

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 306

Introduced by Nordquist, 7.

Read first time January 17, 2013

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the Judges Retirement Act; to amend sections
2 24-703 and 24-710.13, Revised Statutes Cumulative
3 Supplement, 2012; to change provisions related to
4 retirement plans funding; to change judges' contribution
5 as prescribed; to eliminate obsolete language; to provide
6 an operative date; to repeal the original sections; and
7 to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-703, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 24-703 (1) Each original member shall contribute monthly
4 four percent of his or her monthly compensation to the fund until the
5 maximum benefit as limited in subsection (1) of section 24-710 has
6 been earned. It shall be the duty of the Director of Administrative
7 Services in accordance with subsection (10) of this section to make a
8 deduction of four percent on the monthly payroll of each original
9 member who is a judge of the Supreme Court, a judge of the Court of
10 Appeals, a judge of the district court, a judge of a separate
11 juvenile court, a judge of the county court, a clerk magistrate of
12 the county court who was an associate county judge and a member of
13 the fund at the time of his or her appointment as a clerk magistrate,
14 or a judge of the Nebraska Workers' Compensation Court showing the
15 amount to be deducted and its credit to the fund. The Director of
16 Administrative Services and the State Treasurer shall credit the four
17 percent as shown on the payroll and the amounts received from the
18 various counties to the fund and remit the same to the director in
19 charge of the judges retirement system who shall keep an accurate
20 record of the contributions of each judge.

21 (2)(a) In addition to the contribution required under
22 subdivision (c) of this subsection, beginning on July 1, 2004, each
23 future member who has not elected to make contributions and receive
24 benefits as provided in section 24-703.03 shall contribute monthly
25 six percent of his or her monthly compensation to the fund until the

1 maximum benefit as limited in subsection (2) of section 24-710 has
2 been earned. After the maximum benefit as limited in subsection (2)
3 of section 24-710 has been earned, such future member shall make no
4 further contributions to the fund, except that (i) any time the
5 maximum benefit is changed, a future member who has previously earned
6 the maximum benefit as it existed prior to the change shall
7 contribute monthly six percent of his or her monthly compensation to
8 the fund until the maximum benefit as changed and as limited in
9 subsection (2) of section 24-710 has been earned and (ii) such future
10 member shall continue to make the contribution required under
11 subdivision (c) of this subsection.

12 (b) In addition to the contribution required under
13 subdivision (c) of this subsection, beginning on July 1, 2004, a
14 judge who first serves as a judge on or after such date or a future
15 member who elects to make contributions and receive benefits as
16 provided in section 24-703.03 shall contribute monthly eight percent
17 of his or her monthly compensation to the fund until the maximum
18 benefit as limited by subsection (2) of section 24-710 has been
19 earned. In addition to the contribution required under subdivision
20 (c) of this subsection, after the maximum benefit as limited in
21 subsection (2) of section 24-710 has been earned, such judge or
22 future member shall contribute monthly four percent of his or her
23 monthly compensation to the fund for the remainder of his or her
24 active service.

25 (c) Beginning on July 1, 2009, ~~and until July 1, 2014,~~ a

1 member or judge described in subdivisions (a) and (b) of this
2 subsection shall contribute monthly an additional one percent of his
3 or her monthly compensation to the fund.

4 (d) It shall be the duty of the Director of
5 Administrative Services to make a deduction on the monthly payroll of
6 each such future member who is a judge of the Supreme Court, a judge
7 of the Court of Appeals, a judge of the district court, a judge of a
8 separate juvenile court, a judge of the county court, a clerk
9 magistrate of the county court who was an associate county judge and
10 a member of the fund at the time of his or her appointment as a clerk
11 magistrate, or a judge of the Nebraska Workers' Compensation Court
12 showing the amount to be deducted and its credit to the fund. This
13 shall be done each month. The Director of Administrative Services and
14 the State Treasurer shall credit the amount as shown on the payroll
15 and the amounts received from the various counties to the fund and
16 remit the same to the director in charge of the judges retirement
17 system who shall keep an accurate record of the contributions of each
18 judge.

19 (3) Except as otherwise provided in this subsection, a
20 Nebraska Retirement Fund for Judges fee of five dollars shall be
21 taxed as costs in each (a) civil cause of action, criminal cause of
22 action, traffic misdemeanor or infraction, and city or village
23 ordinance violation filed in the district courts, the county courts,
24 and the separate juvenile courts, (b) filing in the district court of
25 an order, award, or judgment of the Nebraska Workers' Compensation

1 Court or any judge thereof pursuant to section 48-188, (c) appeal or
2 other proceeding filed in the Court of Appeals, and (d) original
3 action, appeal, or other proceeding filed in the Supreme Court.
4 Beginning on July 1, 2009, and until July 1, 2014, such fee shall be
5 six dollars. In county courts a sum shall be charged which is equal
6 to ten percent of each fee provided by sections 33-125, 33-126.02,
7 33-126.03, and 33-126.06, rounded to the nearest even dollar. No
8 judges retirement fee shall be charged for filing a report pursuant
9 to sections 33-126.02 and 33-126.06. When collected by the clerk of
10 the district or county court, such fees shall be paid and information
11 submitted to the director in charge of the judges retirement system
12 on forms prescribed by the board by the clerk within ten days after
13 the close of each calendar quarter. The board may charge a late
14 administrative processing fee not to exceed twenty-five dollars if
15 the information is not timely received or the money is delinquent. In
16 addition, the board may charge a late fee of thirty-eight thousandths
17 of one percent of the amount required to be submitted pursuant to
18 this section for each day such amount has not been received. Such
19 director shall promptly thereafter remit the same to the State
20 Treasurer for credit to the fund. No Nebraska Retirement Fund for
21 Judges fee which is uncollectible for any reason shall be waived by a
22 county judge as provided in section 29-2709.

23 (4) All expenditures from the fund shall be authorized by
24 voucher in the manner prescribed in section 24-713. The fund shall be
25 used for the payment of all annuities and other benefits and for the

1 expenses of administration.

2 (5) The fund shall consist of the total fund as of
3 December 25, 1969, the contributions of members as provided in this
4 section, all supplementary court fees as provided in subsection (3)
5 of this section, and any required contributions of the state.

6 (6) Not later than January 1 of each year, the State
7 Treasurer shall transfer to the fund the amount certified by the
8 board as being necessary to pay the cost of any benefits accrued
9 during the fiscal year ending the previous June 30 in excess of
10 member contributions for that fiscal year and court fees as provided
11 in subsection (3) of this section and fees pursuant to sections
12 25-2804, 33-103, 33-103.01, 33-106, 33-106.02, 33-123, 33-125,
13 33-126.02, 33-126.03, and 33-126.06 and directed to be remitted to
14 the fund, if any, for that fiscal year plus any required
15 contributions of the state as provided in subsection (9) of this
16 section.

17 (7) Benefits under the retirement system to members or to
18 their beneficiaries shall be paid from the fund.

19 (8) Any member who is making contributions to the fund on
20 December 25, 1969, may, on or before June 30, 1970, elect to become a
21 future member by delivering written notice of such election to the
22 board.

23 (9) Not later than January 1 of each year, the State
24 Treasurer shall transfer to the fund an amount, determined on the
25 basis of an actuarial valuation as of the previous June 30 and

1 certified by the board, to fully fund the unfunded accrued
2 liabilities of the retirement system as of June 30, 1988, by level
3 payments up to January 1, 2000. Such valuation shall be on the basis
4 of actuarial assumptions recommended by the actuary, approved by the
5 board, and kept on file with the board. For the fiscal year beginning
6 July 1, 2002, and each fiscal year thereafter, the actuary for the
7 board shall perform an actuarial valuation of the system using the
8 entry age actuarial cost method. Under this method, the actuarially
9 required funding rate is equal to the normal cost rate, plus the
10 contribution rate necessary to amortize the unfunded actuarial
11 accrued liability on a level ~~payment~~ percentage of salary basis. The
12 normal cost under this method shall be determined for each individual
13 member on a level percentage of salary basis. The normal cost amount
14 is then summed for all members. ~~The initial unfunded actual accrued~~
15 ~~liability as of July 1, 2002, if any, shall be amortized over a~~
16 ~~twenty five year period. Prior to July 1, 2006, changes in the funded~~
17 ~~actuarial accrued liability due to changes in benefits, actuarial~~
18 ~~assumptions, the asset valuation method, or actuarial gains or losses~~
19 ~~shall be measured and amortized over a twenty five year period~~
20 ~~beginning on the valuation date of such change. Beginning July 1,~~
21 ~~2006, any~~ Any existing unfunded liabilities shall be reinitialized
22 and amortized over a thirty-year period, and during each subsequent
23 actuarial valuation, changes in the funded actuarial accrued
24 liability due to changes in benefits, actuarial assumptions, the
25 asset valuation method, or actuarial gains or losses shall be

1 measured and amortized over a thirty-year period beginning on the
2 valuation date of such change. If the unfunded actuarial accrued
3 liability under the entry age actuarial cost method is zero or less
4 than zero on an actuarial valuation date, then all prior unfunded
5 actuarial accrued liabilities shall be considered fully funded and
6 the unfunded actuarial accrued liability shall be reinitialized and
7 amortized over a thirty-year period as of the actuarial valuation
8 date. If the actuarially required contribution rate exceeds the rate
9 of all contributions required pursuant to the Judges Retirement Act,
10 there shall be a supplemental appropriation sufficient to pay for the
11 differences between the actuarially required contribution rate and
12 the rate of all contributions required pursuant to the Judges
13 Retirement Act.

14 (10) The state or county shall pick up the member
15 contributions required by this section for all compensation paid on
16 or after January 1, 1985, and the contributions so picked up shall be
17 treated as employer contributions in determining federal tax
18 treatment under the Internal Revenue Code as defined in section
19 49-801.01, except that the state or county shall continue to withhold
20 federal income taxes based upon these contributions until the
21 Internal Revenue Service or the federal courts rule that, pursuant to
22 section 414(h) of the code, these contributions shall not be included
23 as gross income of the member until such time as they are distributed
24 or made available. The state or county shall pay these member
25 contributions from the same source of funds which is used in paying

1 earnings to the member. The state or county shall pick up these
2 contributions by a compensation deduction through a reduction in the
3 compensation of the member. Member contributions picked up shall be
4 treated for all purposes of the Judges Retirement Act in the same
5 manner and to the extent as member contributions made prior to the
6 date picked up.

7 Sec. 2. Section 24-710.13, Revised Statutes Cumulative
8 Supplement, 2012, is amended to read:

9 24-710.13 (1) Beginning July 1, 2011, and each July 1
10 thereafter, the board shall determine the number of retired members
11 or beneficiaries described in subdivision (4)(b) of this section in
12 the retirement system and an annual benefit adjustment shall be made
13 by the board for each retired member or beneficiary under one of the
14 cost-of-living adjustment calculation methods found in subsection
15 (2), (3), or (4) of this section. Each retired member or beneficiary,
16 if eligible, shall receive an annual benefit adjustment under the
17 cost-of-living adjustment calculation method that provides the
18 retired member or beneficiary the greatest annual benefit adjustment
19 increase. No retired member or beneficiary shall receive an annual
20 benefit adjustment under more than one of the cost-of-living
21 adjustment calculation methods provided in this section.

22 (2) The current benefit paid to a retired member or
23 beneficiary under this subsection shall be adjusted so that the
24 purchasing power of the benefit being paid is not less than seventy-
25 five percent of the purchasing power of the initial benefit. The

1 purchasing power of the initial benefit in any year following the
2 year in which the initial benefit commenced shall be calculated by
3 dividing the United States Department of Labor, Bureau of Labor
4 Statistics, Consumer Price Index for Urban Wage Earners and Clerical
5 Workers factor on June 30 of the current year by the Consumer Price
6 Index for Urban Wage Earners and Clerical Workers factor on June 30
7 of the year in which the benefit commenced. The result shall be
8 multiplied by the product that results when the amount of the initial
9 benefit is multiplied by seventy-five percent. In any year in which
10 applying the adjustment provided in subsection (3) of this section
11 results in a benefit which would be less than seventy-five percent of
12 the purchasing power of the initial benefit as calculated in this
13 subsection, the adjustment shall instead be equal to the percentage
14 change in the Consumer Price Index for Urban Wage Earners and
15 Clerical Workers factor from the prior year to the current year.

16 (3) The current benefit paid to a retired member or
17 beneficiary under this subsection shall be increased annually by the
18 lesser of (a) the percentage change in the Consumer Price Index for
19 Urban Wage Earners and Clerical Workers for the period between June
20 30 of the prior year to June 30 of the present year or (b) two and
21 one-half percent.

22 (4)(a) The current benefit paid to a retired member or
23 beneficiary under this subsection shall be calculated by multiplying
24 the retired member's or beneficiary's total monthly benefit by the
25 lesser of (i) the cumulative change in the Consumer Price Index for

1 Urban Wage Earners and Clerical Workers from the last adjustment of
2 the total monthly benefit of each retired member or beneficiary
3 through June 30 of the year for which the annual benefit adjustment
4 is being calculated or (ii) an amount equal to three percent per
5 annum compounded for the period from the last adjustment of the total
6 monthly benefit of each retired member or beneficiary through June 30
7 of the year for which the annual benefit adjustment is being
8 calculated.

9 (b) In order for a retired member or beneficiary to
10 receive the cost-of-living adjustment calculation method provided in
11 this subsection, the retired member or beneficiary shall be (i) a
12 retired member or beneficiary who has been receiving a retirement
13 benefit for at least five years if the member had at least twenty-
14 five years of creditable service, (ii) a member who has been
15 receiving a disability retirement benefit for at least five years
16 pursuant to section 24-709, or (iii) a beneficiary who has been
17 receiving a death benefit pursuant to section 24-707 or 24-707.01 for
18 at least five years, if the member's or beneficiary's monthly accrual
19 rate is less than or equal to the minimum accrual rate as determined
20 by this subsection.

21 (c) The monthly accrual rate under this subsection is the
22 retired member's or beneficiary's total monthly benefit divided by
23 the number of years of creditable service earned by the retired or
24 deceased member.

25 (d) The total monthly benefit under this subsection is

1 the total benefit received by a retired member or beneficiary
2 pursuant to the Judges Retirement Act and previous adjustments made
3 pursuant to this section or any other provision of the act that
4 grants a benefit or cost-of-living increase, but the total monthly
5 benefit shall not include sums received by an eligible retired member
6 or eligible beneficiary from federal sources.

7 (e) The minimum accrual rate under this subsection is
8 forty-five dollars and thirty cents until adjusted pursuant to this
9 subsection. Beginning July 1, 2011, the board shall annually adjust
10 the minimum accrual rate to reflect the cumulative percentage change
11 in the Consumer Price Index for Urban Wage Earners and Clerical
12 Workers from the last adjustment of the minimum accrual rate.

13 (5) Beginning July 1, 2011, and each July 1 thereafter,
14 each retired member or beneficiary shall receive the sum of the
15 annual benefit adjustment and such retiree's total monthly benefit
16 less withholding, which sum shall be the retired member's or
17 beneficiary's adjusted total monthly benefit. Each retired member or
18 beneficiary shall receive the adjusted total monthly benefit until
19 the expiration of the annuity option selected by the member or until
20 the retired member or beneficiary again qualifies for the annual
21 benefit adjustment, whichever occurs first.

22 (6) The annual benefit adjustment pursuant to this
23 section shall not cause a current benefit to be reduced, and a
24 retired member or beneficiary shall never receive less than the
25 adjusted total monthly benefit until the annuity option selected by

1 the member expires.

2 (7) The board shall adjust the annual benefit adjustment
3 provided in this section so that the cost-of-living adjustment
4 provided to the retired member or beneficiary at the time of the
5 annual benefit adjustment does not exceed the change in the Consumer
6 Price Index for Urban Wage Earners and Clerical Workers for the
7 period between June 30 of the prior year to June 30 of the present
8 year. If the consumer price index used in this section is
9 discontinued or replaced, a substitute index published by the United
10 States Department of Labor shall be selected by the board which shall
11 be a reasonable representative measurement of the cost-of-living for
12 retired employees.

13 ~~(8) The state shall contribute to the Nebraska Retirement~~
14 ~~Fund for Judges an annual level dollar payment certified by the~~
15 ~~board. For the 2011-12 fiscal year through the 2012-13 fiscal year,~~
16 ~~the annual level dollar payment certified by the board shall equal~~
17 ~~1.04778 percent of six million eight hundred ninety five thousand~~
18 ~~dollars.~~

19 Sec. 3. This act becomes operative on July 1, 2013.

20 Sec. 4. Original sections 24-703 and 24-710.13, Revised
21 Statutes Cumulative Supplement, 2012, are repealed.

22 Sec. 5. Since an emergency exists, this act takes effect
23 when passed and approved according to law.