

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 986

Introduced by Nebraska Retirement Systems Committee: Kolterman, 24,
Chairperson; Davis, 43; Groene, 42; Kolowski, 31;
Lindstrom, 18; Mello, 5.

Read first time January 14, 2016

Committee:

- 1 A BILL FOR AN ACT relating to the Public Employees Retirement Board; to
- 2 amend section 84-1503, Revised Statutes Supplement, 2015; to change
- 3 the duties of the board relating to an annual valuation report and
- 4 experience study; to provide confidentiality and a penalty; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-1503, Revised Statutes Supplement, 2015, is
2 amended to read:

3 84-1503 (1) It shall be the duty of the Public Employees Retirement
4 Board:

5 (a) To administer the retirement systems provided for in the County
6 Employees Retirement Act, the Judges Retirement Act, the Nebraska State
7 Patrol Retirement Act, the School Employees Retirement Act, and the State
8 Employees Retirement Act. The agency for the administration of the
9 retirement systems and under the direction of the board shall be known
10 and may be cited as the Nebraska Public Employees Retirement Systems;

11 (b) To appoint a director to administer the systems under the
12 direction of the board. The appointment shall be subject to the approval
13 of the Governor and a majority of the Legislature. The director shall be
14 qualified by training and have at least five years of experience in the
15 administration of a qualified public or private employee retirement plan.
16 The director shall not be a member of the board. The salary of the
17 director shall be set by the board. The director shall serve without term
18 and may be removed by the board;

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

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

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

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

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

11 (h) To prescribe and furnish forms for the public retirement system
12 plan reports required to be filed pursuant to sections 2-3228, 12-101,
13 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,
14 23-3526, 71-1631.02, and 79-987.

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

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

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

23 (c) To adopt and promulgate rules and regulations for the management
24 of the board;

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

27 (e) To obtain, by a competitive, formal, and sealed bidding process
28 through the materiel division of the Department of Administrative
29 Services, actuarial services on behalf of the State of Nebraska as may be
30 necessary in the administration and development of the retirement
31 systems, including, but not limited to, preparation of an annual

1 actuarial valuation report of each of the defined benefit and cash
2 balance plans administered by the board. The director shall provide draft
3 copies of each annual valuation report to the Nebraska Retirement Systems
4 Committee of the Legislature and the Governor as required in section 2 of
5 this act. Such draft copies shall be deemed confidential information.
6 Such annual valuation reports shall be presented by the actuary to the
7 Nebraska Retirement Systems Committee of the Legislature at a public
8 hearing or hearings. Any contract for actuarial services shall contain a
9 provision allowing the actuary, without prior approval of the board, to
10 perform actuarial studies of the systems as requested by entities other
11 than the board, if notice, which does not identify the entity or
12 substance of the request, is given to the board, all costs are paid by
13 the requesting entity, results are provided to the board, the Nebraska
14 Retirement Systems Committee of the Legislature, and the Legislative
15 Fiscal Analyst upon being made public, and such actuarial studies do not
16 interfere with the actuary's ongoing responsibility to the board. The
17 term of the contract shall be for up to three years. A competitive,
18 formal, and sealed bidding process shall be completed at least once every
19 three years, unless the board determines that such a process would not be
20 cost effective under the circumstances and that the actuarial services
21 performed have been satisfactory, in which case the contract may also
22 contain an option for renewal without a competitive, formal, and sealed
23 bidding process for up to three additional years. An actuary under
24 contract for the State of Nebraska shall be a member of the American
25 Academy of Actuaries and meet the academy's qualification standards to
26 render a statement of actuarial opinion;

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

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

6 (h) To obtain, by a competitive, formal, and sealed bidding process
7 through the materiel division of the Department of Administrative
8 Services, auditing services for a separate compliance audit of the
9 retirement systems to be completed by December 31, 2020, and from time to
10 time thereafter at the request of the Nebraska Retirement Systems
11 Committee of the Legislature, to be completed not more than every four
12 years but not less than every ten years. The compliance audit shall be in
13 addition to the annual audit conducted by the Auditor of Public Accounts.
14 The compliance audit shall include, but not be limited to, an examination
15 of records, files, and other documents and an evaluation of all policies
16 and procedures to determine compliance with all state and federal laws. A
17 copy of the compliance audit shall be given to the Governor, the board,
18 and the Nebraska Retirement Systems Committee of the Legislature and
19 shall be presented to the committee at a public hearing;

20 (i) To adopt and promulgate rules and regulations for the adjustment
21 of contributions or benefits, which includes, but is not limited to: (i)
22 The procedures for refunding contributions, adjusting future
23 contributions or benefit payments, and requiring additional contributions
24 or repayment of benefits; (ii) the process for a member, member's
25 beneficiary, employee, or employer to dispute an adjustment to
26 contributions or benefits; (iii) establishing materiality and de minimus
27 amounts for agency transactions, adjustments, and inactive account
28 closures; and (iv) notice provided to all affected persons. Following an
29 adjustment, a timely notice shall be sent that describes the adjustment
30 and the process for disputing an adjustment to contributions or benefits;

31 (j) To make a thorough investigation through the director or the

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

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

31 (3) By March 31 of each year, the board shall prepare a written plan

1 of action and shall present such plan to the Nebraska Retirement Systems
2 Committee of the Legislature at a public hearing. The plan shall include,
3 but not be limited to, the board's funding policy, the administrative
4 costs and other fees associated with each fund and plan overseen by the
5 board, member education and informational programs, the director's duties
6 and limitations, an organizational structure of the office of the
7 Nebraska Public Employees Retirement Systems, and the internal control
8 structure of such office to ensure compliance with state and federal
9 laws.

10 Sec. 2. (1) Beginning in 2016, and at least every four years
11 thereafter or at the request of the Nebraska Retirement Systems Committee
12 of the Legislature, the Public Employees Retirement Board shall obtain an
13 experience study to review the actuarial assumptions used to determine
14 funding needs. The actuary shall present the results of the experience
15 study to the committee at a public hearing to be held within thirty
16 business days after presentation of the experience study to the board. If
17 the board does not adopt all of the recommendations in the experience
18 study, the board shall provide to the committee within ten business days
19 after the board's decision at a public meeting a written explanation
20 describing the board's analysis and factors considered in reaching its
21 decision.

22 (2) The director of the board shall provide a copy of the first
23 draft and a final draft of the experience study and the annual valuation
24 reports to the committee and the Governor when the director receives such
25 drafts from the actuary. Such drafts shall be deemed confidential
26 information.

27 (3) Confidential information shared with the committee and the
28 Governor shall remain confidential and shall not be shared by any
29 employee of any member of the committee or the Governor with any person
30 who is not an employee of such member or the Governor, except that such
31 information may be shared with the office of the Legislative Fiscal

1 Analyst and the budget division of the Department of Administrative
2 Services. If a committee member, the Governor, the Legislative Fiscal
3 Analyst, the budget administrator, or an employee or a former employee of
4 any of the same knowingly divulges or makes known, in any manner not
5 permitted by law, confidential information, he or she shall be guilty of
6 a Class III misdemeanor. In the case of a current employee, he or she
7 shall also be dismissed from employment.

8 (4) For purposes of this section, business days shall be computed by
9 excluding the day the request is received, after which the designated
10 period of time shall begin to run. A business day does not include a
11 Saturday, Sunday, or a day during which the Nebraska Public Employees
12 Retirement Systems office is officially closed.

13 Sec. 3. Original section 84-1503, Revised Statutes Supplement,
14 2015, is repealed.