

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 303**

Introduced by Synowiecki, 7

Read first time January 11, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 81-2014  
2 and 81-2014.01, Revised Statutes Cumulative Supplement,  
3 2006; to authorize a deferred retirement option plan for  
4 Nebraska State Patrol officers; to harmonize provisions;  
5 and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 81-2014, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           81-2014 For purposes of the Nebraska State Patrol  
4 Retirement Act:

5           (1) Actuarial equivalent means the equality in value  
6 of the aggregate amounts expected to be received under different  
7 forms of payment or to be received at an earlier retirement age  
8 than the normal retirement age. The determinations shall be based  
9 on the 1994 Group Annuity Mortality Table reflecting sex-distinct  
10 factors blended using seventy-five percent of the male table and  
11 twenty-five percent of the female table. An interest rate of eight  
12 percent per annum shall be reflected in making the determinations  
13 until such percent is amended by the Legislature;

14           (2) Board means the Public Employees Retirement Board;

15           (3) (a) Compensation means gross wages or salaries payable  
16 to the member for personal services performed during the plan  
17 year. Compensation does not include insurance premiums converted  
18 into cash payments, reimbursement for expenses incurred, fringe  
19 benefits, or bonuses for services not actually rendered, including,  
20 but not limited to, early retirement inducements, cash awards,  
21 and severance pay, except for retroactive salary payments paid  
22 pursuant to court order, arbitration, or litigation and grievance  
23 settlements. For any officer employed after January 4, 1979,  
24 compensation does not include compensation for unused sick leave  
25 or unused vacation leave converted to cash payments. Compensation

1 includes overtime pay, member retirement contributions, and amounts  
2 contributed by the member to plans under sections 125 and 457 of  
3 the Internal Revenue Code as defined in section 49-801.01 or any  
4 other section of the code which defers or excludes such amounts  
5 from income.

6 (b) Compensation in excess of the limitations set forth  
7 in section 401(a)(17) of the Internal Revenue Code as defined  
8 in section 49-801.01 shall be disregarded. For an employee who  
9 was a member of the retirement system before the first plan year  
10 beginning after December 31, 1995, the limitation on compensation  
11 shall not be less than the amount which was allowed to be taken  
12 into account under the retirement system as in effect on July 1,  
13 1993;

14 (4) Creditable service means service granted pursuant to  
15 section 81-2034 and all service rendered while a contributing  
16 member of the retirement system. Creditable service includes  
17 working days, sick days, vacation days, holidays, and any other  
18 leave days for which the officer is paid regular wages. Creditable  
19 service does not include eligibility and vesting credit nor service  
20 years for which member contributions are withdrawn and not repaid;

21 (5) Current benefit means (a) until July 1, 2000, the  
22 initial benefit increased by all adjustments made pursuant to  
23 section 81-2027.04 and (b) on or after July 1, 2000, the initial  
24 benefit increased by all adjustments made pursuant to the Nebraska  
25 State Patrol Retirement Act;

1           (6) DROP means the deferred retirement option plan as  
2 provided in section 3 of this act. The deferred retirement option  
3 plan shall be treated as a defined contribution plan for members.  
4 The deferred retirement option plan is intended to meet the  
5 requirements of section 414(i) of the Internal Revenue Code;

6           (7) DROP contributions means optional contributions paid  
7 to the member's DROP account by the member while enrolled in DROP;

8           (8) DROP period means the amount of time the member  
9 elects to participate in DROP which shall be for a period not to  
10 exceed five years from and after the date of the member's DROP  
11 election;

12           ~~(6)~~ (9) Eligibility and vesting credit means credit  
13 for years, or a fraction of a year, of participation in a  
14 Nebraska government plan for purposes of determining eligibility  
15 for benefits under the Nebraska State Patrol Retirement Act. Such  
16 credit shall be used toward the vesting percentage pursuant to  
17 subsection (2) of section 81-2031 but shall not be included as  
18 years of service in the benefit calculation;

19           ~~(7)~~ (10) Initial benefit means the retirement benefit  
20 calculated at the time of retirement;

21           ~~(8)~~ (11) Officer means an officer provided for in  
22 sections 81-2001 to 81-2009;

23           ~~(9)~~ (12) Plan year means the twelve-month period  
24 beginning on July 1 and ending on June 30 of the following year;

25           ~~(10)~~ (13) Regular interest means interest fixed at a

1 rate equal to the daily treasury yield curve for one-year treasury  
2 securities, as published by the Secretary of the Treasury of the  
3 United States, that applies on July 1 of each year, which may be  
4 credited monthly, quarterly, semiannually, or annually as the board  
5 may direct;

6 ~~(11)~~ (14) Retirement system or system means the Nebraska  
7 State Patrol Retirement System as provided in the act;

8 ~~(12)~~ (15) Service means employment as a member of the  
9 Nebraska State Patrol and shall not be deemed to be interrupted  
10 by (a) temporary or seasonal suspension of service that does  
11 not terminate the employee's employment, (b) leave of absence  
12 authorized by the employer for a period not exceeding twelve  
13 months, (c) leave of absence because of disability, or (d) military  
14 service, when properly authorized by the board. Service does not  
15 include any period of disability for which disability retirement  
16 benefits are received under subsection (1) of section 81-2025;

17 ~~(13)~~ (16) Surviving spouse means (a) the spouse married  
18 to the member on the date of the member's death if married for  
19 at least one year prior to death or if married on the date of  
20 the member's retirement or (b) the spouse or former spouse of  
21 the member if survivorship rights are provided under a qualified  
22 domestic relations order filed with the board pursuant to the  
23 Spousal Pension Rights Act. The spouse or former spouse shall  
24 supersede the spouse married to the member on the date of the  
25 member's death as provided under a qualified domestic relations

1 order. If the benefits payable to the spouse or former spouse under  
2 a qualified domestic relations order are less than the value of  
3 benefits entitled to the surviving spouse, the spouse married to  
4 the member on the date of the member's death shall be the surviving  
5 spouse for the balance of the benefits; and

6 ~~(14)~~ (17) Termination of employment occurs on the date  
7 on which the Nebraska State Patrol determines that the officer's  
8 employer-employee relationship with the patrol is dissolved. The  
9 Nebraska State Patrol shall notify the board of the date on which  
10 such a termination has occurred. Termination of employment does  
11 not include ceasing employment with the Nebraska State Patrol  
12 if the officer returns to regular employment with the Nebraska  
13 State Patrol or another agency of the State of Nebraska and  
14 there are less than one hundred twenty days between the date when  
15 the employee's employer-employee relationship ceased and the date  
16 when the employer-employee relationship commenced with the Nebraska  
17 State Patrol or another state agency.

18 Sec. 2. Section 81-2014.01, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 81-2014.01 Sections 81-2014 to 81-2040 and section 3 of  
21 this act shall be known and may be cited as the Nebraska State  
22 Patrol Retirement Act.

23 Sec. 3. (1) Any member who meets the participation  
24 requirements of subsection (2) of this section may participate in  
25 DROP. DROP provides that subsequent to attaining normal age and

1 service retirement eligibility, a member may voluntarily choose to  
2 participate in DROP upon its adoption which, for purposes of this  
3 section, shall be the earlier of September 1, 2008, or the first  
4 of the month following a favorable letter determination by the  
5 Internal Revenue Service. If the member chooses to participate in  
6 DROP, the member shall be deemed to have retired, but the member  
7 may continue in active employment for up to a five-year period.  
8 During the DROP period, the member's eligible pension benefit  
9 payments and DROP contributions shall be deposited into the DROP  
10 account for the benefit of the member until the member actually  
11 retires from active employment at or before the expiration of the  
12 DROP period. Thereafter, future pension payments shall be made  
13 directly to the member, and the member shall have access to all  
14 funds in the account designated for the benefit of the member.

15 (2) To participate in the DROP program, a member shall  
16 meet the following requirements:

17 (a) A member shall be eligible to enter DROP at any time  
18 subsequent to the date when the member has (i) attained normal  
19 retirement age and (ii) completed twenty-five years of service.  
20 Members having attained normal retirement age and completed  
21 twenty-five years of service on or before the date of adoption of  
22 DROP shall be eligible to enter DROP at any future date;

23 (b) A member who elects to enter DROP shall be entitled  
24 to receive regular age and service retirement benefits in  
25 accordance with section 81-2026. A member is entitled to remain in

1 DROP for a maximum of five years subsequent to the date of the  
2 member's DROP election. A member may separate from service and  
3 thereby exit DROP at any time during the DROP period. On or before  
4 the completion of the DROP period, the member must separate from  
5 active employment and exit DROP. During the DROP period, a member's  
6 retirement benefit shall be payable to the DROP investment account  
7 vendor designated in the member's name. Amounts transferred or  
8 paid to a participating member's DROP account shall not constitute  
9 annual additions under section 415 of the Internal Revenue Code;

10 (c) A member electing to enter DROP shall choose an  
11 annuity payment option. After the option is chosen, the member  
12 shall not be entitled to any retirement benefit changes, for  
13 reasons including, but not limited to, wage increases, promotions,  
14 and demotions, except that the restriction on retirement benefit  
15 changes shall not apply in the event of duty-related death or  
16 duty-related disability. The benefit amount shall be fixed as of  
17 the date of election and shall be payable as if the employee  
18 retired on that date and separated from active employment. If  
19 a member incurs a duty-related death or duty-related disability  
20 during the DROP period, the member or the member's designated  
21 pension survivor beneficiary will have the option to forfeit the  
22 DROP account designated for the member and accept a duty-related  
23 death or duty-related disability benefit or keep the DROP account  
24 and normal age and service benefit. A member shall also have the  
25 option of designating a specific beneficiary of the DROP account



1 maintained for the benefit of the member;

2 (d) No member shall be allowed to continue making the  
3 required contributions while the member is enrolled in DROP.  
4 Any member that is enrolled in DROP may elect to make DROP  
5 contributions during the DROP period. Such contributions shall  
6 constitute annual additions under section 415(c) of the Internal  
7 Revenue Code;

8 (e) The member shall be paid the balance of the DROP  
9 account upon the member's separation from active employment or  
10 at the expiration of the DROP period thereby ending the member's  
11 participation in DROP. If a member has not voluntarily separated  
12 from active employment on or before the completion of the DROP  
13 period, the member's retirement benefit shall be paid directly  
14 to the member thereby ending the member's active employment. The  
15 member's DROP account shall consist of accrued retirement benefits,  
16 interest on such benefits, any DROP contributions, and interest on  
17 any DROP contributions;

18 (f) Any member that is enrolled in DROP shall be  
19 responsible for directing the DROP account designated for the  
20 benefit of the member by investing the account in any DROP  
21 investment options. There shall be no guaranteed rate of investment  
22 return on DROP account assets. Any losses, charges, or expenses  
23 incurred by the participating DROP member in such member's DROP  
24 account by virtue of the investment options selected by the  
25 participating DROP member, shall not be made up by the retirement

1 system but all of the same shall be born by the participating  
2 DROP member. Transfers between investment options shall be in  
3 accordance with the rules and regulations of DROP. A DROP account  
4 shall be established for each participating DROP member. Such DROP  
5 account shall be adjusted no less frequently than annually for DROP  
6 contributions, the member's retirement benefit distributions, and  
7 net investment earnings and losses; and

8 (g) If the DROP account is subject to administrative or  
9 other fees or charges, such fees or charges shall be charged to the  
10 participating DROP member's DROP account.

11 Sec. 4. Original sections 81-2014 and 81-2014.01, Revised  
12 Statutes Cumulative Supplement, 2006, are repealed.