

LEGISLATIVE BILL 551

Approved by the Governor April 6, 1988

Introduced by Goodrich, 20; Hartnett, 45

AN ACT relating to school retirement; to amend sections 79-1032, 79-1043, 79-1045, 79-1048, 79-1049, 79-1049.04, and 79-1501, Reissue Revised Statutes of Nebraska, 1943; to define and redefine terms; to provide credit for prior service for certain members as prescribed; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. On or before May 27, 1988, any person who was an employee of an educational service unit in the State of Nebraska prior to the effective date of this act, has joined or rejoined the retirement system, and has not previously paid into the retirement system a total of ten years of service in another school district or educational service unit may elect to pay the retirement system any unpaid portion of such service up to a total of ten years. Such electing employee shall furnish satisfactory proof that he or she has been employed for such period of time by an educational service unit and shall pay to the retirement system the total amount which he or she would have contributed to the retirement system had he or she been a member of the retirement system plus the regular interest which would have accrued on such amount during such period under the retirement system. Such contribution shall be based on the most recent years' salary the employee earned in the educational service unit if the salary is verified by the educational service unit or, if not, on his or her annual salary at the time he or she became a member and shall be payable in total for the period of time, not exceeding ten years, for which such member requests such prior service credit. 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 an employee in another school district or educational service unit, and shall be given the same status as though he or she had been a member of the retirement system for such number of years except as otherwise specifically provided in sections 79-1032 to 79-1060. This section shall not apply to

employees retiring prior to the effective date of this act.

Sec. 2. That section 79-1032, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1032. As used in sections 79-1032 to 79-1060 and section 1 of this act, unless the context otherwise requires:

(1) Retirement system or system shall mean the School Employees' Retirement System of the School District of (name of city) as provided for in sections 79-1032 to 79-1060 and section 1 of this act;

(2) Board shall mean the board of education of the school district;

(3) Trustee shall mean the trustees provided for in section 79-1034;

(4) Employee shall mean the following enumerated persons receiving compensation from the school district: (a) Regular teachers and administrators employed on a written contract basis; and (b) regular employees, not teachers, hired upon a full-time basis, which basis shall contemplate a work week of not less than thirty hours;

(5) Member shall mean any employee included in the membership of the retirement system or any former employee who shall have made contributions to the system and shall not have received a refund;

(6) Annuitant shall mean any member receiving an allowance;

(7) Beneficiary shall mean any person entitled to receive or receiving a benefit by reason of the death of a member;

(8) Membership service shall mean service on or after September 1, 1951, as an employee of the school district and a member of the system for which compensation is paid by the district;

(9) Prior service shall mean service rendered prior to September 1, 1951, for which credit is allowed under section 79-1044, service rendered by retired employees receiving benefits under preexisting systems, and service for which credit is allowed under sections 79-1043, 79-1045, 79-1049.02, and 79-1049.03 and section 1 of this act;

(10) Creditable service shall mean the sum of the membership service and the prior service;

(11) Compensation shall mean salary or wages payable by the district;

(12) Military service shall mean service in the United States Army, Navy, Marine Corps, Air Force,

Coast Guard, or any women's auxiliary thereof;

(13) Accumulated contributions shall mean the sum of amounts contributed by a member of the system together with regular interest credited thereon;

(14) Regular interest shall mean interest (a) on the total contributions of the member prior to the close of the last preceding fiscal year, (b) compounded annually, and (c) at rates to be determined annually by the board, which shall have the sole, absolute, and final discretionary authority to make such determination, except that the rate for any given year in no event shall exceed the actual percentage of net earnings of the system during such year;

(15) Retirement date shall mean the date of retirement of a member for service or disability as fixed by the board;

(16) Normal retirement date shall mean the end of the fiscal year during which the member attains age sixty-five;

(17) Early retirement date shall mean that month and year selected by a member having at least ten years of creditable service which includes a minimum of five years of membership service and who has attained age fifty-five;

(18) Retirement allowance shall mean the total annual retirement benefit payable to a member for service or disability;

(19) Annuity shall mean annual payments, for both prior service and membership service, for life as provided in sections 79-1032 to 79-1060 and section 1 of this act;

(20) Actuarial tables shall mean:

(a) For retirement allowances at an early retirement date, a unisex mortality table using thirty percent of the male mortality and seventy percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually; and

(b) For joint and survivorship annuities, a unisex retiree mortality table using sixty-five percent of the male mortality and thirty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback and using an interest rate of five and seventy-five hundredths percent compounded annually and a unisex joint annuitant mortality table using thirty-five percent of the male mortality and sixty-five percent of the female mortality from the 1951 Group Annuity Mortality Table with a One Year Setback

and using an interest rate of five and seventy-five hundredths percent compounded annually;

(21) Actuarial equivalent shall mean the equality in value of the retirement allowance for early retirement or the retirement allowance for a joint and survivorship annuity, or both, with the normal form of the annuity to be paid, as determined by the application of the appropriate actuarial table, except that use of such actuarial tables shall not effect a reduction in benefits accrued prior to September 1, 1985, as determined by the actuarial tables in use prior to such date;

(22) Withdrawal from service shall mean complete severance of employment of a member as an employee of the district by resignation, discharge, or dismissal; and

(23) Fiscal year shall mean the period beginning September 1 in any year and ending on August 31 of the next succeeding year.

Sec. 3. That section 79-1043, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1043. (1) Any member who was or shall be drafted or shall have enlisted in the Army, Navy, Marine Corps, Air Force, Coast Guard, or any other armed service of the United States or any women's auxiliary thereof during time of war or who shall have been inducted into the armed forces of the United States during time of peace may pay to the system, within three years from the date of his or her return from active military service, an amount equal to the sum of all deductions which would have been made from the salary which he or she would have received during the first, not to exceed three, years of military service, plus regular interest thereon as defined in section 79-1032 from the date such regular deductions would have been made to the date of repayment. If such payment be made, the board shall pay simultaneously to the system a like amount, whereupon the member shall be entitled to credit for membership service for the period for which contributions shall have been made.

(2) Under such rules and regulations as the board may prescribe, 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 time 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 received 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, and regular interest on these combined payments from the date such deductions would have been made to the date of repayment, with 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 section 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 the Class V school district within one year after termination of the leave of absence.

Sec. 4. That section 79-1045, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1045. In the event that any employee shall become a member without prior service credit, prior service credit for a period of not to exceed ten years may be acquired by furnishing satisfactory proof that the employee has been employed for such period of time by a school district or by a Nebraska educational service unit and by the payment by the member of the total amount, which he or she would have contributed to the system had he or she been a member of the system during such period, together with regular interest thereon, as defined in section 79-1032, such contribution to be based on the most recent years' salary the employee earned in another school district or Nebraska educational service unit if the salary is verified by the other school district or Nebraska educational service unit or, if not, on his or her current annual salary at the time he or she becomes a member and payable in total for the period of time, not

exceeding ten years, for which such member requests such prior service credit, and by the payment into the fund by the school district of an equivalent amount. These amounts may be paid in installments over a period of not to exceed two years from date of membership. Interest on delayed payments shall be at the rate of regular interest, as defined in section 79-1032-

Sec. 5. That section 79-1048, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1048. (1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-1043, 79-1045, 79-1049.02, or 79-1049.03 or section 1 of this act, who shall have become totally disabled for further performance of duty may be retired by the board. In the case of such retirement, the amount of annuity payable to the member shall be the annuity earned to date of disability retirement, except that payments for disability shall be reduced by the amount of any periodical payments to such employee as workers' compensation benefits. The board shall consider a member to be totally disabled when it shall have received an application by the member and a statement by at least two licensed and practicing physicians designated by the board certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) The disability benefit, referred to in subsection (1) of this section, shall begin to accrue from the date of the first of the two examinations by which the member is determined to be totally disabled, shall be payable during the time the member shall not receive any wages or compensation for services, and shall continue until the time any one of the following events first occurs: (a) When disability ceases; (b) the normal retirement date; or (c) the member has been found to be engaged in gainful employment from which he or she has received more than one hundred dollars per month. The board may require periodical proof of disability and unemployment or permissible employment, but not more frequently than semiannually. Any member whose disability benefits shall cease because of such member having reached the normal retirement date shall upon such date be entitled to the retirement allowance without reduction for amounts paid on account of disability, but without credit for service during the period of disability.

Sec. 6. That section 79-1049, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

79-1049. A member who has five years or more of creditable service, excluding years of prior service acquired pursuant to section 79-1043, 79-1045, 79-1049.02, or 79-1049.03 or section 1 of this act, and who shall sever his or her employment may elect to leave his or her contributions in the system, in which event he or she shall receive a retirement allowance at normal retirement age based on the annuity earned to the date of such severance. Such member may elect to receive a retirement allowance at early retirement age if such member retires at an early retirement date. qualifies for early retirement as defined in section 79-1032- Such annuity shall be adjusted in accordance with section 79-1044.01. Upon the severance of employment, except on account of retirement, a member shall be entitled to receive refunds as follows: (1) An amount equal to the accumulated contributions to the system by the member; and (2) any contributions made to a previously existing system which were refundable under the terms of that system. Any member receiving a refund of contributions shall thereby forfeit and relinquish all accrued rights in the retirement system including all accumulated creditable service, except that if any member who has withdrawn his or her contributions as provided in this section shall reenter the service of the district and again become a member of the system, he or she may restore all money previously received by him or her as a refund, including the regular interest for the period of his or her absence from the district's service, and he or she shall then again receive credit for service which he or she forfeited by the acceptance of such refund. Such restoration can be made in equal installments over a period of not to exceed two years from the date of reemployment. Interest on delayed payments shall be at the rate of regular interest, as defined in section 79-1032-

Sec. 7. That section 79-1049.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1049.04. (1) The payments provided for by sections 79-1049.01 and 79-1049.02 and section 1 of this act may be made in equal installments over a period of not to exceed two years from the date of the election to make such payments. The payments provided for by section 79-1049.03 may be made in equal installments over a period of not to exceed three years from the date of election to make such payments. Any person who

elects to make payments on an installment basis shall be credited with prior service only in six-month increments and only after payment has been made to the retirement system to purchase each additional six-month increment.

(2) Interest on delayed payments shall be at the rate of regular interest, as defined in section 79-1032-

Sec. 8. Under such rules and regulations as the board may adopt and promulgate, any person who was employed by a public school prior to reaching the age of twenty-one years and who became a member of the retirement system upon reaching the age of twenty-one years may elect to receive credit for the years of service prior to his or her twenty-first birthday if such school employee, within three years of the effective date of this act, pays into the retirement system an amount equal to the required deposits he or she would have paid had he or she joined the retirement system plus interest which would have accrued on the amount. This section shall not apply to school employees retiring prior to the effective date of this act.

Sec. 9. Under such rules and regulations as the board may adopt and promulgate, any person who was employed (1) by a public school in the District of Columbia, (2) in an overseas dependent school, (3) in an Indian school, or (4) in a teacher exchange program may elect to receive credit for up to ten years of service in such school if such school employee, within three years of the effective date of this act, pays into the retirement system an amount equal to the required deposits he or she would have paid had he or she been able to join the retirement system plus interest which would have accrued on the amount. This section shall not apply to school employees retiring prior to the effective date of this act.

Sec. 10. That section 79-1501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1501. As used in sections 79-1501 to 79-1557 and sections 8 and 9 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 and sections 8 and 9 of this act;

(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 a contributing member who acquires five hundred sixteen hours or more of service in a fiscal year and thereby earns one-half year of service credit. A contributing member who acquires one thousand thirty-two hours or more of service in a fiscal year shall earn one year of service credit. As used in this subdivision, contributing member 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 and sections 8 and 9 of this act;

(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 percent 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 section 79-1520. 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 and sections 8 and 9 of this act, 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;

(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 percent of the male table and seventy-five percent of the female table. An interest rate of seven percent per annum shall be reflected in making these determinations;

(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. 11. That original sections 79-1032, 79-1043, 79-1045, 79-1048, 79-1049, 79-1049.04, and 79-1501, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.