State
24 Employees Retirement Act. The agency for the administration of the
25 retirement systems and under the direction of the board shall be known
26 and may be cited as the Nebraska Public Employees Retirement Systems;

27 (b) To appoint a director to administer the systems under the
28 direction of the board. The appointment shall be subject to the approval
29 of the Governor and a majority of the Legislature. The director shall be
30 qualified by training and have at least five years of experience in the
31 administration of a qualified public or private employee retirement plan.

1 The director shall not be a member of the board. The salary of the
2 director shall be set by the board. The director shall serve without term
3 and may be removed by the board;

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

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

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

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

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

27 (h) To prescribe and furnish forms for the public retirement system
28 plan reports required to be filed pursuant to sections 2-3228, 12-101,
29 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
30 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

31 (2) In administering the retirement systems listed in subdivision

1 (1)(a) of this section, it shall be the duty of the board:

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

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

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

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

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

1 board determines that such a process would not be cost effective under
2 the circumstances and that the actuarial services performed have been
3 satisfactory, in which case the contract may also contain an option for
4 renewal without a competitive, formal, and sealed bidding process for up
5 to three additional years. An actuary under contract for the State of
6 Nebraska shall be a member of the American Academy of Actuaries and meet
7 the academy's qualification standards to render a statement of actuarial
8 opinion;

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

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

19 (h) To obtain, by a competitive, formal, and sealed bidding process
20 through the materiel division of the Department of Administrative
21 Services, auditing services for a separate compliance audit of the
22 retirement systems to be completed by December 31, 2020, and from time to
23 time thereafter at the request of the Nebraska Retirement Systems
24 Committee of the Legislature, to be completed not more than every four
25 years but not less than every ten years. The compliance audit shall be in
26 addition to the annual audit conducted by the Auditor of Public Accounts.
27 The compliance audit shall include, but not be limited to, an examination
28 of records, files, and other documents and an evaluation of all policies
29 and procedures to determine compliance with all state and federal laws. A
30 copy of the compliance audit shall be given to the Governor, the board,
31 and the Nebraska Retirement Systems Committee of the Legislature and

1 shall be presented to the committee at a public hearing;

2 (i) To adopt and promulgate rules and regulations, as the board may
3 deem necessary, for the adjustment of contributions or benefits, which
4 includes, but is not limited to: (i) The procedures for refunding
5 contributions, adjusting future contributions or benefit payments, and
6 requiring additional contributions or repayment of benefits; (ii) the
7 process for a member, member's beneficiary, employee, or employer to
8 dispute an adjustment to contributions or benefits; (iii) establishing
9 materiality and de minimus amounts for agency transactions, adjustments,
10 and inactive account closures; and (iv) notice provided to all affected
11 persons. Following an adjustment, a timely notice shall be sent that
12 describes the adjustment and the process for disputing an adjustment to
13 contributions or benefits;

14 (j) To adopt and promulgate rules and regulations consistent with
15 the intent of the Legislature that if a member of the deferred
16 compensation plan is married at the time of his or her death and there is
17 no designated beneficiary on file with the board, then the spouse married
18 to the member on the date of the member's death is determined to be the
19 beneficiary. If the member is not married on the date of his or her death
20 and there is no surviving designated beneficiary on file with the board,
21 then the benefit shall be paid to the member's estate.

22 (k) ~~(j)~~ To make a thorough investigation through the director or the
23 director's designee, of any overpayment of a benefit, when in the
24 judgment of the director such investigation is necessary, including, but
25 not limited to, circumstances in which benefit payments are made after
26 the death of a member or beneficiary and the retirement system is not
27 made aware of such member's or beneficiary's death. In connection with
28 any such investigation, the board, through the director or the director's
29 designee, shall have the power to compel the attendance of witnesses and
30 the production of books, papers, records, and documents, whether in
31 hardcopy, electronic form, or otherwise, and issue subpoenas for such

1 purposes. Such subpoenas shall be served in the same manner and have the
2 same effect as subpoenas from district courts; and

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

23 (3) By March 31 of each year, the board shall prepare a written plan
24 of action and shall present such plan to the Nebraska Retirement Systems
25 Committee of the Legislature at a public hearing. The plan shall include,
26 but not be limited to, the board's funding policy, the administrative
27 costs and other fees associated with each fund and plan overseen by the
28 board, member education and informational programs, the director's duties
29 and limitations, an organizational structure of the office of the
30 Nebraska Public Employees Retirement Systems, and the internal control
31 structure of such office to ensure compliance with state and federal

1 laws.

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

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

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

26 (5) It shall be the duty of the board to direct the State Treasurer
27 to transfer funds, as an expense of the retirement system provided for
28 under the Class V School Employees Retirement Act, to and from the Class
29 V Retirement System Payment Processing Fund and the Class V School
30 Employees Retirement Fund for the benefit of a retirement system provided
31 for under the Class V School Employees Retirement Act to implement the

1 provisions of section 79-986. The agency for the administration of this
2 provision and under the direction of the board shall be known and may be
3 cited as the Nebraska Public Employees Retirement Systems.

4 Sec. 10. Original sections 23-2331, 79-901, and 84-1331, Reissue
5 Revised Statutes of Nebraska, and sections 79-978.01 and 84-1503, Revised
6 Statutes Cumulative Supplement, 2018, are repealed.