

AMENDMENTS TO LB209

Introduced by Nebraska Retirement Systems.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 48-1401, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 48-1401 (1)(a) ~~(1)~~ Any county, municipality, or other political
6 subdivision, instrumentality, or agency of the State of Nebraska, except
7 any agency subject to sections 84-1504 to 84-1506 or section 85-106,
8 85-320, or 85-606.01, may enter into an agreement to defer a portion of
9 any individual's compensation derived from such county, municipality, or
10 other political subdivision, instrumentality, or agency to a future
11 period in time pursuant to section 457 of the Internal Revenue Code. Such
12 plan of deferred compensation may provide for the deferral of an
13 individual's compensation on either a pretax basis or an after-tax Roth
14 contribution basis under a qualified Roth contribution program pursuant
15 to section 402A of the Internal Revenue Code. Such deferred compensation
16 plan shall be voluntary and shall be available to all regular employees
17 and elected officials except as otherwise provided in this section.

18 (b) This section shall not authorize an entity excepted from this
19 section pursuant to subdivision (1)(a) of this section to modify a plan
20 of deferred compensation or establish a separate plan of deferred
21 compensation. This section shall not require either the Public Employees
22 Retirement Board or the Nebraska Public Employees Retirement Systems to
23 modify a plan of deferred compensation established pursuant to sections
24 84-1504 to 84-1506 to allow for after-tax Roth contributions pursuant to
25 a qualified Roth contributions program under section 402A of the Internal
26 Revenue Code.

27 (2) All The compensation to be deferred under this section may never

1 exceed the total compensation to be received by the individual from the
2 employer or exceed the limits established by the Internal Revenue Code
3 for such a plan.

4 (3) All compensation deferred under the plan, all property and
5 rights purchased with the deferred compensation, and all investment
6 income attributable to the deferred compensation, property, or rights
7 shall be held in trust for the exclusive benefit of participants and
8 their beneficiaries by the county, municipality, or other political
9 subdivision, instrumentality, or agency until such time as payments are
10 made under the terms of the deferred compensation plan.

11 (4) The county, municipality, or other political subdivision,
12 instrumentality, or agency shall designate its treasurer or an equivalent
13 official, including the State Treasurer, to be the custodian of the funds
14 and securities of the deferred compensation plan.

15 (5) The county, municipality, or other political subdivision,
16 instrumentality, or agency may invest the compensation to be deferred
17 under an agreement in or with: (a) Annuities; (b) mutual funds; (c)
18 banks; (d) savings and loan associations; (e) trust companies qualified
19 to act as fiduciaries in this state; (f) an organization established for
20 the purpose of administering public employee deferred compensation
21 retirement plans and authorized to do business in the State of Nebraska;
22 or (g) investment advisers as defined in the federal Investment Advisers
23 Act of 1940.

24 (6) The deferred compensation program authorized under this section
25 shall exist and serve in addition to, and shall not be a part of, any
26 existing retirement or pension system provided for state, county,
27 municipal, or other political subdivision, instrumentality, or agency
28 employees, or any other benefit program.

29 (7) Any compensation deferred under such a deferred compensation
30 plan including an individual's compensation deferred on either a pretax
31 basis or an after-tax Roth contribution basis under a qualified Roth

1 contribution program pursuant to section 402A of the Internal Revenue
2 Code, shall continue to be included as regular compensation for the
3 purpose of computing the retirement, pension, or social security
4 contributions made or benefits earned by any employee.

5 (8)(a) ~~(8)~~ Any sum so deferred on a pretax basis shall not be
6 included in the computation of any federal or state taxes withheld on
7 behalf of any such individual at the time of deferral.

8 (b) Any sum so deferred on an after-tax Roth contribution basis
9 pursuant to a qualified Roth contribution program under section 402A of
10 the Internal Revenue Code shall be included in the computation of any
11 federal or state taxes withheld on behalf of any such individual at the
12 time of deferral.

13 (9) The state, county, municipality, or other political subdivision,
14 instrumentality, or agency shall not be responsible for any investment
15 results entered into by the individual in the deferred compensation
16 agreement.

17 (10) All compensation deferred under the plan including compensation
18 deferred on either a pretax basis or an after-tax Roth contribution basis
19 under a qualified Roth contribution program pursuant to section 402A of
20 the Internal Revenue Code, all property and rights purchased with the
21 deferred compensation, and all investment income attributable to the
22 deferred compensation, property, or rights shall not be subject to
23 garnishment, attachment, levy, the operation of bankruptcy or insolvency
24 laws, or any other process of law whatsoever and shall not be assignable.

25 (11) Nothing contained in this section shall in any way limit,
26 restrict, alter, amend, invalidate, or nullify any deferred compensation
27 plan previously instituted by any county, municipality, or other
28 political subdivision, instrumentality, or agency of the State of
29 Nebraska, and any such plan is hereby authorized and approved.

30 (12) If a county has not established a deferred compensation plan
31 pursuant to this section, each individual may require that the county

1 enter into an agreement with the individual to defer a portion of such
2 individual's compensation and place it under the management and
3 supervision of the state deferred compensation plan created pursuant to
4 sections 84-1504 to 84-1506. If such an agreement is made, the county
5 shall designate the State Treasurer as custodian of such deferred
6 compensation funds and such deferred compensation funds shall become a
7 part of the trust administered by the Public Employees Retirement Board
8 or the Nebraska Public Employees Retirement Systems pursuant to sections
9 84-1504 to 84-1506. Nothing in this subsection shall require a plan of
10 deferred compensation that is administered by the Public Employees
11 Retirement Board or the Nebraska Public Employees Retirement Systems
12 pursuant to sections 84-1504 to 84-1506 to provide for the ability of an
13 individual to defer compensation on an after-tax Roth contribution basis
14 pursuant to a qualified Roth contribution program under section 402A of
15 the Internal Revenue Code.

16 (13) For purposes of this section, individual means (a) any person
17 designated by the county, municipality, or other political subdivision,
18 instrumentality, or agency of the State of Nebraska, except any agency
19 subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or
20 85-606.01, as a permanent part-time or full-time employee of the county,
21 municipality, or other political subdivision, instrumentality, or agency
22 and (b) a person under contract providing services to the county,
23 municipality, or other political subdivision, instrumentality, or agency
24 of the State of Nebraska, except any agency subject to sections 84-1504
25 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered
26 into a contract with such county, municipality, political subdivision,
27 instrumentality, or agency to have compensation deferred prior to August
28 28, 1999.

29 Sec. 2. Original section 48-1401, Revised Statutes Cumulative
30 Supplement, 2020, is repealed.