

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 145**

Introduced by Kolterman, 24.

Read first time January 08, 2021

Committee:

1 A BILL FOR AN ACT relating to the Class V School Employees Retirement  
2 Act; to amend sections 79-978.01, 79-987, 79-9,122, and 79-9,123,  
3 Revised Statutes Cumulative Supplement, 2020; to change provisions  
4 relating to audits, reporting, and cost billing and payments; to  
5 eliminate obsolete provisions; to provide for a compliance audit by  
6 the board of trustees, an audit by the Auditor of Public Accounts,  
7 and an examination by the Public Employees Retirement Board as  
8 prescribed; to harmonize provisions; to repeal the original  
9 sections; and to declare an emergency.  
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 79-978.01, Revised Statutes Cumulative  
2 Supplement, 2020, is amended to read:

3 79-978.01 Sections 79-978 to 79-9,123 and section 3 of this act  
4 shall be known and may be cited as the Class V School Employees  
5 Retirement Act.

6 Sec. 2. Section 79-987, Revised Statutes Cumulative Supplement,  
7 2020, is amended to read:

8 79-987 (1) The Auditor of Public Accounts shall make an audit of the  
9 retirement system and shall submit the report of its condition no later  
10 than xxxx, 2021. Thereafter, such audit shall be conducted annually. The  
11 costs of such audit shall be paid from funds of the retirement system. A  
12 copy of the audit shall be filed electronically with the Clerk of the  
13 Legislature and the Nebraska Retirement Systems Committee of the  
14 Legislature. The committee may request that the Auditor of Public  
15 Accounts present the findings of such report at a public hearing An  
16 annual audit of the affairs of the retirement system shall be conducted  
17 in each fiscal year. At the option of the board of trustees, such audit  
18 may be conducted by a certified public accountant or the Auditor of  
19 Public Accounts. The costs of such audit shall be paid from funds of the  
20 retirement system. A copy of such audit shall be filed with the Auditor  
21 of Public Accounts.

22 (2) Each audit year an annual financial audit of the investments of  
23 the retirement system shall be conducted. At the option of the council,  
24 such audit may be conducted by a certified public accountant or the  
25 Auditor of Public Accounts. The costs of such audit shall be paid from  
26 funds of the retirement system. A copy of such audit shall be filed with  
27 the board of trustees and the Auditor of Public Accounts.

28 (3)(a) ~~(3) Beginning May 1, 2017, and until May 1, 2018, if such~~  
29 ~~retirement plan is a defined benefit plan, the board of trustees shall~~  
30 ~~cause to be prepared an annual report and the administrator shall file~~  
31 ~~the same with the Public Employees Retirement Board and submit to the~~

1 ~~members of the Nebraska Retirement Systems Committee of the Legislature a~~  
2 ~~copy of such report. Beginning May 1, 2018, and until July 1, 2021, the~~  
3 board of trustees shall cause to be prepared an annual report and the  
4 administrator shall file the same with the Auditor of Public Accounts and  
5 submit to the members of the Nebraska Retirement Systems Committee of the  
6 Legislature a copy of such report. The report submitted to the committee  
7 and the Auditor of Public Accounts shall be submitted electronically. The  
8 report shall consist of a full actuarial analysis of each such retirement  
9 plan established pursuant to section 79-979. The analysis shall be  
10 prepared by an independent private organization or public entity  
11 employing actuaries who are members of the American Academy of Actuaries  
12 and meet the academy's qualification standards to render a statement of  
13 actuarial opinion, and which organization or entity has demonstrated  
14 expertise to perform this type of analysis and is unrelated to any  
15 organization offering investment advice or which provides investment  
16 management services to the retirement plan. The report shall be presented  
17 to the Nebraska Retirement Systems Committee of the Legislature at a  
18 public hearing.

19 (b) Beginning July 1, 2021, the board of trustees shall  
20 electronically file with the Nebraska Retirement Systems Committee of the  
21 Legislature and the Auditor of Public Accounts a copy of the annual  
22 actuarial investigation of the retirement system prepared pursuant to  
23 section 79-984.

24 (4) Each school district with a retirement system under the Class V  
25 School Employees Retirement Act shall comply with the reporting and  
26 filing requirements set forth in section 13-2402.

27 Sec. 3. (1) The Legislature finds that following completion and  
28 submission of the work plan by the Public Employees Retirement Board  
29 pursuant to section 79-9,121, additional issues have emerged related to  
30 transfer of the management of the Class V School Employees Retirement  
31 System to the Public Employees Retirement Board. Further examination and

1 evaluation are necessary and shall be completed by the entities described  
2 in this section. Such additional examination and evaluation shall  
3 include, but not be limited to:

4 (a) Completion of a compliance audit of the retirement system as  
5 described in this section;

6 (b) Completion of an audit of the retirement system by the Auditor  
7 of Public Accounts by xxxx, 2021, as described in subsection (1) of  
8 section 79-987; and

9 (c) Issues identified by the Public Employees Retirement Board as  
10 described in subsection (8) of this section.

11 (2) The board of trustees shall obtain a compliance audit of the  
12 retirement system to be completed no later than xxxx, 2021. The  
13 compliance audit shall be in addition to the annual audit conducted by  
14 the Auditor of Public Accounts pursuant to subsection (1) of section  
15 79-987.

16 (3) The compliance audit shall include an examination of records,  
17 files, and any other documents or resources of the retirement system and  
18 an evaluation of all policies and procedures of the retirement system,  
19 the school district, the board of education, and the board of trustees  
20 related to the administration and operation of the retirement system to  
21 determine compliance with all state and federal laws. The compliance  
22 audit shall also include, but not be limited to, an examination and  
23 evaluation of:

24 (a) Eligibility and enrollment to ensure eligible individuals are  
25 properly and timely enrolled in the plan;

26 (b) Contributions, compensation, service hours, and other records to  
27 ensure that members are making the correct contributions, that only  
28 eligible compensation and eligible service hours are reported at the time  
29 and in the manner specified in plan documents, and that only the  
30 authorized interest or interest credits are being recorded;

31 (c) Termination of employment to ensure that only terminated members

1 are taking distributions from the plan at the time and in the manner  
2 specified in the plan documents;

3 (d) Reemployment after retirement to ensure that retirees who  
4 reemploy have complied with plan documents;

5 (e) Benefit calculations and benefit payments to ensure that the  
6 correct benefits are calculated for members and paid on a timely basis;  
7 and

8 (f) Disability retirements to ensure:

9 (i) The determination of the member's disability status and any  
10 accrual of additional disability benefits due to deferred distribution of  
11 such benefits are conducted in accordance with the act; and

12 (ii) The amount of the disability retirement benefits is correctly  
13 calculated for members and paid on a timely basis.

14 (4) The examination of each of the issues listed in subsection (3)  
15 of this section shall also include, but not be limited to, a review of:

16 (a) The plan documents and training that the retirement system has  
17 provided to the employees to ensure proper compliance with the procedures  
18 and processes;

19 (b) Oversight practices or processes used by the board of trustees  
20 and administrator of the retirement system to identify whether the  
21 employer properly followed the plan documents; and

22 (c) Practices and processes used by the board of trustees and  
23 administrator of the retirement system to correct any errors made.

24 (5) The board of trustees, board of education, school district, and  
25 retirement system shall provide:

26 (a) The compliance auditors with the documents identified in this  
27 section and access to personnel who perform or have knowledge of duties  
28 related to the practices, procedures, operations, and administration of  
29 the retirement system to facilitate timely completion of the compliance  
30 audit; and

31 (b) The Auditor of Public Accounts with documents and access to

1 personnel as requested by the auditor to facilitate timely completion of  
2 the audit required by subsection (1) of section 79-987.

3 (6) Expenses related to obtaining the compliance audit and the audit  
4 conducted by the Auditor of Public Accounts described in subsection (1)  
5 of section 79-987 shall be charged to the retirement system.

6 (7) The board of trustees shall electronically file the compliance  
7 audit report with the Clerk of the Legislature and submit a copy of the  
8 report to the board of education, the Nebraska Retirement Systems  
9 Committee of the Legislature, the Governor, and the Public Employees  
10 Retirement Board no later than xxxx, 2021. The compliance audit report  
11 shall be presented to the Nebraska Retirement Systems Committee of the  
12 Legislature at a public hearing.

13 (8)(a) The Public Employees Retirement Board shall identify and  
14 examine additional issues which have emerged since the completion of the  
15 work plan related to the impact of assumption of fiduciary duties and  
16 responsibilities pursuant to section 84-1503 for the transfer of  
17 management of the Class V School Employees Retirement System. Such  
18 identification and examination may include, but not be limited to:

19 (i) Identification of necessary operational and procedural guidance  
20 policies, rules, and regulations in order to assume a transfer of  
21 management responsibilities;

22 (ii) Liability concerns and risks;

23 (iii) Any issues of concern identified in the compliance audit and  
24 audit conducted by the Auditor of Public Accounts pursuant to subsection  
25 (1) of section 79-987; and

26 (iv) Policy considerations related to the transfer of management to  
27 the Public Employees Retirement Board.

28 (b) The Public Employees Retirement Board may retain the services of  
29 consultants to carry out the issues described in this subsection.

30 (c) The Public Employees Retirement Board and staff of the Nebraska  
31 Public Employees Retirement Systems may, as necessary, confer with and

1 provide information to the Nebraska Retirement Systems Committee of the  
2 Legislature regarding the identification and examination of issues  
3 described in this subsection. A report of such issues and recommendations  
4 of the Public Employees Retirement Board may be requested by the  
5 committee.

6 (d) The Public Employees Retirement Board may bill the employer of  
7 any Class V school employees retirement system established under the  
8 Class V School Employees Retirement Act on a quarterly basis as provided  
9 in section 79-9,123 for all services and related expenses incurred in  
10 carrying out its responsibilities under this section.

11 Sec. 4. Section 79-9,122, Revised Statutes Cumulative Supplement,  
12 2020, is amended to read:

13 79-9,122 (1) The Class V School Employees Retirement System  
14 Management Work Plan Fund is created. The purpose of the fund is to  
15 transfer funds as specified in this section. The fund shall consist of  
16 the amounts transferred from the employer of any Class V school employees  
17 retirement system established under the Class V School Employees  
18 Retirement Act ~~and which existed on January 1, 2019,~~ for all work  
19 performed by the Public Employees Retirement Board for services and  
20 related expenses in completion of the work described in section 79-9,121  
21 and section 3 of this act. The fund shall be administered by the Nebraska  
22 Public Employees Retirement Systems. Any money in the fund available for  
23 investment shall be invested by the state investment officer pursuant to  
24 the Nebraska Capital Expansion Act and the Nebraska State Funds  
25 Investment Act.

26 (2) The employer of any Class V school employees retirement system  
27 established under the Class V School Employees Retirement Act ~~and which~~  
28 ~~existed on January 1, 2019,~~ shall remit the payment described in  
29 subsection (3) of section 79-9,121 and section 3 of this act to the State  
30 Treasurer for credit to the Class V School Employees Retirement System  
31 Management Work Plan Fund for all work performed by the Public Employees

1 Retirement Board for services and related expenses in completion of the  
2 work plan and for additional examinations conducted in evaluation of the  
3 retirement system and issues related to the transfer of management to the  
4 Public Employees Retirement Board.

5 Sec. 5. Section 79-9,123, Revised Statutes Cumulative Supplement,  
6 2020, is amended to read:

7 79-9,123 (1) The administrator and board of trustees of any Class V  
8 school employees retirement system established under the Class V School  
9 Employees Retirement Act and which existed on January 1, 2019, may  
10 quarterly bill the employer of such Class V school employees retirement  
11 system for all work performed and expenses incurred by the administrator,  
12 staff, and any consultants of the Class V school employees retirement  
13 system in response to requests for records, documents, data, or other  
14 information from the Nebraska Public Employees Retirement Systems or the  
15 Public Employees Retirement Board in completion of the work plan  
16 described in section 79-9,121. Such employer shall remit payment within  
17 forty-five calendar days after receipt of each quarterly bill to such  
18 Class V school employees retirement system.

19 (2)(a) The Public Employees Retirement Board may bill the employer  
20 of the Class V school employees retirement system on a quarterly basis  
21 for all work performed and expenses incurred pursuant to section 3 of  
22 this act.

23 (b) The employer of the Class V school employees retirement system  
24 described in this section shall remit payment within forty-five calendar  
25 days after receipt of each quarterly bill from the Public Employees  
26 Retirement Board.

27 Sec. 6. Original sections 79-978.01, 79-987, 79-9,122, and  
28 79-9,123, Revised Statutes Cumulative Supplement, 2020, are repealed.

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