

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 744**

Introduced by Schilz, 47.

Read first time January 04, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to court fees; to amend section 24-703, Revised  
2 Statutes Cumulative Supplement, 2010; to change  
3 provisions relating to the Nebraska Retirement Fund for  
4 Judges fee; to provide a fee for use by counties; and to  
5 repeal the original section.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 24-703, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           24-703 (1) Each original member shall contribute monthly  
4 four percent of his or her monthly compensation to the fund until the  
5 maximum benefit as limited in subsection (1) of section 24-710 has  
6 been earned. It shall be the duty of the Director of Administrative  
7 Services in accordance with subsection (10) of this section to make a  
8 deduction of four percent on the monthly payroll of each original  
9 member who is a judge of the Supreme Court, a judge of the Court of  
10 Appeals, a judge of the district court, a judge of a separate  
11 juvenile court, a judge of the county court, a clerk magistrate of  
12 the county court who was an associate county judge and a member of  
13 the fund at the time of his or her appointment as a clerk magistrate,  
14 or a judge of the Nebraska Workers' Compensation Court showing the  
15 amount to be deducted and its credit to the fund. The Director of  
16 Administrative Services and the State Treasurer shall credit the four  
17 percent as shown on the payroll and the amounts received from the  
18 various counties to the fund and remit the same to the director in  
19 charge of the judges retirement system who shall keep an accurate  
20 record of the contributions of each judge.

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

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

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

25 (c) Beginning on July 1, 2009, and until July 1, 2014, a

1 member or judge described in subdivisions (a) and (b) of this  
2 subsection shall contribute monthly an additional one percent of his  
3 or her monthly compensation to the fund.

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

19 (3) Except as otherwise provided in this subsection, a  
20 Nebraska Retirement Fund for Judges fee of ~~five~~six dollars shall be  
21 taxed as costs in each (a) civil cause of action, criminal cause of  
22 action, traffic misdemeanor or infraction, and city or village  
23 ordinance violation filed in the district courts, the county courts,  
24 and the separate juvenile courts, (b) filing in the district court of  
25 an order, award, or judgment of the Nebraska Workers' Compensation

1 Court or any judge thereof pursuant to section 48-188, (c) appeal or  
2 other proceeding filed in the Court of Appeals, and (d) original  
3 action, appeal, or other proceeding filed in the Supreme Court.  
4 Beginning on July 1, 2009, and until July 1, 2014, such fee shall be  
5 six dollars. In county courts a sum shall be charged which is equal  
6 to ten percent of each fee provided by sections 33-125, 33-126.02,  
7 33-126.03, and 33-126.06, rounded to the nearest even dollar. No  
8 judges retirement fee shall be charged for filing a report pursuant  
9 to sections 33-126.02 and 33-126.06. When collected by the clerk of  
10 the district or county court, such fees shall be paid and information  
11 submitted to the director in charge of the judges retirement system  
12 on forms prescribed by the board by the clerk within ten days after  
13 the close of each calendar quarter. The board may charge a late  
14 administrative processing fee not to exceed twenty-five dollars if  
15 the information is not timely received or the money is delinquent. In  
16 addition, the board may charge a late fee of thirty-eight thousandths  
17 of one percent of the amount required to be submitted pursuant to  
18 this section for each day such amount has not been received. Such  
19 director shall promptly thereafter remit the same to the State  
20 Treasurer for credit to the fund. No Nebraska Retirement Fund for  
21 Judges fee which is uncollectible for any reason shall be waived by a  
22 county judge as provided in section 29-2709.

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

1 expenses of administration.

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

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

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

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

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

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

1 over a thirty-year period beginning on the valuation date of such  
2 change. If the unfunded actuarial accrued liability under the entry  
3 age actuarial cost method is zero or less than zero on an actuarial  
4 valuation date, then all prior unfunded actuarial accrued liabilities  
5 shall 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 on  
15 or after January 1, 1985, and the contributions so picked up shall be  
16 treated as employer contributions in determining federal tax  
17 treatment under the Internal Revenue Code as defined in section  
18 49-801.01, except that the state or county shall continue to withhold  
19 federal income taxes based upon these contributions until the  
20 Internal Revenue Service or the federal courts rule that, pursuant to  
21 section 414(h) of the code, these contributions shall not be included  
22 as gross income of the member until such time as they are distributed  
23 or made available. The state or county shall pay these member  
24 contributions from the same source of funds which is used in paying  
25 earnings to the member. The state or county shall pick up these



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

6           Sec. 2. In addition to the fees provided for in sections  
7 33-106 and 33-123, the clerk of the court shall collect an additional  
8 four dollars in docket fees for all civil cases. The fee shall be  
9 remitted to the State Treasurer on forms prescribed by the State  
10 Treasurer within ten days after the close of each calendar quarter.  
11 The State Treasurer shall credit the fee to the general fund of the  
12 county of the judicial district in which the civil case was filed. If  
13 more than one county is contained within a judicial district, the  
14 State Treasurer shall credit the fee to the general fund of each  
15 county in proportion to the number of acres of school lands within  
16 each county.

17           Sec. 3. The Revisor of Statutes shall assign section 2 of  
18 this act to Chapter 33, article 1.

19           Sec. 4. Original section 24-703, Revised Statutes  
20 Cumulative Supplement, 2010, is repealed.