

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 414

FINAL READING

Introduced by Ashford, 20.

Read first time January 16, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 24-201.01 and
2 24-703, Reissue Revised Statutes of Nebraska; to change
3 salary and retirement provisions for judges; to change
4 the Nebraska Retirement Fund for Judges fee; to provide
5 operative dates; to provide for inseverability; to repeal
6 the original sections; and to declare an emergency.

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

1 Section 1. Section 24-201.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 24-201.01 ~~On July 1, 2006, the salary of the Chief~~
4 ~~Justice and the judges of the Supreme Court shall be one hundred~~
5 ~~twenty-six thousand eight hundred forty-six dollars. On July 1,~~
6 ~~2007, the salary of the Chief Justice and the judges of the~~
7 ~~Supreme Court shall be one hundred thirty-one thousand two hundred~~
8 ~~eighty-five dollars and sixty-one cents. On July 1, 2008, the~~
9 salary of the Chief Justice and the judges of the Supreme Court
10 shall be one hundred thirty-five thousand eight hundred eighty
11 dollars and sixty cents. On July 1, 2009, the salary of the
12 Chief Justice and the judges of the Supreme Court shall be one
13 hundred thirty-nine thousand two hundred seventy-seven dollars and
14 sixty-one cents. On July 1, 2010, the salary of the Chief Justice
15 and the judges of the Supreme Court shall be one hundred forty-two
16 thousand seven hundred fifty-nine dollars and fifty-five cents.

17 The Chief Justice and the judges of the Supreme Court
18 shall hold no other public office of profit or trust during their
19 terms of office nor accept any public appointment or employment
20 under the authority of the government of the United States for
21 which they receive compensation for their services. Such salaries
22 shall be payable in equal monthly installments.

23 Sec. 2. Section 24-703, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 24-703 (1) Each original member shall contribute monthly

1 four percent of his or her monthly compensation to the fund
2 until the maximum benefit as limited in subsection (1) of section
3 24-710 has been earned. It shall be the duty of the Director
4 of Administrative Services in accordance with subsection (10) of
5 this section to make a deduction of four percent on the monthly
6 payroll of each original member who is a judge of the Supreme
7 Court, a judge of the Court of Appeals, a judge of the district
8 court, a judge of a separate juvenile court, a judge of the county
9 court, a clerk magistrate of the county court who was an associate
10 county judge and a member of the fund at the time of his or her
11 appointment as a clerk magistrate, or a judge of the Nebraska
12 Workers' Compensation Court showing the amount to be deducted and
13 its credit to the fund. The Director of Administrative Services
14 and the State Treasurer shall credit the four percent as shown
15 on the payroll and the amounts received from the various counties
16 to the fund and remit the same to the director in charge of the
17 judges retirement system who shall keep an accurate record of the
18 contributions of each judge.

19 (2) (a) ~~Beginning~~ In addition to the contribution required
20 under subdivision (c) of this subsection, beginning on July 1,
21 2004, each future member who has not elected to make contributions
22 and receive benefits as provided in section 24-703.03 shall
23 contribute monthly six percent of his or her monthly compensation
24 to the fund until the maximum benefit as limited in subsection
25 (2) of section 24-710 has been earned. After the maximum benefit

1 as limited in subsection (2) of section 24-710 has been earned,
2 such future member shall make no further contributions to the fund,
3 except that (i) any time the maximum benefit is changed, a future
4 member who has previously earned the maximum benefit as it existed
5 prior to the change shall contribute monthly six percent of his
6 or her monthly compensation to the fund until the maximum benefit
7 as changed and as limited in subsection (2) of section 24-710 has
8 been earned and (ii) such future member shall continue to make the
9 contribution required under subdivision (c) of this subsection.

10 (b) Beginning In addition to the contribution required
11 under subdivision (c) of this subsection, beginning on July 1,
12 2004, a judge who first serves as a judge on or after such date
13 or a future member who elects to make contributions and receive
14 benefits as provided in section 24-703.03 shall contribute monthly
15 eight percent of his or her monthly compensation to the fund until
16 the maximum benefit as limited by subsection (2) of section 24-710
17 has been earned. After In addition to the contribution required
18 under subdivision (c) of this subsection, after the maximum benefit
19 as limited in subsection (2) of section 24-710 has been earned,
20 such judge or future member shall contribute monthly four percent
21 of his or her monthly compensation to the fund for the remainder of
22 his or her active service.

23 (c) Beginning on July 1, 2009, and until July 1, 2014,
24 a member or judge described in subdivisions (a) and (b) of this
25 subsection shall contribute monthly an additional one percent of

1 his or her monthly compensation to the fund.

2 ~~(e)~~ (d) It shall be the duty of the Director of
3 Administrative Services to make a deduction on the monthly payroll
4 of each such future member who is a judge of the Supreme Court,
5 a judge of the Court of Appeals, a judge of the district court,
6 a judge of a separate juvenile court, a judge of the county
7 court, a clerk magistrate of the county court who was an associate
8 county judge and a member of the fund at the time of his or her
9 appointment as a clerk magistrate, or a judge of the Nebraska
10 Workers' Compensation Court showing the amount to be deducted and
11 its credit to the fund. This shall be done each month. The Director
12 of Administrative Services and the State Treasurer shall credit the
13 amount as shown on the payroll and the amounts received from the
14 various counties to the fund and remit the same to the director in
15 charge of the judges retirement system who shall keep an accurate
16 record of the contributions of each judge.

17 (3) A Except as otherwise provided in this subsection,
18 a Nebraska Retirement Fund for Judges fee of five dollars shall
19 be taxed as costs in each (a) civil cause of action, criminal
20 cause of action, traffic misdemeanor or infraction, and city or
21 village ordinance violation filed in the district courts, the
22 county courts, and the separate juvenile courts, (b) filing in the
23 district court of an order, award, or judgment of the Nebraska
24 Workers' Compensation Court or any judge thereof pursuant to
25 section 48-188, (c) appeal or other proceeding filed in the Court

1 of Appeals, and (d) original action, appeal, or other proceeding
 2 filed in the Supreme Court. Beginning on July 1, 2009, and until
 3 July 1, 2014, such fee shall be six dollars. In county courts a sum
 4 shall be charged which is equal to ten percent of each fee provided
 5 by sections 33-125, 33-126.02, 33-126.03, and 33-126.06, rounded to
 6 the nearest even dollar. No judges retirement fee shall be charged
 7 for filing a report pursuant to sections 33-126.02 and 33-126.06.
 8 When collected by the clerk of the district or county court, such
 9 fees shall be paid and information submitted to the director in
 10 charge of the judges retirement system on forms prescribed by the
 11 board by the clerk within ten days after the close of each calendar
 12 quarter. The board may charge a late administrative processing fee
 13 not to exceed twenty-five dollars if the information is not timely
 14 received or the money is delinquent. In addition, the board may
 15 charge a late fee of thirty-eight thousandths of one percent of the
 16 amount required to be submitted pursuant to this section for each
 17 day such amount has not been received. Such director shall promptly
 18 thereafter remit the same to the State Treasurer for credit to
 19 the fund. No Nebraska Retirement Fund for Judges fee which is
 20 uncollectible for any reason shall be waived by a county judge as
 21 provided in section 29-2709.

22 (4) All expenditures from the fund shall be authorized by
 23 voucher in the manner prescribed in section 24-713. The fund shall
 24 be used for the payment of all annuities and other benefits and for
 25 the expenses of administration.

1 (5) The fund shall consist of the total fund as of
2 December 25, 1969, the contributions of members as provided in this
3 section, all supplementary court fees as provided in subsection (3)
4 of this section, and any required contributions of the state.

5 (6) Not later than January 1 of each year, the State
6 Treasurer shall transfer to the fund the amount certified by the
7 board as being necessary to pay the cost of any benefits accrued
8 during the fiscal year ending the previous June 30 in excess
9 of member contributions for that fiscal year and court fees as
10 provided in subsection (3) of this section and fees pursuant to
11 sections 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123,
12 33-125, 33-126.02, 33-126.03, and 33-126.06 and directed to be
13 remitted to the fund, if any, for that fiscal year plus any
14 required contributions of the state as provided in subsection (9)
15 of this section.

16 (7) Benefits under the retirement system to members or to
17 their beneficiaries shall be paid from the fund.

18 (8) Any member who is making contributions to the fund on
19 December 25, 1969, may, on or before June 30, 1970, elect to become
20 a future member by delivering written notice of such election to
21 the board.

22 (9) Not later than January 1 of each year, the State
23 Treasurer shall transfer to the fund an amount, determined on
24 the basis of an actuarial valuation as of the previous June 30
25 and certified by the board, to fully fund the unfunded accrued

1 liabilities of the retirement system as of June 30, 1988, by level
2 payments up to January 1, 2000. Such valuation shall be on the
3 basis of actuarial assumptions recommended by the actuary, approved
4 by the board, and kept on file with the board. For the fiscal
5 year beginning July 1, 2002, and each fiscal year thereafter,
6 the actuary for the board shall perform an actuarial valuation
7 of the system using the entry age actuarial cost method. Under
8 this method, the actuarially required funding rate is equal to the
9 normal cost rate, plus the contribution rate necessary to amortize
10 the unfunded actuarial accrued liability on a level payment basis.
11 The normal cost under this method shall be determined for each
12 individual member on a level percentage of salary basis. The normal
13 cost amount is then summed for all members. The initial unfunded
14 actual accrued liability as of July 1, 2002, if any, shall be
15 amortized over a twenty-five-year period. Prior to July 1, 2006,
16 changes in the funded actuarial accrued liability due to changes
17 in benefits, actuarial assumptions, the asset valuation method, or
18 actuarial gains or losses shall be measured and amortized over a
19 twenty-five-year period beginning on the valuation date of such
20 change. Beginning July 1, 2006, any existing unfunded liabilities
21 shall be reinitialized and amortized over a thirty-year period,
22 and during each subsequent actuarial valuation, changes in the
23 funded actuarial accrued liability due to changes in benefits,
24 actuarial assumptions, the asset valuation method, or actuarial
25 gains or losses shall be measured and amortized over a thirty-year

1 period beginning on the valuation date of such change. If the
2 unfunded actuarial accrued liability under the entry age actuarial
3 cost method is zero or less than zero on an actuarial valuation
4 date, then all prior unfunded actuarial accrued liabilities shall
5 be considered fully funded and the unfunded actuarial accrued
6 liability shall be reinitialized and amortized over a thirty-year
7 period as of the actuarial valuation date. If the actuarially
8 required contribution rate exceeds the rate of all contributions
9 required pursuant to the Judges Retirement Act, there shall be a
10 supplemental appropriation sufficient to pay for the differences
11 between the actuarially required contribution rate and the rate of
12 all contributions required pursuant to the Judges Retirement Act.

13 (10) The state or county shall pick up the member
14 contributions required by this section for all compensation paid
15 on or after January 1, 1985, and the contributions so picked up
16 shall be treated as employer contributions in determining federal
17 tax treatment under the Internal Revenue Code as defined in section
18 49-801.01, except that the state or county shall continue to
19 withhold federal income taxes based upon these contributions until
20 the Internal Revenue Service or the federal courts rule that,
21 pursuant to section 414(h) of the code, these contributions shall
22 not be included as gross income of the member until such time as
23 they are distributed or made available. The state or county shall
24 pay these member contributions from the same source of funds which
25 is used in paying earnings to the member. The state or county

1 shall pick up these contributions by a compensation deduction
2 through a reduction in the compensation of the member. Member
3 contributions picked up shall be treated for all purposes of the
4 Judges Retirement Act in the same manner and to the extent as
5 member contributions made prior to the date picked up.

6 Sec. 3. Sections 2 and 6 of this act become operative on
7 July 1, 2009. The other sections of this act become operative on
8 their effective date.

9 Sec. 4. This act shall be considered a complete act
10 and its provisions inseverable. If any provision of this act is
11 declared unconstitutional, the entire act shall be invalid.

12 Sec. 5. Original section 24-201.01, Reissue Revised
13 Statutes of Nebraska, is repealed.

14 Sec. 6. Original section 24-703, Reissue Revised Statutes
15 of Nebraska, is repealed.

16 Sec. 7. Since an emergency exists, this act takes effect
17 when passed and approved according to law.