

## LEGISLATIVE BILL 498

Approved by the Governor April 21, 1973

Introduced by Nebraska Retirement Systems Committee,  
Whitney, 44, Chmn.; Hasebroock, 18; Goodrich,  
20; Luedtke, 28

AN ACT to amend sections 84-1301, 84-1305, 84-1311, 84-1317, 84-1319, 84-1321, and 84-1323, Reissue Revised Statutes of Nebraska, 1943, and section 84-1503, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 216, Eighty-third Legislature, First Session, 1973, relating to the State Employees Retirement System; to define terms; to provide duties of the board; to provide for disability retirement; to provide for changes in future service retirement benefits; to provide for changes for termination of employment before retirement; to provide for lump sum payments; to provide for expenses of administering the system; and to repeal the original sections.

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

Section 1. That section 84-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1301. As used in sections 84-1301 to 84-1331, unless the context otherwise requires:

(1) Employee shall mean any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities; but shall not include judges, members of the Nebraska State Patrol, employees of the University of Nebraska, employees of the state colleges, employees of technical community colleges, employees of the Division of Employment of the Department of Labor, employees of the State Board of Agriculture whose compensation is not paid out of the General Fund, the Nebraska National Guard air and army technicians, or persons making contributions to eligible for membership under the School Retirement System of the State of Nebraska, except that those persons so eligible and who as of the effective date of this act are contributing to

the State Employees Retirement System shall continue as members of such system;

(2) Part-time employee shall mean an employee who works less than one half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and accepting a retirement allowance granted under the provisions of sections 84-1301 to 84-1331;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees, as provided in sections 84-1301 to 84-1331;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board; Provided, that service shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his death without refund or death benefit of any kind;

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the retirement system in order to provide the benefits described in sections 84-1301 to 84-1331;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract; and

(12) State department shall mean any department, bureau, commission or other division of state government, not otherwise specifically defined or exempted in sections 84-1301 to 84-1331, whose employees and officers are not already covered by a retirement plan; -

(13) Disability shall mean an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration; and

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board.

Sec. 2. That section 84-1305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1305. It shall be the duty of the board:

(1) To determine the prior service annuity, if any, for each person who shall be an employee on January 1, 1964;

(2) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;

(3) To adopt rules and regulations for the management of the board;

(4) To keep a complete record of all proceedings taken at any meeting of the board; and

(5) To employ such medical and other assistance as may be necessary to determine the qualifications for disability retirement benefits under the provisions of section 84-1317; and

(5) (6) To employ such actuarial and other assistance as may be necessary in the performance of its duties.

Sec. 3. That section 84-1311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1311. A member's share of the fund arising from the state contributions made in accordance with the provisions of section 84-1309 shall be known as his employer account. As of any January 1 a member's employer account shall be equal to his account as of the next preceding January 1, increased by one hundred four per cent of any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 84-1308, increased by any interest allocated under the provisions of the group annuity

contract, and reduced by any expense charges made under the provisions of the group annuity contract and by any expense charges incurred by the Public Employees Retirement Board in connection with administering the system in excess of those provided for in section 84-1321; Provided, that a member who ceased being an employee since the next preceding January 1 may have his employer account reduced in accordance with the provisions of section 84-1321.

Sec. 4. That section 84-1317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1317. An employee may elect to retire on the attainment of age sixty-five or on the attainment of age sixty after thirty years of service. With the approval of the department concerned and the employee, an employee may retire on the attainment of age sixty regardless of the number of years of service. An employee may retire as a result of disability at any age.

Any employee shall be required to retire at the end of the month in which his sixty-fifth birthday occurs, except that with the annual approval of the department concerned and the employee, such employee may continue his employment.

The first of the month immediately following the last day of work shall be the retirement date, except that disability retirement benefits shall be paid from the date of disability as determined by the board. The provisions pertaining to mandatory retirement shall not apply to elected officials. First payments pertaining to retirements under prior service provisions of sections 84-1301 to 84-1331 shall be made at such time as the retirement board may determine.

Sec. 5. That section 84-1319, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1319. The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent, as determined by the group annuity contract, of the retirement value, ~~;--Provided, that a retiring employee may elect to receive in lieu of an annuity, a lump sum settlement equal to the retirement value if the retirement value is less than two thousand dollars:~~

At any time before the retirement date, the retiring employee may choose to receive his annuity either in the form of a straight life annuity or any optional form specified in the group annuity contract. In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value.

Sec. 6. That section 84-1321, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1321. Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under the provisions of section 84-1317 may, upon application, receive from the primary carrier a termination benefit equal to the amount in his employee account. If the terminating member does not make application to withdraw the amount in his employee account, he shall be granted, in lieu thereof, a paid-up deferred annuity under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday. Such paid-up deferred annuity shall be the actuarial equivalent, as determined by the group annuity contract, of the employee account together with a certain percentage of the employer account. If the terminating member has been a member of the system for less than five years, such percentage shall be nil; if the terminating member has been a member of the system for at least five years, such percentage shall be twice the number of complete months, not counting the first sixty, that the terminating member has been a member of the system; Provided, that in no event shall such percentage exceed one hundred; and provided further, that such percentage shall equal one hundred for any disability retirement under the provisions of section 84-1317.

In the event that the terminating member shall not be credited with one hundred per cent of his employer account, the remainder shall be credited to the State Employees Retirement Fund and shall be applied to reduction of the liability for prior service benefits until such time as such liability is completely funded, and thereafter the remainder shall first be used to meet the expense charges incurred by the Public Employees Retirement Board in connection with administering the system and the remainder shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits.

Sec. 7. That section 84-1323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

84-1323. In the event of the death before his retirement date of any employee who is a member of the system, a death benefit shall be paid to the member's beneficiary as provided in the group annuity contract. The death benefit shall be equal to the total of the employee account and the employer account, the actuarial equivalent, as determined by the group annuity contract, of the paid-up deferred annuity to which the member would have been entitled had he ceased voluntarily to be an employee on the date of his death.

Sec. 8. (1) Any member who shall be a full-time employee, disregarding the length of service, may be retired as a result of disability either upon his own application or upon the application of his employer or any person acting in his behalf. Before any member may be so retired, a medical examination shall be made at the expense of the retirement system, which examination shall be conducted by a disinterested physician licensed to practice medicine in this state, such physician to be selected by the retirement board, and the physician shall certify to the board that the member is physically or mentally incapable of further performing his duties as a state employee and should be retired. The application for disability retirement shall be made within one year of termination of employment.

(2) The retirement board may require any disability beneficiary who has not attained the age of sixty-five to undergo a medical examination at the expense of the board once each year. Should any disability beneficiary refuse to undergo such an examination, his disability retirement benefit may be discontinued by the board.

Sec. 9. Any retiring employee whose total retirement benefit, including both prior and future service benefits, is less than twenty-five dollars per month may elect to receive a lump sum settlement equal to the retirement value in lieu of an annuity.

Sec. 10. That section 84-1503, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 216, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

84-1503. It shall be the duty of such board:

(1) To administer the retirement systems provided for in sections 24-701 to 24-714, 60-441 to 60-461, 79-1501 to 79-1557, and 84-1301 to 84-1331, and the

authority of the board to administer such systems shall commence thirty days after August 27, 1971; and to administer the retirement system provided for in sections 23-2301 to 23-2331, and the authority of the board to administer such system shall commence thirty days after the effective date of this act;

(2) To hire a director to administer the systems under direction of the board. The director shall not be a member of the board. Salaries of the director and his employees shall be set by the board; and

(3) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses shall be specified by law.

Sec. 11. That original sections 84-1301, 84-1305, 84-1311, 84-1317, 84-1319, 84-1321, and 84-1323, Reissue Revised Statutes of Nebraska, 1943, and section 84-1503, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 216, Eighty-third Legislature, First Session, 1973, are repealed.