

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 612

Introduced by Avery, 28; McGill, 26.

Read first time January 21, 2009

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to school retirement; to amend sections 79-958
2 and 79-9,113, Reissue Revised Statutes of Nebraska; to
3 prohibit school districts from reimbursing or paying
4 employer retirement contributions as prescribed; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-958, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-958 (1) Beginning on September 1, 2006, and ending
4 August 31, 2007, for the purpose of providing the funds to pay
5 for formula annuities, every employee shall be required to deposit
6 in the School Retirement Fund seven and eighty-three hundredths
7 percent of compensation. Beginning on September 1, 2007, for the
8 purpose of providing the funds to pay for formula annuities, every
9 employee shall be required to deposit in the School Retirement Fund
10 seven and twenty-eight hundredths percent of compensation. Such
11 deposits shall be transmitted at the same time and in the same
12 manner as required employer contributions.

13 (2) For the purpose of providing the funds to pay for
14 formula annuities, every employer shall be required to deposit
15 in the School Retirement Fund one hundred one percent of the
16 required contributions of the school employees of each employer.
17 The employer shall not deposit more than one hundred one percent
18 of such required contributions unless the employer does so for all
19 employees. Such deposits shall be transmitted to the retirement
20 board at the same time and in the same manner as such required
21 employee contributions.

22 (3) The employer shall pick up the member contributions
23 required by this section for all compensation paid on or after
24 January 1, 1986, and the contributions so picked up shall
25 be treated as employer contributions in determining federal tax

1 treatment under the Internal Revenue Code as defined in section
2 49-801.01, except that the employer shall continue to withhold
3 federal income taxes based upon these contributions until the
4 Internal Revenue Service or the federal courts rule that, pursuant
5 to section 414(h) of the code, these contributions shall not be
6 included as gross income of the member until such time as they
7 are distributed or made available. The employer shall pay these
8 member contributions from the same source of funds which is used
9 in paying earnings to the member. The employer shall pick up these
10 contributions by a compensation deduction through a reduction in
11 the cash compensation of the member. Member contributions picked
12 up shall be treated for all purposes of the School Employees
13 Retirement Act in the same manner and to the same extent as member
14 contributions made prior to the date picked up.

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

21 (5) An employer shall not in any manner reimburse or
22 make an employee's contributions required by this section unless
23 such reimbursement or other payment applies to all employees of the
24 employer.

25 Sec. 2. Section 79-9,113, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-9,113 (1) If, at any future time, a majority of the
3 eligible members of the retirement system votes to be included
4 under an agreement providing old age and survivors insurance under
5 the Social Security Act of the United States, the contributions
6 to be made by the member and the school district for membership
7 service, from and after the effective date of the agreement with
8 respect to services performed subsequent to December 31, 1954,
9 shall each be reduced from five to three percent but not less than
10 three percent of the member's salary per annum, and the credits
11 for membership service under this system, as provided in section
12 79-999, shall thereafter be reduced from one and one-half percent
13 to nine-tenths of one percent and not less than nine-tenths of
14 one percent of salary or wage earned by the member during each
15 fiscal year, and from one and sixty-five hundredths percent to one
16 percent and not less than one percent of salary or wage earned
17 by the member during each fiscal year and from two percent to
18 one and two-tenths percent of salary or wage earned by the member
19 during each fiscal year, and from two and four-tenths percent to
20 one and forty-four hundredths percent of salary or wage earned by
21 the member during each fiscal year, except that after September
22 1, 1963, and prior to September 1, 1969, all employees of the
23 school district shall contribute an amount equal to the membership
24 contribution which shall be two and three-fourths percent of salary
25 covered by old age and survivors insurance, and five percent above

1 that amount. Commencing September 1, 1969, all employees of the
2 school district shall contribute an amount equal to the membership
3 contribution which shall be two and three-fourths percent of the
4 first seven thousand eight hundred dollars of salary or wages
5 earned each fiscal year and five percent of salary or wages earned
6 above that amount in the same fiscal year. Commencing September
7 1, 1976, all employees of the school district shall contribute
8 an amount equal to the membership contribution which shall be two
9 and nine-tenths percent of the first seven thousand eight hundred
10 dollars of salary or wages earned each fiscal year and five and
11 twenty-five hundredths percent of salary or wages earned above
12 that amount in the same fiscal year. Commencing on September 1,
13 1982, all employees of the school district shall contribute an
14 amount equal to the membership contribution which shall be four and
15 nine-tenths percent of the compensation earned in each fiscal year.
16 Commencing September 1, 1989, all employees of the school district
17 shall contribute an amount equal to the membership contribution
18 which shall be five and eight-tenths percent of the compensation
19 earned in each fiscal year. Commencing September 1, 1995, all
20 employees of the school district shall contribute an amount equal
21 to the membership contribution which shall be six and three-tenths
22 percent of the compensation earned in each fiscal year. Commencing
23 September 1, 2007, all employees of the school district shall
24 contribute an amount equal to the membership contribution which
25 shall be seven and three-tenths percent of the compensation paid

1 in each fiscal year. The contributions by the school district in
2 any fiscal year beginning on or after September 1, 1999, shall
3 be the greater of (a) one hundred percent of the contributions by
4 the employees for such fiscal year or (b) such amount as may be
5 necessary to maintain the solvency of the system, as determined
6 annually by the board upon recommendation of the actuary and the
7 trustees. The contributions by the school district in any fiscal
8 year beginning on or after September 1, 2007, shall be the greater
9 of (i) one hundred and one percent of the contributions by the
10 employees for such fiscal year or (ii) such amount as may be
11 necessary to maintain the solvency of the system, as determined
12 annually by the board upon recommendation of the actuary and the
13 trustees. The school district shall not contribute more than such
14 amount unless the school district does so for all employees. The
15 employee's contribution shall be made in the form of a monthly
16 deduction from compensation as provided in subsection (2) of this
17 section. Every employee who is a member of the system shall be
18 deemed to consent and agree to such deductions and shall receipt in
19 full for compensation, and payment to such employee of compensation
20 less such deduction shall constitute a full and complete discharge
21 of all claims and demands whatsoever for services rendered by such
22 employee during the period covered by such payment except as to
23 benefits provided under the Class V School Employees Retirement
24 Act. After September 1, 1963, and prior to September 1, 1969,
25 all employees shall be credited with a membership service annuity

1 which shall be nine-tenths of one percent of salary or wage
2 covered by old age and survivors insurance and one and one-half
3 percent of salary or wages above that amount, except that those
4 employees who retire on or after August 31, 1969, shall be credited
5 with a membership service annuity which shall be one percent of
6 salary or wages covered by old age and survivors insurance and
7 one and sixty-five hundredths percent of salary or wages above
8 that amount for service performed after September 1, 1963, and
9 prior to September 1, 1969. Commencing September 1, 1969, all
10 employees shall be credited with a membership service annuity which
11 shall be one percent of the first seven thousand eight hundred
12 dollars of salary or wages earned by the employee during each
13 fiscal year and one and sixty-five hundredths percent of salary
14 or wages earned above that amount in the same fiscal year, except
15 that all employees retiring on or after August 31, 1976, shall be
16 credited with a membership service annuity which shall be one and
17 forty-four hundredths percent of the first seven thousand eight
18 hundred dollars of salary or wages earned by the employee during
19 such fiscal year and two and four-tenths percent of salary or
20 wages earned above that amount in the same fiscal year and the
21 retirement annuities of employees who have not retired prior to
22 September 1, 1963, and who elected under the provisions of section
23 79-988 as such section existed immediately prior to February 20,
24 1982, not to become members of the system shall not be less than
25 they would have been had they remained under any preexisting system

1 to date of retirement. Members of this system having the service
2 qualifications of members of the School Retirement System of the
3 State of Nebraska, as provided by section 79-926, shall receive the
4 state service annuity provided by sections 79-933 to 79-935 and
5 79-951.

6 (2) The school district shall pick up the employee
7 contributions required by this section for all compensation paid
8 on or after January 1, 1985, and the contributions so picked up
9 shall be treated as employer contributions in determining federal
10 tax treatment under the Internal Revenue Code, except that the
11 school district shall continue to withhold federal income taxes
12 based upon these contributions until the Internal Revenue Service
13 or the federal courts rule that, pursuant to section 414(h)
14 of the Internal Revenue Code, these contributions shall not be
15 included as gross income of the employee until such time as
16 they are distributed or made available. The school district shall
17 pay these employee contributions from the same source of funds
18 which is used in paying earnings to the employee. The school
19 district shall pick up these contributions by a salary deduction
20 either through a reduction in the cash salary of the employee
21 or a combination of a reduction in salary and offset against a
22 future salary increase. Beginning September 1, 1995, the school
23 district shall also pick up any contributions required by sections
24 79-990, 79-991, and 79-992 which are made under an irrevocable
25 payroll deduction authorization between the member and the school

1 district, and the contributions so picked up shall be treated as
2 employer contributions in determining federal tax treatment under
3 the Internal Revenue Code, except that the school district shall
4 continue to withhold federal and state income taxes based upon
5 these contributions until the Internal Revenue Service rules that,
6 pursuant to section 414(h) of the Internal Revenue Code, these
7 contributions shall not be included as gross income of the employee
8 until such time as they are distributed from the system. Employee
9 contributions picked up shall be treated for all purposes of the
10 Class V School Employees Retirement Act in the same manner and to
11 the extent as employee contributions made prior to the date picked
12 up.

13 (3) The school district shall not in any manner reimburse
14 or make an employee's contributions required by this section unless
15 such reimbursement or other payment applies to all employees of the
16 school district.

17 Sec. 3. Original sections 79-958 and 79-9,113, Reissue
18 Revised Statutes of Nebraska, are repealed.