

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 6**

Introduced by Executive Board: Wightman, 36, Chairperson.

Read first time January 06, 2011

Committee: General File

A BILL

- 1 FOR AN ACT relating to the Judges Retirement Act; to amend section
- 2                   24-701, Reissue Revised Statutes of Nebraska; to
- 3                   eliminate obsolete language relating to acting judges of
- 4                   the county court; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 24-701, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   24-701 For purposes of the Judges Retirement Act, unless  
4 the context otherwise requires:

5                   (1) Fund means the Nebraska Retirement Fund for Judges;

6                   (2) Judge means and includes (a) all duly elected or  
7 appointed Chief Justices or judges of the Supreme Court and judges of  
8 the district courts of Nebraska who serve in such capacity on and  
9 after January 3, 1957, (b)(i) all duly appointed judges of the  
10 Nebraska Workmen's Compensation Court who served in such capacity on  
11 and after September 20, 1957, and prior to July 17, 1986, and (ii)  
12 judges of the Nebraska Workers' Compensation Court who serve in such  
13 capacity on and after July 17, 1986, (c) judges of separate juvenile  
14 courts, (d) judges of the county courts of the respective counties  
15 who serve in such capacity on and after January 5, 1961, ~~except~~  
16 ~~acting judges of the county court appointed pursuant to section~~  
17 ~~24-507,~~(e) judges of the county court and clerk magistrates who were  
18 associate county judges and members of the fund at the time of their  
19 appointment as clerk magistrates, (f) judges of municipal courts  
20 established by Chapter 26, article 1, who served in such capacity on  
21 and after October 23, 1967, and prior to July 1, 1985, and (g) judges  
22 of the Court of Appeals;

23                   (3) Prior service means all the periods of time any  
24 person has served as a (a) judge of the Supreme Court or judge of the  
25 district court prior to January 3, 1957, (b) judge of the county

1 court prior to January 5, 1961, (c) judge of the Nebraska Workmen's  
2 Compensation Court prior to September 20, 1957, (d) judge of the  
3 separate juvenile court, or (e) judge of the municipal court prior to  
4 October 23, 1967;

5 (4)(a) Current service means the period of service (i)  
6 any judge of the Supreme Court or judge of the district court serves  
7 in such capacity from and after January 3, 1957, (ii)(A) any judge of  
8 the Nebraska Workmen's Compensation Court served in such capacity  
9 from and after September 20, 1957, and prior to July 17, 1986, and  
10 (B) any judge of the Nebraska Workers' Compensation Court serves in  
11 such capacity on and after July 17, 1986, (iii) any county judge  
12 serves in such capacity from and after January 5, 1961, (iv) any  
13 judge of a separate juvenile court serves in such capacity, (v) any  
14 judge of the municipal court served in such capacity subsequent to  
15 October 23, 1967, and prior to July 1, 1985, (vi) any judge of the  
16 county court or associate county judge serves in such capacity  
17 subsequent to January 4, 1973, (vii) any clerk magistrate, who was an  
18 associate county judge and a member of the fund at the time of  
19 appointment as a clerk magistrate, serves in such capacity from and  
20 after July 1, 1986, and (viii) any judge of the Court of Appeals  
21 serves in such capacity on or after September 6, 1991.

22 (b) Current service shall not be deemed to be interrupted  
23 by (i) temporary or seasonal suspension of service that does not  
24 terminate the employee's employment, (ii) leave of absence authorized  
25 by the employer for a period not exceeding twelve months, (iii) leave

1 of absence because of disability, or (iv) military service, when  
2 properly authorized by the board. Current service does not include  
3 any period of disability for which disability retirement benefits are  
4 received under section 24-709;

5 (5) Military service means active service of (a) any  
6 judge of the Supreme Court or judge of the district court in any of  
7 the armed forces of the United States during a war or national  
8 emergency prior or subsequent to September 18, 1955, if such service  
9 commenced while such judge was holding the office of judge, (b) any  
10 judge of the Nebraska Workmen's Compensation Court or the Nebraska  
11 Workers' Compensation Court in any of the armed forces of the United  
12 States during a war or national emergency prior or subsequent to  
13 September 20, 1957, if such service commenced while such judge was  
14 holding the office of judge, (c) any judge of the municipal court in  
15 any of the armed forces of the United States during a war or national  
16 emergency prior or subsequent to October 23, 1967, and prior to July  
17 1, 1985, if such service commenced while such judge was holding the  
18 office of judge, (d) any judge of the county court or associate  
19 county judge in any of the armed forces of the United States during a  
20 war or national emergency prior or subsequent to January 4, 1973, if  
21 such service commenced while such judge was holding the office of  
22 judge, (e) any clerk magistrate, who was an associate county judge  
23 and a member of the fund at the time of appointment as a clerk  
24 magistrate, in any of the armed forces of the United States during a  
25 war or national emergency on or after July 1, 1986, if such service

1 commenced while such clerk magistrate was holding the office of clerk  
2 magistrate, and (f) any judge of the Court of Appeals in any of the  
3 armed forces of the United States during a war or national emergency  
4 on or after September 6, 1991, if such service commenced while such  
5 judge was holding the office of judge. The board shall have the power  
6 to determine when a national emergency exists or has existed for the  
7 purpose of applying this definition and provision;

8 (6) Creditable service means the total number of years  
9 served as a judge, including prior service, military service, and  
10 current service, computed to the nearest one-twelfth year. For  
11 current service prior to the time that the member has contributed the  
12 required percentage of salary until the maximum benefit as limited by  
13 section 24-710 has been earned, creditable service does not include  
14 current service for which member contributions are not made or are  
15 withdrawn and not repaid;

16 (7)(a) Compensation means the statutory salary of a judge  
17 or the salary being received by such judge pursuant to law.  
18 Compensation does not include compensation for unused sick leave or  
19 unused vacation leave converted to cash payments, insurance premiums  
20 converted into cash payments, reimbursement for expenses incurred,  
21 fringe benefits, or bonuses for services not actually rendered,  
22 including, but not limited to, early retirement inducements, cash  
23 awards, and severance pay, except for retroactive salary payments  
24 paid pursuant to court order, arbitration, or litigation and  
25 grievance settlements. Compensation includes overtime pay, member

1 retirement contributions, and amounts contributed by the member to  
2 plans under sections 125 and 457 of the Internal Revenue Code as  
3 defined in section 49-801.01 or any other section of the code which  
4 defers or excludes such amounts from income.

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

12 (8) Beneficiary means a person so designated by a judge  
13 in the last designation of beneficiary on file with the board or, if  
14 no designated person survives or if no designation is on file, the  
15 estate of such judge;

16 (9) Normal form annuity means a series of equal monthly  
17 payments payable at the end of each calendar month during the life of  
18 a retired judge as provided in sections 24-707 and 24-710, except as  
19 provided in section 42-1107. The first payment shall include all  
20 amounts accrued since the effective date of the award of the annuity.  
21 The last payment shall be at the end of the calendar month in which  
22 such judge dies. If at the time of death the amount of annuity  
23 payments such judge has received is less than contributions to the  
24 fund made by such judge, plus regular interest, the difference shall  
25 be paid to the beneficiary or estate;

1 (10) Board means the Public Employees Retirement Board;

2 (11) Member means a judge eligible to participate in the  
3 retirement system established under the Judges Retirement Act;

4 (12) Original member means a judge who first served as a  
5 judge prior to December 25, 1969, who does not elect to become a  
6 future member pursuant to subsection (8) of section 24-703 or section  
7 24-710.01, and who was retired on or before December 31, 1992;

8 (13) Future member means a judge who first served as a  
9 judge on or after December 25, 1969, or means a judge who first  
10 served as a judge prior to December 25, 1969, who elects to become a  
11 future member on or before June 30, 1970, as provided in subsection  
12 (8) of section 24-703 or section 24-710.01;

13 (14) Final average compensation means the average monthly  
14 compensation for the three twelve-month periods of service as a judge  
15 in which compensation was the greatest or, in the event of a judge  
16 serving less than three twelve-month periods, the average monthly  
17 compensation for such judge's period of service;

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

24 (16) Normal retirement date means the first day of the  
25 month following attainment of age sixty-five;

1                   (17) Actuarial equivalence means the equality in value of  
2 the aggregate amounts expected to be received under different forms  
3 of payment. The determinations are to be based on the 1994 Group  
4 Annuity Mortality Table reflecting sex-distinct factors blended using  
5 seventy-five percent of the male table and twenty-five percent of the  
6 female table. An interest rate of eight percent per annum shall be  
7 reflected in making these determinations;

8                   (18) Current benefit means (a) until July 1, 2000, the  
9 initial benefit increased by all adjustments made pursuant to section  
10 24-710.08 and (b) on or after July 1, 2000, the initial benefit  
11 increased by all adjustments made pursuant to the Judges Retirement  
12 Act;

13                   (19) Initial benefit means the retirement benefit  
14 calculated at the time of retirement;

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

17                   (21) Retirement system or system means the Nebraska  
18 Judges Retirement System as provided in the Judges Retirement Act;

19                   (22) Surviving spouse means (a) the spouse married to the  
20 member on the date of the member's death or (b) the spouse or former  
21 spouse of the member if survivorship rights are provided under a  
22 qualified domestic relations order filed with the board pursuant to  
23 the Spousal Pension Rights Act. The spouse or former spouse shall  
24 supersede the spouse married to the member on the date of the  
25 member's death as provided under a qualified domestic relations



1 order. If the benefits payable to the spouse or former spouse under  
2 the qualified domestic relations order are less than the value of  
3 benefits entitled to the surviving spouse, the spouse married to the  
4 member on the date of the member's death shall be the surviving  
5 spouse for the balance of the benefits; and

6 (23) Termination of employment occurs on the date on  
7 which the State Court Administrator's office determines that the  
8 judge's employer-employee relationship with the State of Nebraska is  
9 dissolved. The State Court Administrator's office shall notify the  
10 board of the date on which such a termination has occurred.  
11 Termination of employment does not include ceasing employment as a  
12 judge if the judge returns to regular employment as a judge or is  
13 employed on a regular basis by another agency of the State of  
14 Nebraska and there are less than one hundred twenty days between the  
15 date when the judge's employer-employee relationship ceased and the  
16 date when the employer-employee relationship recommences.

17 Sec. 2. Original section 24-701, Reissue Revised Statutes  
18 of Nebraska, is repealed.