

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 31**

Introduced by Kolterman, 24.

Read first time January 10, 2019

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 79-978.01 and  
2 84-1503, Revised Statutes Cumulative Supplement, 2018; to provide  
3 for a work plan relating to a transfer of management of the  
4 retirement system operated under the Class V School Employees  
5 Retirement Act to the Nebraska Public Employees Retirement Systems;  
6 to require a report; to provide duties for the Public Employees  
7 Retirement Board; to harmonize provisions; and to repeal the  
8 original sections.  
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-978.01, Revised Statutes Cumulative  
2 Supplement, 2018, is amended to read:

3 79-978.01 Sections 79-978 to 79-9,118 and sections 2 to 5 of this  
4 act shall be known and may be cited as the Class V School Employees  
5 Retirement Act.

6 Sec. 2. It is the intent of the Legislature that the Public  
7 Employees Retirement Board develop a work plan, recommendations, cost  
8 estimates, and cost comparisons regarding the transfer of management of  
9 any class V school employees retirement system to the Public Employees  
10 Retirement Board.

11 Sec. 3. (1)(a) The Public Employees Retirement Board, in  
12 consultation with stakeholders including, but not limited to, the  
13 Nebraska Retirement Systems Committee of the Legislature, the board of  
14 trustees and employer of any Class V school employees retirement system  
15 established under the Class V School Employees Retirement Act, shall  
16 develop a work plan for the transfer of management and actuarial services  
17 of any Class V school employees retirement system to the Public Employees  
18 Retirement Board.

19 (b) The work plan shall include, but not be limited to, a detailed  
20 analysis and recommendations regarding (i) management, administration,  
21 actuarial service, information technology, computer infrastructure,  
22 accounting, member data and record transfer; (ii) necessary statutory  
23 changes to achieve the transfer of management and actuarial services;  
24 (iii) staff training and assessment of staffing needs; (iv) educational  
25 and communication plans to fully inform all system stakeholders and  
26 affected governmental entities regarding management changes; (v)  
27 sufficient timeframes for an orderly transition and implementation of  
28 management and actuary changes; (vi) cost estimates associated with the  
29 tasks necessary to carry out the management transition; and (vii) a  
30 comparison of the current annual cost to administer any Class V school  
31 employees retirement system established under the Class V School

1 Employees Retirement Act with an estimate of the annual cost for the  
2 Public Employees Retirement Board to administer such system after a  
3 management transfer occurs.

4 (c) The Public Employees Retirement Board shall electronically  
5 report the work plan, including any recommendations, cost estimates, and  
6 cost comparisons, to the Clerk of the Legislature no later than June 30,  
7 2020.

8 (2) For purposes of this section, management does not include:

9 (a) A merger or consolidation of any Class V school employees  
10 retirement system with the School Employees Retirement System of the  
11 State of Nebraska or any other retirement system administered by the  
12 Public Employees Retirement Board; or

13 (b) An assumption of any of the liability for any Class V school  
14 employees retirement system by the State of Nebraska, the Public  
15 Employees Retirement Board, or the Nebraska Public Employees Retirement  
16 System.

17 (3) The Public Employees Retirement Board may quarterly bill and  
18 receive payment within forty-five calendar days from receipt of the bill  
19 from the employer of any Class V school employees retirement system  
20 established under the Class V School Employees Retirement Act for all  
21 work performed by the Public Employees Retirement Board for services and  
22 related expenses in completion of the work plan described in this  
23 section.

24 Sec. 4. The Class V School Employees Retirement System Management  
25 Work Plan Fund is created. The purpose of the fund is to transfer funds  
26 as specified in this section. The fund shall consist of the amounts  
27 transferred from the employer of any Class V school employees retirement  
28 system established under the Class V School Employees Retirement Act for  
29 all work performed by the Public Employees Retirement Board for services  
30 and related expenses in completion of the work described in section 2 of  
31 this act. The fund shall be administered by the Nebraska Public Employees

1 Retirement Systems. Any money in the fund available for investment shall  
2 be invested by the state investment officer pursuant to the Nebraska  
3 Capital Expansion Act and the Nebraska State Funds Investment Act.

4       Sec. 5. The employer of any Class V school employees retirement  
5 system shall remit the payment described in section 3 of this act to the  
6 State Treasurer for credit to the Class V School Employees Retirement  
7 System Management Work Plan Fund for all work performed by the Public  
8 Employees Retirement Board for services and related expenses in  
9 completion of the work plan described in section 2 of this act.

10       Sec. 6. Section 84-1503, Revised Statutes Cumulative Supplement,  
11 2018, is amended to read:

12       84-1503 (1) It shall be the duty of the Public Employees Retirement  
13 Board:

14       (a) To administer the retirement systems provided for in the County  
15 Employees Retirement Act, the Judges Retirement Act, the Nebraska State  
16 Patrol Retirement Act, the School Employees Retirement Act, and the State  
17 Employees Retirement Act. The agency for the administration of the  
18 retirement systems and under the direction of the board shall be known  
19 and may be cited as the Nebraska Public Employees Retirement Systems;

20       (b) To appoint a director to administer the systems under the  
21 direction of the board. The appointment shall be subject to the approval  
22 of the Governor and a majority of the Legislature. The director shall be  
23 qualified by training and have at least five years of experience in the  
24 administration of a qualified public or private employee retirement plan.  
25 The director shall not be a member of the board. The salary of the  
26 director shall be set by the board. The director shall serve without term  
27 and may be removed by the board;

28       (c) To provide for an equitable allocation of expenses among the  
29 retirement systems administered by the board, and all expenses shall be  
30 provided from the investment income earned by the various retirement  
31 funds unless alternative sources of funds to pay expenses are specified

1 by law;

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

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

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

10 (g) To adopt and implement procedures for reporting information by  
11 employers, as well as testing and monitoring procedures in order to  
12 verify the accuracy of such information. The information necessary to  
13 determine membership shall be provided by the employer. The board may  
14 adopt and promulgate rules and regulations and prescribe such forms  
15 necessary to carry out this subdivision. Nothing in this subdivision  
16 shall be construed to require the board to conduct onsite audits of  
17 political subdivisions for compliance with statutes, rules, and  
18 regulations governing the retirement systems listed in subdivision (1)(a)  
19 of this section regarding membership and contributions; and

20 (h) To prescribe and furnish forms for the public retirement system  
21 plan reports required to be filed pursuant to sections 2-3228, 12-101,  
22 14-567, 14-1805.01, 14-2111, 15-1017, 16-1017, 16-1037, 19-3501, 23-1118,  
23 23-3526, 71-1631.02, and 79-987 through December 31, 2017.

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

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

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

1 (c) To adopt and promulgate rules and regulations, as the board may  
2 deem necessary, for the management of the board;

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

5 (e) To obtain, by a competitive, formal, and sealed bidding process  
6 through the materiel division of the Department of Administrative  
7 Services, actuarial services on behalf of the State of Nebraska as may be  
8 necessary in the administration and development of the retirement  
9 systems, including, but not limited to, preparation of an annual  
10 actuarial valuation report of each of the defined benefit and cash  
11 balance plans administered by the board. Such annual valuation reports  
12 shall be presented by the actuary to the Nebraska Retirement Systems  
13 Committee of the Legislature at a public hearing or hearings. Any  
14 contract for actuarial services shall contain a provision allowing the  
15 actuary, without prior approval of the board, to perform actuarial  
16 studies of the systems as requested by entities other than the board, if  
17 notice, which does not identify the entity or substance of the request,  
18 is given to the board, all costs are paid by the requesting entity,  
19 results are provided to the board, the Nebraska Retirement Systems  
20 Committee of the Legislature, and the Legislative Fiscal Analyst upon  
21 being made public, and such actuarial studies do not interfere with the  
22 actuary's ongoing responsibility to the board. The term of the contract  
23 shall be for up to three years. A competitive, formal, and sealed bidding  
24 process shall be completed at least once every three years, unless the  
25 board determines that such a process would not be cost effective under  
26 the circumstances and that the actuarial services performed have been  
27 satisfactory, in which case the contract may also contain an option for  
28 renewal without a competitive, formal, and sealed bidding process for up  
29 to three additional years. An actuary under contract for the State of  
30 Nebraska shall be a member of the American Academy of Actuaries and meet  
31 the academy's qualification standards to render a statement of actuarial

1 opinion;

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

7 (g) To adopt and promulgate rules and regulations, as the board may  
8 deem necessary, to carry out the provisions of each retirement system  
9 described in subdivision (1)(a) of this section, which includes, but is  
10 not limited to, the crediting of military service, direct rollover  
11 distributions, and the acceptance of rollovers;

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

26 (i) To adopt and promulgate rules and regulations, as the board may  
27 deem necessary, for the adjustment of contributions or benefits, which  
28 includes, but is not limited to: (i) The procedures for refunding  
29 contributions, adjusting future contributions or benefit payments, and  
30 requiring additional contributions or repayment of benefits; (ii) the  
31 process for a member, member's beneficiary, employee, or employer to

1 dispute an adjustment to contributions or benefits; (iii) establishing  
2 materiality and de minimus amounts for agency transactions, adjustments,  
3 and inactive account closures; and (iv) notice provided to all affected  
4 persons. Following an adjustment, a timely notice shall be sent that  
5 describes the adjustment and the process for disputing an adjustment to  
6 contributions or benefits;

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

19 (k) To administer all retirement system plans in a manner which will  
20 maintain each plan's status as a qualified plan pursuant to the Internal  
21 Revenue Code, as defined in section 49-801.01, including: Section 401(a)  
22 (9) of the Internal Revenue Code relating to the time and manner in which  
23 benefits are required to be distributed, including the incidental death  
24 benefit distribution requirement of section 401(a)(9)(G) of the Internal  
25 Revenue Code; section 401(a)(25) of the Internal Revenue Code relating to  
26 the specification of actuarial assumptions; section 401(a)(31) of the  
27 Internal Revenue Code relating to direct rollover distributions from  
28 eligible retirement plans; section 401(a)(37) of the Internal Revenue  
29 Code relating to the death benefit of a member whose death occurs while  
30 performing qualified military service; and section 401(a) of the Internal  
31 Revenue Code by meeting the requirements of section 414(d) of the



1 Internal Revenue Code relating to the establishment of retirement plans  
2 for governmental employees of a state or political subdivision thereof.  
3 The board may adopt and promulgate rules and regulations necessary or  
4 appropriate to maintain such status including, but not limited to, rules  
5 or regulations which restrict discretionary or optional contributions to  
6 a plan or which limit distributions from a plan.

7 (3) By March 31 of each year, the board shall prepare a written plan  
8 of action and shall present such plan to the Nebraska Retirement Systems  
9 Committee of the Legislature at a public hearing. The plan shall include,  
10 but not be limited to, the board's funding policy, the administrative  
11 costs and other fees associated with each fund and plan overseen by the  
12 board, member education and informational programs, the director's duties  
13 and limitations, an organizational structure of the office of the  
14 Nebraska Public Employees Retirement Systems, and the internal control  
15 structure of such office to ensure compliance with state and federal  
16 laws.

17 (4)(a) Beginning in 2016, and at least every four years thereafter  
18 in even-numbered years or at the request of the Nebraska Retirement  
19 Systems Committee of the Legislature, the board shall obtain an  
20 experience study. Within thirty business days after presentation of the  
21 experience study to the board, the actuary shall present the study to the  
22 Nebraska Retirement Systems Committee at a public hearing. If the board  
23 does not adopt all of the recommendations in the experience study, the  
24 board shall provide a written explanation of its decision to the Nebraska  
25 Retirement Systems Committee and the Governor. The explanation shall be  
26 delivered within ten business days after formal action by the board to  
27 not adopt one or more of the recommendations.

28 (b) The director shall provide an electronic copy of the first draft  
29 and a final draft of the experience study and annual valuation reports to  
30 the Nebraska Retirement Systems Committee and the Governor when the  
31 director receives the drafts from the actuary. The drafts shall be deemed

1 confidential information. The draft copies obtained by the Nebraska  
2 Retirement Systems Committee and the Governor pursuant to this section  
3 shall not be considered public records subject to sections 84-712 to  
4 84-712.09.

5 (c) For purposes of this subsection, business days shall be computed  
6 by excluding the day the request is received, after which the designated  
7 period of time begins to run. A business day shall not include a Saturday  
8 or a Sunday or a day during which the Nebraska Public Employees  
9 Retirement Systems office is closed.

10 (5) It shall be the duty of the board to direct the State Treasurer  
11 to transfer funds, as an expense of the retirement system provided for  
12 under the Class V School Employees Retirement Act, to and from the Class  
13 V Retirement System Payment Processing Fund and the Class V School  
14 Employees Retirement Fund for the benefit of a retirement system provided  
15 for under the Class V School Employees Retirement Act to implement the  
16 provisions of section 79-986. The agency for the administration of this  
17 provision and under the direction of the board shall be known and may be  
18 cited as the Nebraska Public Employees Retirement Systems.

19 (6) It shall be the duty of the board to carry out the work plan and  
20 file the report described in section 2 of this act and to contract with,  
21 bill, and receive the payment described in section 3 of this act from the  
22 employer of any Class V school employees retirement system established  
23 under the Class V School Employees Retirement Act for all services  
24 performed in the conduct, completion, and report of such work plan.

25 Sec. 7. Original sections 79-978.01 and 84-1503, Revised Statutes  
26 Cumulative Supplement, 2018, are repealed.