

LEGISLATIVE BILL 549

Approved by the Governor April 6, 1987

Introduced by Haberman, 44

AN ACT relating to the Public Employees Retirement Board; to amend sections 79-1509, 79-1520, 79-1523, 79-1546, 84-1504, and 84-1510, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1501, 79-1512, 79-1521 to 79-1522.01, 79-1528, 79-1529, 84-1332, and 84-1503, Revised Statutes Supplement, 1986; to change provisions of the school retirement system; to define and redefine terms; to provide for credit for years of service for certain employees; to provide duties for the Public Employees Retirement Board; to provide a deferred compensation program for county employees as prescribed; to change provisions relating to administrative services agreements; to eliminate an age requirement and a transfer of assets provision; to repeal the original sections, and also sections 79-1509.04 and 79-1555, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-1501, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1501. As used in sections 79-1501 to 79-1557 and section 4 of this act, unless the context otherwise requires:

(1) Accumulated contributions shall mean the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the School Employees' Savings Fund together with regular interest thereon, compounded annually;

(2) Beneficiary shall mean any person in receipt of a school retirement allowance or other benefit provided by sections 79-1501 to 79-1557;

(3) Member shall mean any person who has an account in the School Employees' Savings Fund;

(4) County school official shall mean the county superintendent or district superintendent and any person serving in his or her office who is required by

law to have a teacher's certificate;

(5) Creditable service shall mean prior service for which credit is granted under sections 79-1515 to 79-1518 plus all service rendered while a member of the retirement system, and shall include working days, sick days, vacation days, holidays, and any other leave days for which the employee is paid regular wages as part of the employee's agreement with the employer. Creditable service shall not include lump-sum payments to the employee upon termination or retirement in lieu of accrued benefits for such days;

(6) Disability retirement allowance shall mean the annuity paid to a person upon retirement for disability under section 79-1524;

(7) Employer shall mean the State of Nebraska or any subdivision thereof or agency of the state or subdivision authorized by law to hire school employees, as defined in this section, or to pay their salaries;

(8) Fiscal year shall mean any year beginning July 1 and ending June 30 next following;

(9) Regular interest shall mean interest at such a rate as shall be determined by the retirement board in conformity with actual and expected earnings on its investments;

(10) Junior school employee shall mean a school employee, as herein defined, who has not arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(11) Present senior school employee shall mean a senior school employee, as herein defined, who was employed within the State of Nebraska on September 1, 1945;

(12) School employee shall mean the following persons who receive compensation from a public school: (a) Regular teachers and administrators employed on a written contract basis; (b) regular employees not certified, hired upon a full-time basis, which contemplates a work week of not less than thirty hours; and (c) part-time employees hired on a work week of not less than fifteen hours;

(13) Prior service shall mean service rendered as a school employee in the public schools of the State of Nebraska, as such is defined in this section, prior to July 1, 1945;

(14) Public school shall mean any and all schools supported by public funds and wholly under the control and management of the State of Nebraska, or any subdivision thereof, including schools established, maintained, and controlled by the school boards of local

school districts and schools under the control and management of the state colleges, the Board of Regents of the University of Nebraska, any educational service unit, and any other educational institution wholly supported by public funds;

(15) Retirement shall mean qualifying for and accepting a school or disability retirement allowance granted under sections 79-1501 to 79-1557;

(16) Retirement board or board shall mean the Public Employees Retirement Board, which shall administer the retirement system;

(17) Retirement system shall mean the school retirement system of the State of Nebraska provided for in sections 79-1501 to 79-1557;

(18) Required deposit shall mean the deduction from a member's compensation as provided for in section 79-1531 which shall all be deposited in the School Employees' Savings Fund;

(19) School year shall mean one fiscal year which shall include not less than one thousand thirty-two instructional hours or, in the case of service in the State of Nebraska prior to July 1, 1945, not less than seventy-five per cent of the then legal school year;

(20) Senior school employee shall mean a school employee, as herein defined, who has arrived at his or her twenty-first birthday anniversary on August 15 preceding;

(21) Service shall mean service as a school employee;

(22) School retirement allowance shall mean the total of the savings annuity and the service annuity paid a person who has retired under the provisions of sections section 79-1520 and ~~79-1521~~. The monthly payments shall be payable at the end of each calendar month during the life of a retired member. The first payment shall include all amounts accrued since the effective date of the award of annuity, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began. The last payment shall be at the end of the calendar month in which such member shall die;

(23) Service annuity shall mean payments for life, made in equal monthly installments, derived from appropriations made by the State of Nebraska to the retirement system;

(24) State deposit shall mean the deposit by the state in the retirement system on behalf of any

member;

(25) State school official shall mean the Commissioner of Education and his or her professional staff and the assistant commissioner of education in charge of vocational education and his or her professional staff;

(26) Savings annuity shall mean payments for life, made in equal monthly payments, derived from the accumulated contributions of a member;

(27) Emeritus member shall mean a person who has entered retirement under the provisions of sections 79-1501 to 79-1557, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by section 79-1512, and who has thereafter been reemployed in any capacity by a public school in Nebraska, or has become a state school official or county school official subsequent to such retirement, and who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the retirement board on forms prescribed by the retirement board that the annuitant was reemployed, rendered a service, and was paid by the district for such services;

(28) Primary carrier shall mean the life insurance companies and trust companies designated as the underwriter or trustee of the retirement system; and

(29) Actuarial equivalent shall mean the equality in value of the aggregate amounts expected to be received under different forms of payment. The determinations shall be based on the 1971 Group Annuity Mortality Table reflecting sex-distinct factors blended using twenty-five per cent of the male table and seventy-five per cent of the female table. An interest rate of seven per cent per annum shall be reflected in making these determinations. Such actuarial equivalent conversions shall be based on the annuity purchase rates in effect on the date of retirement or on the date an optional form of payment is elected and becomes payable. The annuity purchase rates shall be established by the insurance carrier for purposes of converting the accumulated contributions to an annuity, subject to acceptance by the board. The resulting sex-distinct factors shall be blended using seventy-five per cent of the female factor and twenty-five per cent of the male factor.

(30) Retirement date shall mean the first day of the month following the date upon which a member's request for retirement is received on an application

form provided by the retirement system if the member has ceased employment in the school system. An application may be filed no more than ninety days in advance of the date on which a member ceases employment in the school system.

(31) Disability retirement date shall mean the first day of the month following the date upon which a member's request for disability retirement is received on an application form provided by the retirement system if the member has ceased employment in the school system and has complied with sections 79-1523 to 79-1526 as they refer to disability retirement; and

(32) Retirement application form shall mean the form approved by the retirement system for acceptance of a member's request for either regular or disability retirement.

Sec. 2. That section 79-1509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1509. The membership of the retirement system shall be composed as follows: (1) All persons who become ~~senior~~ school employees after September 1, 1945, and who have not attained their ~~sixty-sixth~~ birthday on or before July 1 last preceding the date of employment, except those specifically excluded under sections 79-1512 and 79-1513, shall become members as soon as they become senior school employees; (2) senior school employees on July 1, 1945, except those specifically excluded in sections 79-1512 and 79-1513, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and (3) emeritus members, ~~as defined in section 79-1501-~~

Sec. 3. That section 79-1512, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1512. At the time of retirement of any employee who serves a public school operating under any other regularly established retirement or pension system, the retirement board shall, upon receipt of a certification from the public school as to the number of years of service upon which the retirement is based, order the primary carrier to transfer to the funds of

the retirement system of which such employee is a member the actuarial value of the service annuity to be paid by the state for the years of service thus certified in the same amount and basis as provided for members of the state retirement system under sections 79-1522 and 79-1524. Such employee, in order to qualify for prior service credit toward a service annuity, shall have the same qualifications as members of the school retirement system of the State of Nebraska who became members on or before July 1, 1950, as provided by section 79-1515, but shall not come under the provisions of sections 79-1501 to 79-1557 while so employed. Such transfer of actuarial value to the retirement system of which such employee is a member shall be in lieu of the payment of the service annuity to which he or she would be entitled on the condition that the monthly payment received by him or her from such system shall be in the amount not less than the sum of his or her service annuity and the member's annuity which is the actuarial equivalent of his or her own contributions accumulated at interest to retirement. The public school which such employee serves shall furnish to the retirement board all information required by the retirement board regarding service records of its employees. No member shall receive a retirement benefit from the retirement system covering years for which he or she is being paid a benefit under sections 79-1032 to 79-1060.

In addition to the transfer of the actuarial value of the service annuity to be paid by the state, the state shall also transfer to the funds of any other regularly established retirement or pension system for public school employees an amount determined by multiplying the compensation of all members of the other regularly established retirement or pension system for public school employees by the per cent specified in section 79-1540 for determining the amount of the state's payment to the School Employer's Deposit Fund. The transfer shall be made annually on or before July 1 of each fiscal year commencing on or after July 1, 1984.

Sec. 4. Any person who is now a school employee or becomes a school employee and who had elected out of the retirement system between July 1, 1945, and October 1, 1945, and subsequently elected into the retirement system may elect to repay the retirement system for any number of years of service for which he or she would have contributed had he or she not elected out of the retirement system. The amount to be repaid shall not exceed the amount of the contributions which would have been paid into the retirement system based on

the salary and years of service as a school employee as verified by school officials plus the interest which would have accrued on the amount under the retirement system. This section shall not apply to school employees who retire prior to January 1, 1987.

Sec. 5. That section 79-1520, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1520. Any member may retire upon his written application to the retirement board setting forth the date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof; he desires to be retired; PROVIDED, that such member at the time so specified shall have A member who has completed thirty-five years of creditable service may retire at any age upon filing a retirement application with the retirement system.

Sec. 6. That section 79-1521, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1521. (1) Any member in service who attains or shall have attained the age of seventy years shall be retired forthwith from active duty as a school employee, except that, with the approval of his or her employer, given from year to year, he or she may remain in service beyond the attainment of age seventy. A member who remains in service past seventy years of age shall make deposits in the School Employees' Savings Fund as provided in section 79-1531, and shall receive further credit toward any service annuity.

The provision for mandatory retirement at age seventy shall not apply to elected officials.

(2) Payment of any benefit provided under the retirement system may not be deferred later than the sixtieth day after the end of the year in which the member has both attained at least age seventy and one half years and terminated his or her employment with the school system.

Sec. 7. That section 79-1522, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1522. (1) Upon retirement under sections section 79-1520, and 79-1521, if he or she has five or more years of creditable service, a member or emeritus member shall receive a school retirement allowance which shall consist of the sum of: (a) A savings annuity which shall be the actuarial equivalent, as determined by the retirement board, of the member's accumulated contributions at the time of his or her retirement or,

in the case of an emeritus member, the savings annuity fixed by the retirement board at the time of his or her original retirement; and (b) a service annuity to be paid by the State of Nebraska. The amount of any individual service annuity for a full-time school employee or emeritus member shall be three dollars and fifty cents per month for each year of service commencing with his or her retirement on or after May 19, 1981. Each school employee or emeritus member who retired before July 1, 1973, and who is receiving a service annuity as of that date shall have such service annuity adjusted by the increase in the cost of living as determined by the difference between the Consumers Price Index for Urban Wage Earners and Clerical Workers from the date the service annuity commenced and July 1, 1973, except that such annuity shall not exceed three dollars and fifty cents monthly per year of service based on the same number of years of service that is currently being used to determine his or her service annuity. Such increased service annuity shall commence on July 1, 1973.

(2) Under such rules and regulations as the board may adopt and promulgate, an employee, upon rejoining the system or first becoming a member, may receive credit for not to exceed ten years of creditable teaching service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to section 79-1033 if such member shall have paid into the school retirement system of the State of Nebraska an amount equal to the required deposits he or she would have paid had he or she been employed in this state, plus the interest which would have accrued on such amount, within three years after membership or reinstatement in the retirement system begins.

(3) A member who retires as a school employee of this state shall not receive credit for time in service outside of this state or in a school in this state covered by the school retirement system established pursuant to section 79-1033 in excess of the time he or she has been in service as a school employee in this state. In order to receive such out-of-state credit such member shall be employed as a school employee in this state at the time of his or her retirement.

(4) For a beneficiary who is employed as a public school substitute employee for more than seventy-five per cent of the instructional hours in any school year, the state service annuity shall be reduced

by fifty per cent. A person receiving a retirement benefit may waive the payments and return to regular employment in a public school of this state if the beneficiary shall notify the retirement board in advance of the time and place of such employment. This notice shall be in writing upon forms prescribed by the retirement board. Any person collecting retirement payments without filing such notice shall be subject to a withholding of future retirement benefits equal to twice the amount collected after being regularly employed. The amount of individual service annuity for a part-time employee shall be determined on a proportional basis.

(5) Under such rules and regulations as the board may adopt and promulgate, any member who was away from his or her position while on a leave of absence from such position authorized by the school board or board of education of the school district by which he or she was employed at the time of such leave of absence or pursuant to any contractual agreement entered into by such school district may receive credit for such time as he or she was on leave of absence. Such credit shall increase the benefits provided by the retirement system and shall be included in creditable service when determining eligibility for death, disability, termination, and retirement benefits. The member who receives the credit shall earn benefits during the leave based on salary at the level received immediately prior to the leave of absence. Such credit shall be allowed if such member shall have paid into the system an amount equal to the sum of the deductions from his or her salary and any contribution which the school district would have been required to make had he or she continued to receive salary at the level received immediately prior to the leave of absence, with such deposits plus interest which would have accrued on such deposits to be paid as the board may direct within three years of the termination of his or her leave of absence. Leave of absence shall be construed to include, but not be limited to, sabbaticals, maternity leave, exchange teaching programs, full-time leave as an elected official of a professional association or collective-bargaining unit, or leave of absence to pursue further education or study. A leave of absence granted pursuant to this subsection shall not exceed four years in length and in order to receive credit for the leave of absence the member must return to employment with a school district, other than a Class V school district, in the state within one year after

termination of the leave of absence.

(6) From January 1, 1987, to June 30, 1988, any person who was a school employee in (a) another state or (b) a school in this state covered by the school retirement system established pursuant to section 79-1033 prior to April 20, 1986, and has joined or rejoined the school retirement system of the State of Nebraska may elect to pay the retirement system for up to ten years of service which he or she accumulated in such other state or retirement system. The amount to be paid shall not exceed the contribution which would have been paid into the school retirement system of the State of Nebraska based on the salary and years of service out of state or under the school retirement system established pursuant to section 79-1033 earned by the school employee, as verified by officials of the other state or retirement system, plus the interest which would have accrued on such amount under the school retirement system of the State of Nebraska. Any person who pays such amount shall be given credit for any number of years of service which he or she has elected to pay for, not to exceed ten years of service rendered as a school employee in such other state or retirement system, and shall be given the same status as though he or she had been a member of the school retirement system of the State of Nebraska for such number of years. This subsection shall not apply to school employees retiring prior to April 20, 1986.

Sec. 8. That section 79-1522.01, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1522.01. In lieu of the school retirement allowance provided by section 79-1522, any member who is not an employee of a Class I, II, III, IV, or V school district and who becomes eligible to make application for and receive a school retirement allowance under ~~sections~~ section 79-1520 and 79-1521 may ~~elect to~~ receive a formula annuity retirement allowance.

Subject to the other provisions of this section, the monthly formula annuity in the normal form shall be determined by multiplying the number of years of service for which such member would otherwise receive the service annuity provided by section 79-1522 (1) by one and one-quarter per cent of his or her final average compensation, (2) by one and one half per cent of his or her final average compensation, or (3) by one and sixty-five hundredths per cent of his or her final average compensation. If the annuity begins prior to the sixty-fifth birthday of the member, the annuity at

the date it begins shall be reduced by three per cent for each year after the member's sixtieth birthday and prior to his or her sixty-fifth birthday. A member must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using one and one-quarter per cent of his or her final average compensation as one of the factors, must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following July 17, 1982, to be eligible for computation of his or her formula annuity using one and one half per cent of his or her final average compensation as one of the factors, or must have acquired the equivalent of one half year of service or more as a public school employee under the school retirement system following July 1, 1984, to be eligible for computation of his or her formula annuity using one and sixty-five hundredths per cent of his or her final average compensation as one of the factors.

The normal form of the formula annuity shall be an annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments shall be continued to his or her estate or to such beneficiary as he or she shall have designated until sixty monthly payments have been made. A member may elect to receive in lieu of the normal form of annuity an actuarially equivalent annuity in any optional form provided by section 79-1530.

Final average compensation for full-time employees shall be determined by dividing the member's total compensation subject to required deposits for the three fiscal years in which such compensation was the highest by thirty-six. Final average compensation for part-time employees shall be determined by dividing total adjusted compensation subject to required deposits for the three fiscal years in which such adjusted compensation was the highest by thirty-six. If a member has such compensation for less than three such fiscal years his or her final average compensation shall be determined by dividing his or her total compensation in all such years by twelve times the total number of years of his or her service therefor. Adjusted compensation for any year shall be equal to actual pay times the ratio of one to the actual credited service for such year. A member must have acquired the equivalent of one half year of service or more as a public school employee

under the school retirement system following August 24, 1975, to be eligible for computation of his or her formula annuity using only five fiscal years in the determination of his or her final average compensation.

All formula annuities shall be paid from the Annuity Reserve Fund. Upon the granting of a formula annuity, there shall be transferred to the Annuity Reserve Fund: (a) From the Service Annuity Fund, the value of the service annuity which would otherwise be payable; (b) from the School Employees' Savings Fund, the accumulated contributions of the member; and (c) from the School Employer's Deposit Fund, the value of the formula annuity in excess of the amounts transferred from the Service Annuity Fund and the School Employees' Savings Fund.

For the purpose of providing the funds to be transferred from the School Employer's Deposit Fund for formula annuities, every employer shall be required to make deposits in the School Employer's Deposit Fund. Such deposits shall be a uniform percentage of the required contributions of the school employees of each employer and shall be transmitted to the retirement board at the same time and in the same manner as such required employee contributions. In the fiscal year commencing July 1, 1968, such uniform percentage shall be twenty per cent of the required school employee contributions. For each fiscal year thereafter, such uniform percentage shall be determined by the retirement board upon recommendation of the actuary and shall be determined by deducting from the then present value of all future amounts to be transferred from the School Employer's Deposit Fund the amount then credited to such fund and dividing the remainder by the present value of the prospective future required contributions of all employees of the school districts covered by this section.

Sec. 9. That section 79-1523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1523. A member shall be retired on account of disability, either upon his or her own application or the application of his or her employer or a person acting in his or her behalf, if ; ~~PROVIDED~~; that a medical examination, made at the expense of the retirement system and conducted by a competent disinterested physician who is duly licensed to practice medicine in this state; selected by the retirement board, shows and the physician certifies to the retirement board that the ~~said~~ member is physically or

mentally incapacitated for the further performance of duty as a school employee and ought to be retired. The member shall have one year from the date of his or her retirement in which to make application for disability retirement benefits. Any application for retirement on account of disability shall be made on an application form provided by the retirement system.

Sec. 10. That section 79-1528, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1528. (1) Should a member die before retirement, his or her accumulated contributions shall be paid to his or her estate or to such person as he or she shall have nominated by written designation duly executed and filed with the retirement board. If no legal representatives or beneficiary designated in writing shall apply for his or her accumulated contributions within five years following (a) his or her sixty-fifth birthday if death occurred prior to such date or (b) the date of his or her death if death occurred after his or her sixty-fifth birthday, they shall be forfeited to the retirement system and credited to the Contingent Fund at that time.

(2) When the deceased member has not less than twenty years of creditable service, regardless of age, and leaves a surviving spouse who has been designated in writing as beneficiary and who, as of the date of the member's death, is the sole surviving primary beneficiary, such beneficiary may elect, within sixty ninety days after the death of the member, to receive the member's accumulated contributions in one lump sum. If no election is made, there shall be paid to such surviving spouse a monthly annuity for life. The amount of such an annuity which shall be equal to the amount that would have accrued to the member had he or she elected to have the retirement annuity paid as a joint and survivor annuity payable as long as either the member or the member's spouse should survive and had the member retired (a) on the date of death if his or her age at death is sixty-five or more or (b) at age sixty-five if his or her age at death is less than sixty-five. If such option is not exercised by such spouse within ninety days of the member's death, if no spouse survives, or if the member has not served for twenty years, then the beneficiary or the estate, if the member has not filed a written statement with the board naming a beneficiary, shall be paid a lump sum equal to all contributions to the fund made by such member plus regular interest. of the annuity which would have been

paid had the deceased member retired on the date of death and elected to have his or her retirement annuity paid as a joint and survivor annuity payable as long as either the member or the member's spouse should survive. If the surviving spouse is not the sole surviving primary beneficiary as of the date of the member's death, the member's accumulated contributions shall be paid to his or her surviving primary beneficiary or beneficiaries as of such date or, in the absence of any surviving designated beneficiary, to his or her estate.

Sec. 11. That section 79-1529, Revised Statutes Supplement, 1986, be amended to read as follows:

79-1529. If any member ceases to be a school employee for any reason other than death, before qualifying for retirement under ~~sections~~ section 79-1520, ~~and 79-1521~~, the board shall, upon request, issue him or her a certified service record and statement of accumulated contributions and retain such member's accumulated contributions. In such event, no further contributions shall be required, interest on accumulated contributions shall continue to be credited to his or her account, and none of the member's retirement rights shall be canceled. At age sixty-five such member shall become eligible to the retirement allowance provided in sections 79-1522 and 79-1522.01. Any deferred formula annuity provided shall be based on the member's salary preceding the date of termination as if the member had retired on his or her date of termination. At the option of the terminating member, such annuity may commence at any time after such member attains the age of sixty and before his or her sixty-fifth birthday and shall be reduced by the percentages prescribed in section 79-1522.01. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments.

Sec. 12. That section 79-1546, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1546. The School Employees' Savings Fund shall be the fund in which the required deposits from the compensation of members to provide savings annuities shall be accumulated. The accumulated contributions of a member, returned to him or her upon his or her withdrawal from membership or paid to his or her estate or designated beneficiary in the event of his or her death as provided in ~~sections 79-1501 to 79-1557~~ section 79-1528, shall be paid from the School Employees' Savings Fund. Any accumulated contributions forfeited

shall be transferred from the School Employees' Savings Fund to the Contingent Fund. The accumulated contributions of a member shall be transferred from the School Employees' Savings Fund to the Annuity Reserve Fund in the event of his or her retirement on a school retirement allowance, a disability retirement allowance, or a formula annuity retirement allowance.

Sec. 13. That section 84-1332, Revised Statutes Supplement, 1986, be amended to read as follows:

84-1332. (1) Any city or county employee who is a member under a city or county employees' retirement system, including retirement systems authorized by section 23-1118, and whose status as a city or county employee is changed by the Legislature to that of a state employee shall, upon application to the Public Employees Retirement Board and to the city or county, or to the county board of a county having a retirement system authorized by section 23-1118, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have been accrued to the date of transfer, except that the employee may withdraw the amount in his or her employee account prior to his or her retirement as provided in section 84-1321. Each employee's service as a city or county employee, after he or she has attained the minimum age required under the State Employees Retirement System and has completed two years of service, shall be credited as though it were participation in the State Employees Retirement System for purposes of calculating the termination benefits established by section 84-1321. Such service shall be counted as state service for purposes of calculating entitlement to retirement benefits under section 84-1319.

(2) Any city or county employee whose status as a city or county employee is or has been changed by the Legislature to that of a state employee shall be eligible for immediate participation in the State Employees Retirement System with no minimum period of service required if the minimum age requirement of the State Employees Retirement System is satisfied, or, if the minimum age requirement is not satisfied on the date of transfer, the employee shall be eligible to participate at the date he or she satisfies the minimum age requirement.

Sec. 14. That section 84-1503, Revised Statutes Supplement, 1986, be amended to read as follows:

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

(a) To administer the retirement systems provided for in sections 23-2301 to 23-2331, 24-701 to ~~24-714~~ 24-733, 50-901 to 50-919, 79-1501 to ~~79-1557~~ 79-1565, 81-2014 to 81-2034, and 84-1301 to 84-1331;

(b) To hire a director to administer the systems under direction of the board. The director shall not be a member of the board. Salaries of the director and his or her employees shall be set by the board; and

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

(d) To administer the deferred compensation program authorized in section 84-1504.

(2) In administering the retirement system provided for in sections 23-2301 to 23-2331 systems listed in subdivision (1)(a) of this section, it shall be the duty of the board:

(a) To use the services of the state investment officer or to select, on the basis of the most sound proposal or proposals received, after written notice of such proposition to all domestic companies, one or more life insurance companies, banks, trust companies, or investment managers authorized to do business in Nebraska to underwrite, serve as trustee, or manage investments for the retirement system; and to enter into a contract or contracts with such company or companies in the name of the retirement system, except that if a bank, trust company, or investment manager is chosen as the primary carrier or investment manager the funds shall be invested or reinvested in such securities and investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another, and; if the life insurance company, bank, trust company, or investment manager has special skills or is named on the basis of representations of special skills or expertise, it is under a duty to use such skills;

(b) To change underwriters, trustees, or investment managers if, in the judgment of the board, such action would be desirable. The cancellation notice may be given by telephone and shall be confirmed in writing within five days by the board or a designated person appointed by the board;

(c) To determine the prior service annuity, if any, for each person who shall be an employee of the county on the date of adoption of the retirement system;

(d) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the county board in his or her county;

(e) To adopt and promulgate rules and regulations for the management of the board;

(f) To keep a complete record of all proceedings taken at any meeting of the board; and

(g) To employ such actuarial and other assistance as may be necessary in the performance of its duties.

(3) It shall be the duty of such board to have an analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. Such analysis shall be prepared as of January 1, 1984, and each four years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system. The analysis may be waived by the board for any retirement system with assets of less than ten million dollars.

(4) In administering the retirement system provided for in sections 84-1301 to 84-1331, it shall be the duty of the board-

(a) To select, on the basis of the most sound proposal or proposals received, after written notice of such proposition, one or more investment managers authorized to do business in Nebraska to underwrite or serve as trustee for the retirement system; and to enter into a contract or contracts with such company or companies in the name of the state employees' retirement system. If a life insurance company, bank, trust company, or other investment manager is chosen as the manager, the funds shall be invested or reinvested in such securities and investments of the nature which individuals of prudence, discretion, and intelligence acquire or retain in dealing with the property of another and, if the life insurance company, bank, trust company, or investment manager has special skills or is named on the basis of representations of special skills or expertise, it is under a duty to use such skills. As an alternative method of providing funding for benefits

paid under sections 84-1301 to 84-1331, the board may commit all or any part of the retirement funds to the state investment officer for investment pursuant to the authority granted in sections 72-1237 to 72-1269. The state investment officer shall be trustee of the funds so committed and shall administer the funds for the benefit of the retirement system, and

(b) To change underwriters or trustees if, in the judgment of the board, such action would be desirable. The cancellation notice may be given by telephone and shall be confirmed in writing within five days by the board or a designated person appointed by the board.

Sec. 15. That section 84-1504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1504. The Public Employees Retirement Board, on behalf of the state, may contract with any state or county employee or with any judge who is not a state employee, including a person under contract providing services to the state or county who is not employed by the University of Nebraska, or any of the state colleges, or technical community colleges, to defer a portion of such employee's income and may, subsequently, with the consent of the employee, purchase a life insurance or fixed or variable annuity contract, for the purpose of funding a deferred compensation plan for the employee, from any insurance company licensed to do business in the state. The employing agency of any judge who is not a state employee and who elects to participate in the deferred compensation program as authorized in sections 84-1504 to 84-1506 is hereby authorized to transfer such funds as are necessary to implement the provisions of sections 84-1504 to 84-1506 to the Deferred Compensation Fund. The total of the premiums paid for the purchase of such life insurance contract or annuity contract and the employee's nondeferred income for any year shall not exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to such employee in such year limit or limits established by the Internal Revenue Service for such plan. The deferred compensation program shall exist and serve in addition to, and shall not be a part of, any existing retirement or pension system provided for state or county employees or any other benefit program. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension contributions made

or benefits earned by any employee. Any sum so deferred shall not be included in the computation of any taxes withheld on behalf of any such employee.

Sec. 16. That section 84-1510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1510. The agreement authorized by section 84-1509 shall provide:

(1) That the carrier shall make all disbursements under the contract or contracts issued by it, such disbursements to be made in such manner and amounts as directed by the state whether on account of retirement, termination of services, total disability, or death;

(2) That the carrier, based on information supplied by the state, shall compute and deduct from disbursements all state and federal income taxes, forwarding the proceeds of such deductions to the state for consolidation with other deposits and reports being made to the applicable taxing authority;

(3) That the carrier shall include with each disbursement a statement showing the gross payment, any taxes withheld, and the net amount paid and an annual statement of account;

(4) (3) That the carrier shall furnish to the board a monthly statement of all disbursements and withholdings as stipulated in the agreement;

(5) (4) Hold-harmless clauses protecting each party thereto from the negligent acts of the other or for any loss or claim against one party resulting from release of incorrect or misleading information furnished by the other party;

(6) (5) For the right of the state, either directly or through independent auditors, to examine and audit the carrier's records and accounts relating to disbursements made under the agreement;

(7) (6) Protection to the state against assignment of the agreement or the subletting of work done or services furnished under the agreement;

(8) (7) For termination of the agreement; and

(9) (8) Such other terms as may be agreed upon and which the board determines to be in the best interest of the state and its participating employees.

Sec. 17. That original sections 79-1509, 79-1520, 79-1523, 79-1546, 84-1504, and 84-1510, Reissue Revised Statutes of Nebraska, 1943, and sections 79-1501, 79-1512, 79-1521 to 79-1522.01, 79-1528, 79-1529, 84-1332, and 84-1503, Revised Statutes Supplement, 1986, and also sections 79-1509.04 and

79-1555, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 18. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.