

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 713

Introduced by Ballard, 21.

Read first time January 22, 2025

Committee: Nebraska Retirement Systems

- 1 A BILL FOR AN ACT relating to the School Employees Retirement Act; to
- 2 amend sections 79-902 and 79-930, Reissue Revised Statutes of
- 3 Nebraska; to eliminate the definition of prior service; to harmonize
- 4 provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 79-902, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 79-902 For purposes of the School Employees Retirement Act, unless
4 the context otherwise requires:

5 (1) Accumulated contributions means the sum of all amounts deducted
6 from the compensation of a member and credited to his or her individual
7 account in the School Retirement Fund together with regular interest
8 thereon, compounded monthly, quarterly, semiannually, or annually;

9 (2)(a) Actuarial equivalent means the equality in value of the
10 aggregate amounts expected to be received under different forms of
11 payment.

12 (b) For a school employee hired before July 1, 2017, the
13 determinations shall be based on the 1994 Group Annuity Mortality Table
14 reflecting sex-distinct factors blended using twenty-five percent of the
15 male table and seventy-five percent of the female table. An interest rate
16 of eight percent per annum shall be reflected in making these
17 determinations except when a lump-sum settlement is made to an estate.

18 (c) For a school employee hired on or after July 1, 2017, or rehired
19 on or after July 1, 2017, after termination of employment and being paid
20 a retirement benefit or taking a refund of contributions, the
21 determinations shall be based on a unisex mortality table and an interest
22 rate specified by the board. Both the mortality table and the interest
23 rate shall be recommended by the actuary and approved by the retirement
24 board following an actuarial experience study, a benefit adequacy study,
25 or a plan valuation. The mortality table, interest rate, and actuarial
26 factors in effect on the school employee's retirement date will be used
27 to calculate actuarial equivalency of any retirement benefit. Such
28 interest rate may be, but is not required to be, equal to the assumed
29 rate.

30 (d) If the lump-sum settlement is made to an estate, the interest
31 rate will be determined by the AAA-rated segment of the Bloomberg

1 Barclays Long U.S. Corporate Bond Index as of the prior June 30, rounded
2 to the next lower quarter percent. If the AAA-rated segment of the
3 Bloomberg Barclays Long U.S. Corporate Bond Index is discontinued or
4 replaced, a substitute index shall be selected by the board which shall
5 be a reasonably representative index;

6 (3) Beneficiary means any person in receipt of a school retirement
7 allowance or other benefit provided by the act;

8 (4)(a) Compensation means gross wages or salaries payable to the
9 member for personal services performed during the plan year and includes
10 (i) overtime pay, (ii) member retirement contributions, (iii) retroactive
11 salary payments paid pursuant to court order, arbitration, or litigation
12 and grievance settlements, and (iv) amounts contributed by the member to
13 plans under sections 125, 403(b), and 457 of the Internal Revenue Code as
14 defined in section 49-801.01 or any other section of the code which
15 defers or excludes such amounts from income.

16 (b) Compensation does not include (i) fraudulently obtained amounts
17 as determined by the retirement board, (ii) amounts for accrued unused
18 sick leave or accrued unused vacation leave converted to cash payments,
19 (iii) insurance premiums converted into cash payments, (iv) reimbursement
20 for expenses incurred, (v) fringe benefits, (vi) per diems paid as
21 expenses, (vii) bonuses for services not actually rendered, (viii) early
22 retirement inducements, (ix) cash awards, (x) severance pay, or (xi)
23 employer contributions made for the purposes of separation payments made
24 at retirement.

25 (c) Compensation in excess of the limitations set forth in section
26 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
27 shall be disregarded. For an employee who was a member of the retirement
28 system before the first plan year beginning after December 31, 1995, the
29 limitation on compensation shall not be less than the amount which was
30 allowed to be taken into account under the retirement system as in effect
31 on July 1, 1993;

1 (5) County school official means (a) until July 1, 2000, the county
2 superintendent or district superintendent and any person serving in his
3 or her office who is required by law to have a teacher's certificate and
4 (b) on or after July 1, 2000, the county superintendent, county school
5 administrator, or district superintendent and any person serving in his
6 or her office who is required by law to have a teacher's certificate;

7 (6)(a) Creditable service means prior service for which credit is
8 granted under sections 79-926 to 79-929, service credit purchased under
9 sections 79-933.03 to 79-933.06 and 79-933.08, and all service rendered
10 while a contributing member of the retirement system; and

11 (b) Creditable service includes working days, sick days, vacation
12 days, holidays, and any other leave days for which the employee is paid
13 regular wages as part of the employee's agreement with the employer.
14 Creditable service does not include lump-sum payments to the employee
15 upon termination or retirement in lieu of accrued benefits for such days,
16 eligibility and vesting credit, service years for which member
17 contributions are withdrawn and not repaid by the member, service
18 rendered for which the retirement board determines that the member was
19 paid less in compensation than the minimum wage as provided in the Wage
20 and Hour Act, service which the board determines was rendered with the
21 intent to defraud the retirement system, or service provided to an
22 employer in a retirement system established pursuant to the Class V
23 School Employees Retirement Act;

24 (7) Current benefit means the initial benefit increased by all
25 adjustments made pursuant to the School Employees Retirement Act;

26 (8) Disability means an inability to engage in any substantially
27 gainful activity by reason of any medically determinable physical or
28 mental impairment which was initially diagnosed or became disabling while
29 the member was an active participant in the plan and which can be
30 expected to result in death or be of a long-continued and indefinite
31 duration;

1 (9) Disability retirement allowance means the annuity paid to a
2 person upon retirement for disability under section 79-952;

3 (10) Disability retirement date means the first day of the month
4 following the date upon which a member's request for disability
5 retirement is received on a retirement application provided by the
6 retirement system if the member has terminated employment in the school
7 system and has complied with sections 79-951 to 79-954 as such sections
8 refer to disability retirement;

9 (11) Early retirement inducement means, but is not limited to:

10 (a) A benefit, bonus, or payment to a member in exchange for an
11 agreement by the member to terminate from employment;

12 (b) A benefit, bonus, or payment paid to a member in addition to the
13 member's retirement benefit;

14 (c) Lump-sum or installment cash payments, except payments for
15 accrued unused leave converted to cash payments;

16 (d) An additional salary or wage component of any kind that is being
17 paid as an incentive to leave employment and not for personal services
18 performed for which creditable service is granted;

19 (e) Partial or full employer payment of a member's health, dental,
20 life, or long-term disability insurance benefits or cash in lieu of such
21 insurance benefits that extend beyond the member's termination of
22 employment and contract of employment dates. This subdivision does not
23 apply to any period during which the member is contributing to the
24 retirement system and being awarded creditable service; and

25 (f) Any other form of separation payments made by an employer to a
26 member at termination, including, but not limited to, purchasing
27 retirement annuity contracts for the member pursuant to section 79-514,
28 depositing money for the member in an account established under section
29 403(b) of the Internal Revenue Code except for payments for accrued
30 unused leave, or purchasing service credit for the member pursuant to
31 section 79-933.08;

1 (12) Eligibility and vesting credit means credit for years, or a
2 fraction of a year, of participation in a Nebraska government plan for
3 purposes of determining eligibility for benefits under the School
4 Employees Retirement Act. Such credit shall not be included as years of
5 creditable service in the benefit calculation;

6 (13) Emeritus member means a person (a) who has entered retirement
7 under the act, including those persons who have retired since July 1,
8 1945, under any other regularly established retirement or pension system
9 as contemplated by section 79-916, (b) who has thereafter been reemployed
10 in any capacity by a public school, a Class V school district, or a
11 school under the control and management of the Board of Trustees of the
12 Nebraska State Colleges, the Board of Regents of the University of
13 Nebraska, or a community college board of governors or has become a state
14 school official or county school official subsequent to such retirement,
15 and (c) who has applied to the board for emeritus membership in the
16 retirement system. The school district or agency shall certify to the
17 retirement board on forms prescribed by the retirement board that the
18 annuitant was reemployed, rendered a service, and was paid by the
19 district or agency for such services;

20 (14) Employer means the State of Nebraska or any subdivision thereof
21 or agency of the state or subdivision authorized by law to hire school
22 employees or to pay their compensation;

23 (15)(a) Final average compensation means:

24 (i) Except as provided in subdivision (ii) of this subdivision:

25 (A) The sum of the member's total compensation during the three
26 twelve-month periods of service as a school employee in which such
27 compensation was the greatest divided by thirty-six; or

28 (B) If a member has such compensation for less than thirty-six
29 months, the sum of the member's total compensation in all months divided
30 by the total number of months of his or her creditable service therefor;

31 and

1 (ii) For an employee who became a member on or after July 1, 2013:

2 (A) The sum of the member's total compensation during the five
3 twelve-month periods of service as a school employee in which such
4 compensation was the greatest divided by sixty; or

5 (B) If a member has such compensation for less than sixty months,
6 the sum of the member's total compensation in all months divided by the
7 total number of months of his or her creditable service therefor.

8 (b) Payments under the Retirement Incentive Plan pursuant to section
9 79-855 and Staff Development Assistance pursuant to section 79-856 shall
10 not be included in the determination of final average compensation;

11 (16) Fiscal year means any year beginning July 1 and ending June 30
12 next following;

13 (17) Hire date or date of hire means the first day of compensated
14 service subject to retirement contributions;

15 (18) Initial benefit means the retirement benefit calculated at the
16 time of retirement;

17 (19) Member means any person who has an account in the School
18 Retirement Fund;

19 (20) Participation means qualifying for and making required deposits
20 to the retirement system during the course of a plan year;

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

23 ~~(22) Prior service means service rendered as a school employee in~~
24 ~~the public schools of the State of Nebraska prior to July 1, 1945;~~

25 (22) ~~(23)~~ Public school means any and all schools offering
26 instruction in elementary or high school grades, as defined in section
27 79-101, which schools are supported by public funds and are wholly under
28 the control and management of the State of Nebraska or any subdivision
29 thereof, including (a) schools or other entities established, maintained,
30 and controlled by the school boards of local school districts, except
31 Class V school districts, (b) any educational service unit, and (c) any

1 other educational institution wholly supported by public funds, except
2 schools under the control and management of the Board of Trustees of the
3 Nebraska State Colleges, the Board of Regents of the University of
4 Nebraska, or the community college boards of governors for any community
5 college areas;

6 ~~(23)~~ ~~(24)~~ Regular employee means an employee hired by a public
7 school or under contract in a regular full-time or part-time position who
8 works a full-time or part-time schedule on an ongoing basis for twenty or
9 more hours per week. An employee hired as described in this subdivision
10 to provide service for less than twenty hours per week but who provides
11 service for an average of twenty hours or more per week in each calendar
12 month of any three calendar months of a plan year shall, beginning with
13 the next full payroll period, commence contributions and shall be deemed
14 a regular employee for all future employment with the same employer;

15 ~~(24)~~ ~~(25)~~ Regular interest means interest fixed at a rate equal to
16 the daily treasury yield curve for one-year treasury securities, as
17 published by the Secretary of the Treasury of the United States, that
18 applies on July 1 of each year, which may be credited monthly, quarterly,
19 semiannually, or annually as the board may direct;

20 ~~(25)~~ ~~(26)~~ Relinquished creditable service means, with respect to a
21 member who has withdrawn his or her accumulated contributions under
22 section 79-955, the total amount of creditable service which such member
23 has given up as a result of his or her election not to remain a member of
24 the retirement system;

25 ~~(26)~~ ~~(27)~~ Required beginning date means, for purposes of the
26 deferral of distributions and the commencement of mandatory distributions
27 pursuant to section 401(a)(9) of the Internal Revenue Code and the
28 regulations issued thereunder, April 1 of the year following the calendar
29 year in which a member:

30 (a)(i) Terminated employment with all employers participating in the
31 plan; and

1 (ii)(A) Attained at least seventy and one-half years of age for a
2 member who attained seventy and one-half years of age on or before
3 December 31, 2019;

4 (B) Attained at least seventy-two years of age for a member who
5 attained seventy and one-half years of age on or after January 1, 2020,
6 and prior to January 1, 2023;

7 (C) Attained at least seventy-three years of age for a member who
8 attained seventy-two years of age after December 31, 2022, and seventy-
9 three years of age prior to January 1, 2033; or

10 (D) Attained at least seventy-five years of age for a member who
11 attained seventy-four years of age after December 31, 2032; or

12 (b)(i) Terminated employment with all employers participating in the
13 plan; and

14 (ii) Otherwise reached the date specified by section 401(a)(9) of
15 the Internal Revenue Code and the regulations issued thereunder;

16 (27) ~~(28)~~ Required deposit means the deduction from a member's
17 compensation as provided for in section 79-958 which shall be deposited
18 in the School Retirement Fund;

19 (28) ~~(29)~~ Retirement means qualifying for and accepting a school or
20 disability retirement allowance granted under the School Employees
21 Retirement Act;

22 (29) ~~(30)~~ Retirement application means the form approved and
23 provided by the retirement system for acceptance of a member's request
24 for either regular or disability retirement;

25 (30) ~~(31)~~ Retirement board or board means the Public Employees
26 Retirement Board;

27 (31) ~~(32)~~ Retirement date means (a) if the member has terminated
28 employment, the first day of the month following the date upon which a
29 member's request for retirement is received on a retirement application
30 provided by the retirement system or (b) if the member has filed a
31 retirement application but has not yet terminated employment, the first

1 day of the month following the date on which the member terminates
2 employment. An application may be filed no more than one hundred twenty
3 days prior to the effective date of the member's initial benefit;

4 (32) ~~(33)~~ Retirement system means the School Employees Retirement
5 System of the State of Nebraska;

6 (33) ~~(34)~~ Savings annuity means payments for life, made in equal
7 monthly payments, derived from the accumulated contributions of a member;

8 (34) ~~(35)~~ School employee means a contributing member who earns
9 service credit pursuant to section 79-927. For purposes of this section,
10 contributing member means the following persons who receive compensation
11 from a public school: (a) Regular employees; (b) regular employees having
12 retired pursuant to the School Employees Retirement Act who subsequently
13 provide compensated service on a regular basis in any capacity; and (c)
14 regular employees hired by a public school on an ongoing basis to assume
15 the duties of other regular employees who are temporarily absent.
16 Substitute employees, temporary employees, and employees who have not
17 attained the age of eighteen years shall not be considered school
18 employees;

19 (35) ~~(36)~~ School retirement allowance means the total of the savings
20 annuity and the service annuity or formula annuity paid a person who has
21 retired under sections 79-931 to 79-935. The monthly payments shall be
22 payable at the end of each calendar month during the life of a retired
23 member. The first payment shall include all amounts accrued since the
24 effective date of the award of annuity. The last payment shall be at the
25 end of the calendar month in which such member dies or in accordance with
26 the payment option chosen by the member;

27 (36) ~~(37)~~ School year means one fiscal year which includes not less
28 than one thousand instructional hours or, in the case of service in the
29 State of Nebraska prior to July 1, 1945, not less than seventy-five
30 percent of the then legal school year;

31 (37) ~~(38)~~ Service means employment as a school employee and shall

1 not be deemed interrupted by (a) termination at the end of the school
2 year of the contract of employment of an employee in a public school if
3 the employee enters into a contract of employment in any public school,
4 except a school in a Class V school district, for the following school
5 year, (b) temporary or seasonal suspension of service that does not
6 terminate the employee's employment, (c) leave of absence authorized by
7 the employer for a period not exceeding twelve months, (d) leave of
8 absence because of disability, or (e) military service when properly
9 authorized by the retirement board. Service does not include any period
10 of disability for which disability retirement benefits are received under
11 sections 79-951 to 79-953;

12 (38) ~~(39)~~ Service annuity means payments for life, made in equal
13 monthly installments, derived from appropriations made by the State of
14 Nebraska to the retirement system;

15 (39) ~~(40)~~ State deposit means the deposit by the state in the
16 retirement system on behalf of any member;

17 (40) ~~(41)~~ State school official means the Commissioner of Education
18 and his or her professional staff who are required by law or by the State
19 Department of Education to hold a certificate as such term is defined in
20 section 79-807;

21 (41) ~~(42)~~ Substitute employee means a person hired by a public
22 school as a temporary employee to assume the duties of regular employees
23 due to a temporary absence of any regular employees. Substitute employee
24 does not mean a person hired as a regular employee on an ongoing basis to
25 assume the duties of other regular employees who are temporarily absent;

26 (42) ~~(43)~~ Surviving spouse means (a) the spouse married to the
27 member on the date of the member's death or (b) the spouse or former
28 spouse of the member if survivorship rights are provided under a
29 qualified domestic relations order filed with the board pursuant to the
30 Spousal Pension Rights Act. The spouse or former spouse shall supersede
31 the spouse married to the member on the date of the member's death as

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

7 (43) ~~(44)~~ Temporary employee means an employee hired by a public
8 school who is not a regular employee and who is hired to provide service
9 for a limited period of time to accomplish a specific purpose or task.
10 When such specific purpose or task is complete, the employment of such
11 temporary employee shall terminate and in no case shall the temporary
12 employment period exceed one year in duration;

13 (44)(a) ~~(45)(a)~~ Termination of employment or termination occurs on
14 the date the member experiences a bona fide separation from service with
15 the member's employer. The date of the separation is the end of the
16 member's contractual agreement or, if there is no contract or only
17 partial fulfillment of a contract, as determined by the employer.

18 (b) A member shall not be deemed to have incurred a termination of
19 employment if the board determines based on the facts and circumstances
20 that:

21 (i) A claimed termination was not a bona fide separation from
22 service with the member's employer;

23 (ii) A member was compensated for a full contractual period when the
24 member stopped working prior to the end date of the contract; or

25 (iii) A member prearranged a return to work that violates the
26 provisions of the School Employees Retirement Act.

27 (c) A member who experiences a separation from service must comply
28 with the return-to-work provisions of section 79-930 if the member is
29 subsequently employed by an employer participating in the retirement
30 system.

31 (d) Nothing in this subdivision precludes an employer from adopting

1 a policy which limits or denies employees who have experienced a
2 separation from service with the employer from working as a volunteer or
3 substitute employee within one hundred eighty days after the employee
4 experiences such separation from service; and

5 ~~(45)~~ (46) Voluntary service or volunteer means providing bona fide
6 unpaid service to any employer.

7 **Sec. 2.** Section 79-930, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 79-930 (1)(a) A member who experiences a separation from service
10 with the member's employer but has not submitted a retirement application
11 or a request for distribution pursuant to section 79-955, or received a
12 retirement benefit, disability retirement benefit, or distribution
13 pursuant to section 79-955, from the retirement system, may return to
14 work as a temporary employee, substitute employee, or volunteer for any
15 employer participating in the retirement system. Such an employee:

16 (i) Shall be deemed to have incurred a termination for purposes of
17 sections 79-921, 79-932, 79-933.02 to 79-933.06, and 79-933.08;

18 (ii) Shall not be deemed to have incurred a termination for purposes
19 of sections 79-933, 79-951, and 79-955, and shall not be eligible to
20 receive a retirement benefit, disability retirement benefit, or
21 distribution pursuant to section 79-955, from the retirement system,
22 until the member incurs a termination of employment as defined in
23 ~~described in subdivision (45)~~ of section 79-902; and

24 (iii) Except as provided in subdivision (1)(b) of this section,
25 shall not be eligible to contribute to the retirement system pursuant to
26 section 79-958 or accrue service credit in the retirement system pursuant
27 to section 79-927.

28 (b)(i) A member as described in subdivision (1)(a) of this section
29 who becomes a regular employee for an employer participating in the
30 retirement system shall immediately begin making contributions pursuant
31 to section 79-958 on all compensation paid by such employer and accrue

1 service credit pursuant to section 79-927 for all such service performed
2 for such employer, including any work as a temporary employee or
3 substitute employee.

4 (ii) A member as described in subdivision (1)(a) of this section who
5 has not established eligibility as a regular employee at another employer
6 shall not make contributions pursuant to section 79-958 on all
7 compensation paid by such employer nor accrue service credit pursuant to
8 section 79-927 for work performed by the member as a temporary employee
9 or substitute employee for such employer.

10 (c) Work performed while the member is not contributing to the
11 retirement system pursuant to subdivision (1)(a) of this section shall
12 not accrue service credit in the retirement system pursuant to section
13 79-927 and cannot be purchased as service credit under sections 79-933.03
14 to 79-933.06 and 79-933.08.

15 (2)(a) A member who experiences a separation from service with the
16 member's employer and has submitted a retirement application or a request
17 for distribution pursuant to section 79-955, or received a retirement
18 benefit, disability retirement benefit, or distribution pursuant to
19 section 79-955, from the retirement system, shall not be deemed to have
20 incurred a termination of employment if the member subsequently returns
21 to work for any employer participating in the retirement system within
22 one hundred eighty days after separating from service, unless such work
23 is limited to:

24 (i) Intermittent work as a volunteer or substitute employee. For
25 purposes of this subsection:

26 (A) Intermittent work means work provided on a day-to-day basis that
27 is not greater than eight days of work during a calendar month; and

28 (B) Day of work means any length of work as a volunteer or
29 substitute employee provided during a single calendar day; or

30 (ii) Work as authorized by, and performed in accordance with,
31 section 79-920.

1 (b) The one-hundred-eighty-day period begins on the later of:

2 (i) The date the member experienced a bona fide separation from
3 service of all employment with all employers participating in the
4 retirement system; or

5 (ii) The date the Nebraska Public Employees Retirement Systems
6 receives the member's retirement application or request for distribution
7 pursuant to section 79-955.

8 (c)(i) A member may seek a determination from the director of the
9 Nebraska Public Employees Retirement Systems that it has been at least
10 one hundred eighty days since the member satisfied the requirements
11 described in this subsection. The director shall make such determination
12 if the member produces clear and convincing evidence that is received by
13 the director within forty-five days after the later of:

14 (A) The date the member experienced a bona fide separation of
15 service of all employment with all employers participating in the
16 retirement system; or

17 (B) The date the member's retirement application or request for
18 distribution pursuant to section 79-955 is received by the Nebraska
19 Public Employees Retirement Systems.

20 (ii) A member may appeal the director's determination to the board
21 within thirty days after receiving such determination.

22 (iii) The board's determination on the appeal shall be final and
23 shall not be appealable to any court.

24 **Sec. 3.** Original sections 79-902 and 79-930, Reissue Revised
25 Statutes of Nebraska, are repealed.