

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 41

FINAL READING

Introduced by Nordquist, 7.

Read first time January 08, 2015

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-1118 and
2 23-2301, Revised Statutes Cumulative Supplement, 2014; to change the
3 size of a county for purposes of county employees retirement; and to
4 repeal the original sections.

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

1 Section 1. Section 23-1118, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 23-1118 (1)(a) Unless the county has adopted a retirement system
4 pursuant to section 23-2329, the county board of any county having a
5 population of one hundred fifty thousand inhabitants or more, as
6 determined by the most recent federal decennial census, may, in its
7 discretion and with the approval of the voters, provide retirement
8 benefits for present and future employees of the county. The cost of such
9 retirement benefits shall be funded in accordance with sound actuarial
10 principles with the necessary cost being treated in the county budget in
11 the same way as any other operating expense.

12 (b) Except as provided in subdivision (c) of this subsection, each
13 employee shall be required to contribute, or have contributed on his or
14 her behalf, an amount at least equal to the county's contribution to the
15 cost of any such retirement program as to service performed after the
16 adoption of such retirement program, but the cost of any benefits based
17 on prior service shall be borne solely by the county.

18 (c) In a county or municipal county having a population of two
19 hundred fifty thousand or more inhabitants but not more than three
20 hundred thousand inhabitants, as determined by the most recent federal
21 decennial census, the county or municipal county shall establish the
22 employee and employer contribution rates to the retirement program for
23 each year after July 15, 1992. The county or municipal county shall
24 contribute one hundred fifty percent of each employee's mandatory
25 contribution, and for an employee hired on or after July 1, 2012, the
26 county or municipal county shall contribute at least one hundred percent
27 of each such employee's mandatory contribution. The combined
28 contributions of the county or municipal county and its employees to the
29 cost of any such retirement program shall not exceed thirteen percent of
30 the employees' salaries.

31 (2) Before the county board or council provides retirement benefits

1 for the employees of the county or municipal county, such question shall
2 be submitted at a regular general or primary election held within the
3 county or municipal county, and in which election all persons eligible to
4 vote for the officials of the county or municipal county shall be
5 entitled to vote on such question, which shall be submitted in the
6 following language: Shall the county board or council provide retirement
7 benefits for present and future employees of the county or municipal
8 county? If a majority of the votes cast upon such question are in favor
9 of such question, then the county board or council shall be empowered to
10 provide retirement benefits for present and future employees as provided
11 in this section. If such retirement benefits for present and future
12 county and municipal county employees are approved by the voters and
13 authorized by the county board or council, then the funds of such
14 retirement system, in excess of the amount required for current
15 operations as determined by the county board or council, may be invested
16 and reinvested in the class of securities and investments described in
17 section 30-3209.

18 (3) As used in this section, employees shall mean all persons or
19 officers devoting more than twenty hours per week to employment by the
20 county or municipal county, all elected officers of the county or
21 municipal county, and such other persons or officers as are classified
22 from time to time as permanent employees by the county board or council.

23 (4) The county or municipal county may pick up the member
24 contributions required by this section for all compensation paid on or
25 after January 1, 1985, and the contributions so picked up shall be
26 treated as employer contributions in determining federal tax treatment
27 under the Internal Revenue Code, except that the county or municipal
28 county shall continue to withhold federal income taxes based upon these
29 contributions until the Internal Revenue Service or the federal courts
30 rule that, pursuant to section 414(h) of the Internal Revenue Code, these
31 contributions shall not be included as gross income of the member until

1 such time as they are distributed or made available. The county or
2 municipal county shall pay these member contributions from the same
3 source of funds which is used in paying earnings to the member. The
4 county or municipal county shall pick up these contributions by a salary
5 deduction either through a reduction in the cash salary of the member or
6 a combination of a reduction in salary and offset against a future salary
7 increase. Member contributions picked up shall be treated in the same
8 manner and to the same extent as member contributions made prior to the
9 date picked up.

10 (5)(a) Beginning December 31, 1998, and each December 31 thereafter,
11 the chairperson of the county board or council with a retirement plan
12 established pursuant to this section and section 401(a) of the Internal
13 Revenue Code shall file with the Public Employees Retirement Board a
14 report on such plan and shall submit copies of such report to the Auditor
15 of Public Accounts. The Auditor of Public Accounts may prepare a review
16 of such report pursuant to section 84-304.02 but is not required to do
17 so. The report shall be in a form prescribed by the Public Employees
18 Retirement Board and shall contain the following information for each
19 such retirement plan:

- 20 (i) The number of persons participating in the retirement plan;
- 21 (ii) The contribution rates of participants in the plan;
- 22 (iii) Plan assets and liabilities;
- 23 (iv) The names and positions of persons administering the plan;
- 24 (v) The names and positions of persons investing plan assets;
- 25 (vi) The form and nature of investments;
- 26 (vii) For each defined contribution plan, a full description of
27 investment policies and options available to plan participants; and
- 28 (viii) For each defined benefit plan, the levels of benefits of
29 participants in the plan, the number of members who are eligible for a
30 benefit, and the total present value of such members' benefits, as well
31 as the funding sources which will pay for such benefits.

1 If a plan contains no current active participants, the chairperson
2 may file in place of such report a statement with the Public Employees
3 Retirement Board indicating the number of retirees still drawing
4 benefits, and the sources and amount of funding for such benefits.

5 (b) If such retirement plan is a defined benefit plan which was open
6 to new members on January 1, 2004, in addition to the reports required by
7 section 13-2402, the county board of a county or council of the municipal
8 county with a retirement plan established pursuant to this section shall
9 cause to be prepared an annual report and the chairperson shall file the
10 same with the Public Employees Retirement Board and the Nebraska
11 Retirement Systems Committee of the Legislature and submit to the Auditor
12 of Public Accounts a copy of such report. The Auditor of Public Accounts
13 may prepare a review of such report pursuant to section 84-304.02 but is
14 not required to do so. If the county board or council does not submit a
15 copy of the report to the Auditor of Public Accounts within six months
16 after the end of the plan year, the Auditor of Public Accounts may audit,
17 or cause to be audited, the county or municipal county. All costs of the
18 audit shall be paid by the county or municipal county. The report shall
19 consist of a full actuarial analysis of each such retirement plan
20 established pursuant to this section. The analysis shall be prepared by
21 an independent private organization or public entity employing actuaries
22 who are members in good standing of the American Academy of Actuaries,
23 and which organization or entity has demonstrated expertise to perform
24 this type of analysis and is unrelated to any organization offering
25 investment advice or which provides investment management services to the
26 retirement plan. The report to the Nebraska Retirement Systems Committee
27 shall be submitted electronically.

28 Sec. 2. Section 23-2301, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 23-2301 For purposes of the County Employees Retirement Act, unless
31 the context otherwise requires:

1 (1) Actuarial equivalent means the equality in value of the
2 aggregate amounts expected to be received under different forms of an
3 annuity payment. The mortality assumption used for purposes of converting
4 the member cash balance account shall be the 1994 Group Annuity Mortality
5 Table using a unisex rate that is fifty percent male and fifty percent
6 female. For purposes of converting the member cash balance account
7 attributable to contributions made prior to January 1, 1984, that were
8 transferred pursuant to the act, the 1994 Group Annuity Mortality Table
9 for males shall be used;

10 (2) Annuity means equal monthly payments provided by the retirement
11 system to a member or beneficiary under forms determined by the board
12 beginning the first day of the month after an annuity election is
13 received in the office of the Nebraska Public Employees Retirement
14 Systems or the first day of the month after the employee's termination of
15 employment, whichever is later. The last payment shall be at the end of
16 the calendar month in which the member dies or in accordance with the
17 payment option chosen by the member;

18 (3) Annuity start date means the date upon which a member's annuity
19 is first effective and shall be the first day of the month following the
20 member's termination or following the date the application is received by
21 the board, whichever is later;

22 (4) Cash balance benefit means a member's retirement benefit that is
23 equal to an amount based on annual employee contribution credits plus
24 interest credits and, if vested, employer contribution credits plus
25 interest credits and dividend amounts credited in accordance with
26 subdivision (4)(c) of section 23-2317;

27 (5)(a) Compensation means gross wages or salaries payable to the
28 member for personal services performed during the plan year. Compensation
29 does not include insurance premiums converted into cash payments,
30 reimbursement for expenses incurred, fringe benefits, per diems, or
31 bonuses for services not actually rendered, including, but not limited

1 to, early retirement inducements, cash awards, and severance pay, except
2 for retroactive salary payments paid pursuant to court order,
3 arbitration, or litigation and grievance settlements. Compensation
4 includes overtime pay, member retirement contributions, and amounts
5 contributed by the member to plans under sections 125, 403(b), and 457 of
6 the Internal Revenue Code or any other section of the code which defers
7 or excludes such amounts from income.

8 (b) Compensation in excess of the limitations set forth in section
9 401(a)(17) of the Internal Revenue Code shall be disregarded. For an
10 employee who was a member of the retirement system before the first plan
11 year beginning after December 31, 1995, the limitation on compensation
12 shall not be less than the amount which was allowed to be taken into
13 account under the retirement system as in effect on July 1, 1993;

14 (6) Date of adoption of the retirement system by each county means
15 the first day of the month next following the date of approval of the
16 retirement system by the county board or January 1, 1987, whichever is
17 earlier;

18 (7) Date of disability means the date on which a member is
19 determined by the board to be disabled;

20 (8) Defined contribution benefit means a member's retirement benefit
21 from a money purchase plan in which member benefits equal annual
22 contributions and earnings pursuant to section 23-2309 and, if vested,
23 employer contributions and earnings pursuant to section 23-2310;

24 (9) Disability means an inability to engage in a substantially
25 gainful activity by reason of any medically determinable physical or
26 mental impairment which can be expected to result in death or be of a
27 long and indefinite duration;

28 (10) Employee means all persons or officers who are employed by a
29 county of the State of Nebraska on a permanent basis, persons or officers
30 employed by or serving in a municipal county formed by at least one
31 county participating in the retirement system, persons employed as

1 provided in section 2-1608, all elected officers of a county, and such
2 other persons or officers as are classified from time to time as
3 permanent employees by the county board of the county by which they are
4 employed, except that employee does not include judges, employees or
5 officers of any county having a population in excess of two hundred fifty
6 thousand inhabitants as determined by the most recent federal decennial
7 census, or, except as provided in section 23-2306, persons making
8 contributions to the School Employees Retirement System of the State of
9 Nebraska;

10 (11) Employee contribution credit means an amount equal to the
11 member contribution amount required by section 23-2307;

12 (12) Employer contribution credit means an amount equal to the
13 employer contribution amount required by section 23-2308;

14 (13) Final account value means the value of a member's account on
15 the date the account is either distributed to the member or used to
16 purchase an annuity from the plan, which date shall occur as soon as
17 administratively practicable after receipt of a valid application for
18 benefits, but no sooner than forty-five days after the member's
19 termination;

20 (14) Five-year break in service means a period of five consecutive
21 one-year breaks in service;

22 (15) Full-time employee means an employee who is employed to work
23 one-half or more of the regularly scheduled hours during each pay period;

24 (16) Future service means service following the date of adoption of
25 the retirement system;

26 (17) Guaranteed investment contract means an investment contract or
27 account offering a return of principal invested plus interest at a
28 specified rate. For investments made after July 19, 1996, guaranteed
29 investment contract does not include direct obligations of the United
30 States or its instrumentalities, bonds, participation certificates or
31 other obligations of the Federal National Mortgage Association, the

1 Federal Home Loan Mortgage Corporation, or the Government National
2 Mortgage Association, or collateralized mortgage obligations and other
3 derivative securities. This subdivision shall not be construed to require
4 the liquidation of investment contracts or accounts entered into prior to
5 July 19, 1996;

6 (18) Interest credit rate means the greater of (a) five percent or
7 (b) the applicable federal mid-term rate, as published by the Internal
8 Revenue Service as of the first day of the calendar quarter for which
9 interest credits are credited, plus one and one-half percent, such rate
10 to be compounded annually;

11 (19) Interest credits means the amounts credited to the employee
12 cash balance account and the employer cash balance account at the end of
13 each day. Such interest credit for each account shall be determined by
14 applying the daily portion of the interest credit rate to the account
15 balance at the end of the previous day. Such interest credits shall
16 continue to be credited to the employee cash balance account and the
17 employer cash balance account after a member ceases to be an employee,
18 except that no such credit shall be made with respect to the employee
19 cash balance account and the employer cash balance account for any day
20 beginning on or after the member's date of final account value. If
21 benefits payable to the member's surviving spouse or beneficiary are
22 delayed after the member's death, interest credits shall continue to be
23 credited to the employee cash balance account and the employer cash
24 balance account until such surviving spouse or beneficiary commences
25 receipt of a distribution from the plan;

26 (20) Member cash balance account means an account equal to the sum
27 of the employee cash balance account and, if vested, the employer cash
28 balance account and dividend amounts credited in accordance with
29 subdivision (4)(c) of section 23-2317;

30 (21) One-year break in service means a plan year during which the
31 member has not completed more than five hundred hours of service;

1 (22) Participation means qualifying for and making the required
2 deposits to the retirement system during the course of a plan year;

3 (23) Part-time employee means an employee who is employed to work
4 less than one-half of the regularly scheduled hours during each pay
5 period;

6 (24) Plan year means the twelve-month period beginning on January 1
7 and ending on December 31;

8 (25) Prior service means service prior to the date of adoption of
9 the retirement system;

10 (26) Regular interest means the rate of interest earned each
11 calendar year as determined by the retirement board in conformity with
12 actual and expected earnings on the investments through December 31,
13 1985;

14 (27) Required contribution means the deduction to be made from the
15 compensation of employees as provided in the act;

16 (28) Retirement means qualifying for and accepting the retirement
17 benefit granted under the act after terminating employment;

18 (29) Retirement application means the form approved and provided by
19 the retirement system for acceptance of a member's request for either
20 regular or disability retirement;

21 (30) Retirement board or board means the Public Employees Retirement
22 Board;

23 (31) Retirement date means (a) the first day of the month following
24 the date upon which a member's request for retirement is received on a
25 retirement application if the member is eligible for retirement and has
26 terminated employment or (b) the first day of the month following
27 termination of employment if the member is eligible for retirement and
28 has filed an application but has not yet terminated employment;

29 (32) Retirement system means the Retirement System for Nebraska
30 Counties;

31 (33) Service means the actual total length of employment as an

1 employee and is not deemed to be interrupted by (a) temporary or seasonal
2 suspension of service that does not terminate the employee's employment,
3 (b) leave of absence authorized by the employer for a period not
4 exceeding twelve months, (c) leave of absence because of disability, or
5 (d) military service, when properly authorized by the retirement board.
6 Service does not include any period of disability for which disability
7 retirement benefits are received under section 23-2315;

8 (34) Surviving spouse means (a) the spouse married to the member on
9 the date of the member's death or (b) the spouse or former spouse of the
10 member if survivorship rights are provided under a qualified domestic
11 relations order filed with the board pursuant to the Spousal Pension
12 Rights Act. The spouse or former spouse shall supersede the spouse
13 married to the member on the date of the member's death as provided under
14 a qualified domestic relations order. If the benefits payable to the
15 spouse or former spouse under a qualified domestic relations order are
16 less than the value of benefits entitled to the surviving spouse, the
17 spouse married to the member on the date of the member's death shall be
18 the surviving spouse for the balance of the benefits;

19 (35) Termination of employment occurs on the date on which a county
20 which is a member of the retirement system determines that its employer-
21 employee relationship with an employee is dissolved. The county shall
22 notify the board of the date on which such a termination has occurred.
23 Termination of employment does not occur if an employee whose employer-
24 employee relationship with a county is dissolved enters into an employer-
25 employee relationship with the same or another county which participates
26 in the Retirement System for Nebraska Counties and there are less than
27 one hundred twenty days between the date when the employee's employer-
28 employee relationship ceased with the county and the date when the
29 employer-employee relationship commenced with the same or another county
30 which qualifies the employee for participation in the plan. It is the
31 responsibility of the employer that is involved in the termination of

1 employment to notify the board of such change in employment and provide
2 the board with such information as the board deems necessary. If the
3 board determines that termination of employment has not occurred and a
4 retirement benefit has been paid to a member of the retirement system
5 pursuant to section 23-2319, the board shall require the member who has
6 received such benefit to repay the benefit to the retirement system; and

7 (36) Vesting credit means credit for years, or a fraction of a year,
8 of participation in another Nebraska governmental plan for purposes of
9 determining vesting of the employer account.

10 Sec. 3. Original sections 23-1118 and 23-2301, Revised Statutes
11 Cumulative Supplement, 2014, are repealed.