

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1041

Introduced by Nordquist, 7.

Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to retirement; to amend section 79-933.08,
2 Reissue Revised Statutes of Nebraska, section 79-980,
3 Revised Statutes Cumulative Supplement, 2012, and
4 sections 79-987 and 79-991, Revised Statutes Supplement,
5 2013; to change provisions relating to service credits
6 for school employees; to change provisions relating to
7 the Class V School Employees Retirement Act; to change
8 provisions relating to an annual report; to define a
9 term; to harmonize provisions; to repeal the original
10 sections; and to declare an emergency.

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

1 Section 1. Section 79-933.08, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-933.08 (1) An employer and a school employee who
4 became a member before July 1, 2014, and who has completed at least
5 five years of creditable service plus eligibility and vesting credit
6 or a school employee who became a member for the first time on or
7 after July 1, 2014, who has ten or more years of creditable service
8 may by agreement made in contemplation of retirement, to be effective
9 within twelve months of the agreement, purchase service credit for
10 such employee for not to exceed five years of creditable service.
11 Such an agreement may be executed up to twelve months prior to the
12 employee's retirement date. The agreement shall specify whether the
13 school employee shall pay for the service credits, whether the
14 employer shall pay for the service credits, or whether both the
15 employee and employer shall share the cost of the service credits.
16 Such service credits shall be purchased for an amount equal to the
17 actuarial cost to the retirement system for allowing such additional
18 service credit to the employee.

19 (2) Payment for such service credits shall be completed
20 prior to the employee's termination of employment date and may be
21 made through direct payment, installment payments, or an irrevocable
22 deduction authorization. If payments are made on an installment
23 basis, interest shall be charged at the rate of regular interest.

24 (3) Compensation for the period of service purchased
25 shall not be included in determining the member's final average

1 compensation.

2 (4) The retirement board shall credit funds collected
3 pursuant to this section to the Contingent Account pending the
4 employee's retirement. If the employee does not retire within twelve
5 months after the signing of the agreement made pursuant to this
6 section, such funds shall be refunded, excluding interest earned, and
7 the employee shall not be given credit for the service credit
8 attempted to be purchased.

9 Sec. 2. Section 79-980, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 79-980 (1) At any time that the retirement system
12 consists of only one Class V school district, the general
13 administration of the retirement system is hereby vested in the board
14 of education. The board shall appoint, by a majority of all its
15 members, ten trustees to serve as executive officers to administer
16 the Class V School Employees Retirement Act. Such trustees shall
17 consist of (a) the superintendent of schools, as ex officio trustee,
18 (b) four members of the retirement system, two from the certificated
19 staff, one from the classified staff, and one from the annuitants,
20 (c) three members of the board of education, and (d) two trustees who
21 are business persons qualified in financial affairs and who are not
22 members of the retirement system. The trustees shall serve without
23 compensation, but they shall be reimbursed from the funds of the
24 retirement system for expenses that they may incur through service on
25 the board of trustees as provided in sections 81-1174 to 81-1177. A

1 trustee shall serve until a successor qualifies, except that trustees
2 who are members of the retirement system or members of the board of
3 education shall be disqualified as trustees immediately upon ceasing
4 to be a member of the retirement system or of the board of education.
5 Each trustee shall be entitled to one vote on the board of trustees,
6 and six trustees shall constitute a quorum for the transaction of any
7 business. The trustees who are appointed from the board of education
8 and the membership shall be appointed for each fiscal year. The two
9 trustees who are not members of the board of education or of the
10 retirement system shall be appointed for three fiscal years each. The
11 trustees and the administrator of the retirement system shall
12 administer the retirement system in compliance with the tax-
13 qualification requirements applicable to government retirement plans
14 under section 401(a) of the Internal Revenue Code, as defined in
15 section 49-801.01, including: Section 401(a)(9) of the Internal
16 Revenue Code relating to the time and manner in which benefits are
17 required to be distributed, including the incidental death benefit
18 distribution requirement of section 401(a)(9)(G) of the Internal
19 Revenue Code; section 401(a)(25) of the Internal Revenue Code
20 relating to the specification of actuarial assumptions; section
21 401(a)(31) of the Internal Revenue Code relating to direct rollover
22 distributions from eligible retirement plans; and section 401(a)(37)
23 of the Internal Revenue Code relating to the death benefit of a
24 member whose death occurs while performing qualified military
25 service. No member of the board of education or trustee shall be

1 personally liable, except in cases of willful dishonesty, gross
2 negligence, or intentional violations of law, for actions relating to
3 his or her retirement system duties.

4 (2) At any time that the retirement system consists of
5 more than one Class V school district, the general administration of
6 the retirement system is hereby vested in a Class V Retirement System
7 Board composed of three members of the school board for each
8 participating Class V school district. The board shall appoint, by a
9 majority of all its members, trustees to serve as executive officers
10 to administer the Class V School Employees Retirement Act. Such
11 trustees shall consist of (a) the superintendent of each
12 participating Class V school district, as ex officio trustees, (b)
13 four members of the retirement system, two from the certificated
14 staff, one from the classified staff, and one from the annuitants,
15 (c) three members of the board, and (d) two trustees who are business
16 persons qualified in financial affairs and who are not members of the
17 retirement system. The trustees who are appointed from the board and
18 the membership shall, to the extent feasible, be appointed equally
19 from each participating Class V school district. The trustees shall
20 serve without compensation, but they shall be reimbursed from the
21 funds of the retirement system for expenses that they may incur
22 through service on the board of trustees as provided in sections
23 81-1174 to 81-1177. A trustee shall serve until a successor
24 qualifies, except that trustees who are members of the retirement
25 system or members of the board shall be disqualified as trustees

1 immediately upon ceasing to be a member of the retirement system or
2 of the board. Each trustee shall be entitled to one vote on the board
3 of trustees, and six trustees shall constitute a quorum for the
4 transaction of any business. The trustees who are appointed from the
5 board and the membership shall be appointed for each fiscal year. The
6 two trustees who are not members of the board or of the retirement
7 system shall be appointed for three fiscal years each. The trustees
8 and the administrator of the retirement system shall administer the
9 retirement system in compliance with the tax-qualification
10 requirements applicable to government retirement plans under section
11 401(a) of the Internal Revenue Code, as defined in section 49-801.01,
12 including: Section 401(a)(9) of the Internal Revenue Code relating to
13 the time and manner in which benefits are required to be distributed,
14 including the incidental death benefit distribution requirement of
15 section 401(a)(9)(G) of the Internal Revenue Code; section ~~401(a)(16)~~
16 401(a)(25) of the Internal Revenue Code relating to the specification
17 of actuarial assumptions; section 401(a)(31) of the Internal Revenue
18 Code relating to direct rollover distributions from eligible
19 retirement plans; and section 401(a)(37) of the Internal Revenue Code
20 relating to the death benefit of a member whose death occurs while
21 performing qualified military service. No member of the Class V
22 Retirement System Board or trustee shall be personally liable, except
23 in cases of willful dishonesty, gross negligence, or intentional
24 violations of law, for actions relating to his or her retirement
25 system duties.

1 Sec. 3. Section 79-987, Revised Statutes Supplement,
2 2013, is amended to read:

3 79-987 (1) An annual audit of the affairs of the
4 retirement system shall be conducted. At the option of the board,
5 such audit may be conducted by a certified public accountant or the
6 Auditor of Public Accounts. The costs of such audit shall be paid
7 from funds of the retirement system. A copy of such audit shall be
8 filed with the Auditor of Public Accounts.

9 (2) Beginning ~~March 31, 2012, and each March 31-1, 2015,~~
10 and each March 1 thereafter, if such retirement plan is a defined
11 benefit plan, the ~~trustees~~ board of a retirement system established
12 pursuant to section 79-979 shall cause to be prepared an annual
13 report and the administrator shall file the same with the Public
14 Employees Retirement Board and submit to the members of the Nebraska
15 Retirement Systems Committee of the Legislature a copy of such
16 report. The report submitted to the committee shall be submitted
17 electronically. The report shall consist of a full actuarial analysis
18 of each such retirement plan established pursuant to section 79-979.
19 The analysis shall be prepared by an independent private organization
20 or public entity employing actuaries who are members of the American
21 Academy of Actuaries and meet the academy's qualification standards
22 to render a statement of actuarial opinion, and which organization or
23 entity has demonstrated expertise to perform this type of analysis
24 and is unrelated to any organization offering investment advice or
25 which provides investment management services to the retirement plan.

1 The report shall be presented to the Nebraska Retirement Systems
2 Committee of the Legislature at a public hearing.

3 Sec. 4. Section 79-991, Revised Statutes Supplement,
4 2013, is amended to read:

5 79-991 (1) An employee who becomes a member without prior
6 service credit may purchase prior service credit, not to exceed the
7 lesser of ten years or the member's years of membership service, for
8 the period of service the member was employed by a school district or
9 by an educational service unit and which is not used in the
10 calculation of any retirement or disability benefit having been paid,
11 being paid, or payable in the future to such member under any defined
12 benefit retirement system or program maintained by such other school
13 district or educational service unit. The purchase of prior service
14 credit shall be made in accordance with and subject to the following
15 requirements:

16 (a) A member who desires to purchase prior service credit
17 shall make written application to the administrator of the retirement
18 system that includes all information and documentation determined by
19 the administrator as necessary to verify the member's prior service
20 and qualification to purchase the prior service credit. Such
21 application shall include the member's written authorization for the
22 administrator to request and receive from any of the member's former
23 employers verification of the member's prior service, salary, and
24 other information for determining the member's eligibility to
25 purchase prior service credit. Before prior service credit may be

1 purchased, the administrator shall have received verification of the
2 member's salary in each year with the other school district or
3 educational service unit and confirmation that the prior service to
4 be purchased by the member is not also credited in the calculation of
5 a retirement or disability benefit for such member under another
6 defined benefit retirement system or program. The member's
7 application to purchase prior service credit may be made at any time
8 before the fifth anniversary of the member's membership in the
9 retirement system or, if earlier, the member's termination of
10 employment with the school district;

11 (b) The member shall pay to the retirement system the
12 total amount he or she would have contributed to the retirement
13 system had he or she been a member of the retirement system during
14 the period for which prior service is being purchased, together with
15 interest thereon as determined using the rate of interest established
16 by the board for interest on such purchases of prior service credit.
17 Such payment shall be based on the most recent years' salary the
18 member earned in another school district or educational service unit
19 if the salary is verified by the other school district or educational
20 service unit or, if not, the payment shall be based on the member's
21 annual salary at the time he or she became a member;

22 (c) Payments by the member for the purchase of the prior
23 service credit shall be paid as the trustees may direct through
24 direct payments to the retirement system or on an installment basis
25 pursuant to a binding irrevocable payroll deduction authorization

1 between the member and the school district over a period not to
2 exceed five years from the date of membership. Interest on delayed
3 payments shall be at the rate of interest established by the board
4 for determining interest on delayed payments by members to the
5 retirement system. In the event the member terminates employment with
6 the school district for any reason before full payment for the prior
7 service has been made, the remaining installments shall be
8 immediately due and payable to the retirement system. Prior service
9 credit may be purchased only in one-tenth-year increments, and if
10 payments are made on an installment basis, the prior service will be
11 credited only as payment has been made to the retirement system. If
12 the prior service to be purchased by the member exceeds the member's
13 membership service at the time of application or any subsequent date,
14 such excess prior service shall be credited to the member only as the
15 member completes and is credited additional membership service, in
16 one-tenth-year increments, notwithstanding the member's payment for
17 such prior service credit. If the member retires or terminates
18 employment before completing sufficient membership service to permit
19 all of the excess prior service that has been purchased by the member
20 to be credited to such member, the retirement system shall refund to
21 the member, or to the member's beneficiary if the member's
22 termination is due to his or her death, the payments that have been
23 made to the retirement system for such uncredited prior service,
24 together with regular interest on such refund; and

25 (d) The school district shall contribute to the

1 retirement system an amount equal to the amount paid by each member
2 for the purchase of prior service credit at the time such payments
3 are made by such member.

4 (2) ~~Any member having five or more years of creditable~~
5 ~~service, excluding~~ Any employee who became a member before July 1,
6 2014, who has five or more years of creditable service and any
7 employee who became a member for the first time on or after July 1,
8 2014, who has ten or more years of creditable service, excluding in
9 either case years of prior service acquired pursuant to section
10 79-990, 79-994, 79-995, or 79-997, or subsection (1) of this section,
11 may elect to purchase up to a total of five years of additional
12 creditable service under the retirement system, and upon such
13 purchase the member shall be given the same status as though he or
14 she had been a member of the retirement system for such additional
15 number of years, except as otherwise specifically provided in the
16 Class V School Employees Retirement Act. Creditable service may be
17 purchased only in one-tenth-year increments. The amount to be paid to
18 the retirement system for such creditable service shall be equal to
19 the actuarial cost to the retirement system of the increased benefits
20 attributable to such additional creditable service as determined by
21 the retirement system's actuary at the time of the purchase pursuant
22 to actuarial assumptions and methods adopted by the trustees for this
23 purpose. The election to purchase additional creditable service may
24 be made at any time before the member's termination of employment,
25 and all payments for the purchase of such creditable service must be

1 completed within five years after the election or before the member's
2 termination or retirement, whichever event occurs first. Payment
3 shall be made as the trustees may direct through a single payment to
4 the retirement system, on an installment basis, including payments
5 pursuant to a binding irrevocable payroll deduction authorization
6 between the member and the school district, or by such other method
7 approved by the trustees and permitted by law. If payments are made
8 on an installment basis, creditable service will be credited only as
9 payment has been made to the retirement system to purchase each
10 additional one-tenth-year increment. Interest shall be charged on
11 installment payments at the rate of interest established by the board
12 for determining interest on delayed payments by members to the
13 retirement system.

14 Sec. 5. If any section in this act or any part of any
15 section is declared invalid or unconstitutional, the declaration
16 shall not affect the validity or constitutionality of the remaining
17 portions.

18 Sec. 6. Original section 79-933.08, Reissue Revised
19 Statutes of Nebraska, section 79-980, Revised Statutes Cumulative
20 Supplement, 2012, and sections 79-987 and 79-991, Revised Statutes
21 Supplement, 2013, are repealed.

22 Sec. 7. Since an emergency exists, this act takes effect
23 when passed and approved according to law.