

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB209

Hearing Date: Wednesday March 03, 2021
Committee On: Nebraska Retirement Systems
Introducer: McDonnell
One Liner: Change provisions relating to treatment of deferred compensation by certain political subdivisions, state agencies, and the Public Employees Retirement Board

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Clements, Kolterman, Lindstrom, McDonnell, Slama, Stinner
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents: Senator Mike McDonnell Matt Barrall Jim MaGuire	Representing: Introducer Nebraska State FOP Omaha Police Officers Assn.
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Opponents:	Representing:
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Neutral: Orron Hill	Representing: PERB/NPERS
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Summary of purpose and/or changes:

The stated intent of LB 209 as introduced was to allow local political subdivisions and the State of Nebraska to offer a Roth option deferred compensation plan.

Explanation of amendments:

Committee Amendment 880

AM 880 strikes the original provisions and becomes the bill. It clarifies that a plan of deferred compensation offered by a county, municipality, or other political subdivision may provide for the deferral on either a pretax basis or an after-tax Roth contribution basis under a qualified Roth contribution program pursuant to section 402A of the Internal Revenue Code. It specifies that any governmental entity which has entered into agreement with the Public Employees Retirement Board (PERB) or the Nebraska Public Employees Retirement Systems (NPERS) to modify or establish a plan of deferred compensation is not authorized to allow for an after-tax Roth contribution. It further specifies that neither the PERB nor NPERS is required to modify a deferred compensation plan to establish a separate after-tax Roth contribution program.

Section-by-Section of LB 209 as amended by AM 880:

Sec. 1: [Amends (1)] a plan of deferred compensation offered by a county, municipality, or other political subdivision may provide for the deferral on either a pretax basis or an after-tax Roth contribution basis under a qualified Roth contribution program pursuant to section 402A of the Internal Revenue Code (IRC),

It specifically does not authorize any governmental entity which has entered into agreement with the Public Employees Retirement Board (PERB) or the Nebraska Public Employees Retirement Systems (NPERS) to modify or establish a plan of deferred compensation to allow for an after-tax Roth contribution. It further specifies that neither the PERB nor NPERS are required to modify a deferred compensation plan to establish a separate after-tax Roth contribution program pursuant to section 402A of the IRC,

A deferred compensation plan must be voluntary and available to all regular employees and elected officials except as otherwise provided in this section.

[Amends (2)] all compensation deferred may not exceed income or other limits by the IRC for such a plan.

[Amends (3)] all compensation deferred, property rights purchased and investment income attributable to deferred compensation are held in trust for exclusive benefit of participants and their beneficiaries until payments are made under the terms of the deferred compensation plan.

[Amends (4)] the governmental entity must designate a treasurer to be custodian of the funds.

[Amends (5)] describes the kinds of investments the deferred compensation funds may be invested in.

[Amends (6)] specifies that a deferred compensation program authorized under this section is in addition to, and not part of, any existing retirement or pension system provided by the governmental entity.

[Amends (7)] any pre-tax or after-tax compensation deferred under a deferred compensation continues to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

[Amends (8)] any deferred on a pretax basis is not included in the computation of any federal or state taxes withheld on behalf of any such individual at the time of deferral any sum deferred on an after-tax Roth contribution basis pursuant to a qualified Roth contribution program under section 402A of the IRC is included in the computation of any federal or state taxes withheld on behalf of any such individual at the time of deferral.

[Amends (9)] the governmental entity is not be responsible for any investment results entered into by the individual in the deferred compensation agreement.

[Amends (10)] all compensation deferred on either a pretax basis or an after-tax basis the plan, property and rights purchased with the deferred compensation, and all investment income attributable to the deferred compensation, are not be subject to garnishment, attachment, levy, the operation of bankruptcy or insolvency laws.

[Amends (11)] nothing in the section limits, restricts, alters, amends, invalidates, or nullifies any deferred compensation plan previously instituted by any governmental and any such plan is authorized and approved.

[Amends (12)] authorizes any county that has not established a deferred compensation plan pursuant to this section, to enter into an agreement with the individual to defer a portion of such individual's compensation and place it under the

management and supervision of the state deferred compensation plan created pursuant to sections 84-1504 to 84-1506, however nothing requires the PERB or NPERS to provide for ability of an individual to defer compensation on an after-tax Roth contribution basis pursuant to a qualified Roth contribution program under section 402A of the IRC.

[Amends (13)] defines individual for purposes of this section.

Mark Kolterman, Chairperson