

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 665

Introduced by Karpisek, 32; Carlson, 38; Heidemann, 1; White, 8

Read first time January 17, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to cash balance benefit elections; to amend
2 sections 23-2308.01, 23-2317, 84-1309.02, and 84-1319,
3 Revised Statutes Cumulative Supplement, 2006; to provide
4 for the retirement election for state and county
5 employees as prescribed; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2308.01, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 23-2308.01 (1) It is the intent of the Legislature that,
4 in order to improve the competitiveness of the retirement plan
5 for county employees, a cash balance benefit shall be added to
6 the County Employees Retirement Act on and after January 1, 2003.
7 Each member who is employed and participating in the retirement
8 system prior to January 1, 2003, may either elect to continue
9 participation in the defined contribution benefit as provided in
10 the act prior to January 1, 2003, or elect to participate in the
11 cash balance benefit as set forth in this section. The member
12 shall make the election prior to January 1, 2003, or on or after
13 November 1, 2007, but before January 1, 2008. If no election is
14 made prior to January 1, 2003, or on or after November 1, 2007, but
15 before January 1, 2008, the member shall be treated as though he or
16 she elected to continue participating in the defined contribution
17 benefit as provided in the act prior to January 1, 2003. Any member
18 who made the election prior to January 1, 2003, does not have to
19 reelect the cash balance benefit on or after November 1, 2007, but
20 before January 1, 2008.

21 (2) For a member employed and participating in the
22 retirement system beginning on and after January 1, 2003, or a
23 member employed and participating in the retirement system on
24 January 1, 2003, who, prior to January 1, 2003, or on or after
25 November 1, 2007, but before January 1, 2008, elects to convert his

1 or her employee and employer accounts to the cash balance benefit:

2 (a) The employee cash balance account shall, at any time,
3 be equal to the following:

4 (i) The initial employee account balance, if any,
5 transferred from the defined contribution plan account described in
6 section 23-2309; plus

7 (ii) Employee contribution credits deposited in
8 accordance with section 23-2307; plus

9 (iii) Interest credits credited in accordance with
10 subdivision (19) of section 23-2301; plus

11 (iv) Dividend amounts credited in accordance with
12 subdivision (4)(c) of section 23-2317; and

13 (b) The employer cash balance account shall, at any time,
14 be equal to the following:

15 (i) The initial employer account balance, if any,
16 transferred from the defined contribution plan account described in
17 section 23-2310; plus

18 (ii) Employer contribution credits deposited in
19 accordance with section 23-2308; plus

20 (iii) Interest credits credited in accordance with
21 subdivision (19) of section 23-2301; plus

22 (iv) Dividend amounts credited in accordance with
23 subdivision (4)(c) of section 23-2317.

24 (3) In order to carry out the provisions of this section,
25 the board may enter into administrative services agreements for

1 accounting or record-keeping services. No agreement shall be
2 entered into unless the board determines that it will result
3 in administrative economy and will be in the best interests of the
4 counties and their participating employees. The board may develop
5 a schedule for the allocation of the administrative services
6 agreements costs for accounting or record-keeping services and may
7 assess the costs so that each member pays a reasonable fee as
8 determined by the board. The money forfeited pursuant to section
9 23-2319.01 shall not be used to pay the administrative costs
10 incurred pursuant to this subsection.

11 Sec. 2. Section 23-2317, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 23-2317 (1) The future service retirement benefit shall
14 be an annuity, payable monthly with the first payment made no
15 earlier than the annuity start date, which shall be the actuarial
16 equivalent of the retirement value as specified in section 23-2316
17 based on factors determined by the board, except that gender shall
18 not be a factor when determining the amount of such payments
19 pursuant to subsection (2) of this section.

20 Except as provided in section 42-1107, at any time before
21 the annuity start date, the retiring employee may choose to receive
22 his or her annuity either in the form of an annuity as provided
23 under subsection (4) of this section or any optional form that is
24 determined by the board.

25 Except as provided in section 42-1107, in lieu of the

1 future service retirement annuity, a retiring employee may receive
2 a benefit not to exceed the amount in his or her employer and
3 employee accounts as of the date of final account value payable
4 in a lump sum and, if the employee chooses not to receive the
5 entire amount in such accounts, an annuity equal to the actuarial
6 equivalent of the remainder of the retirement value, and the
7 employee may choose any form of such annuity as provided for by the
8 board.

9 In any case, the amount of the monthly payment shall
10 be such that the annuity chosen shall be the actuarial equivalent
11 of the retirement value as specified in section 23-2316 except as
12 provided in this section.

13 The board shall provide to any county employee who is
14 eligible for retirement, prior to his or her selecting any of the
15 retirement options provided by this section, information on the
16 federal and state income tax consequences of the various annuity or
17 retirement benefit options.

18 (2) Except as provided in subsection (4) of this section,
19 the monthly income payable to a member retiring on or after January
20 1, 1984, shall be as follows:

21 He or she shall receive at retirement the amount which
22 may be purchased by the accumulated contributions based on annuity
23 rates in effect on the annuity start date which do not utilize
24 gender as a factor, except that such amounts shall not be less
25 than the retirement income which can be provided by the sum of

1 the amounts derived pursuant to subdivisions (a) and (b) of this
2 subsection as follows:

3 (a) The income provided by the accumulated contributions
4 made prior to January 1, 1984, based on male annuity purchase rates
5 in effect on the date of purchase; and

6 (b) The income provided by the accumulated contributions
7 made on and after January 1, 1984, based on the annuity purchase
8 rates in effect on the date of purchase which do not use gender as
9 a factor.

10 (3) Any amount, in excess of contributions, which may be
11 required in order to purchase the retirement income specified in
12 subsection (2) of this section shall be withdrawn from the County
13 Equal Retirement Benefit Fund.

14 (4) (a) The normal form of payment shall be a single life
15 annuity with five-year certain, which is an annuity payable monthly
16 during the remainder of the member's life with the provision that,
17 in the event of his or her death before sixty monthly payments
18 have been made, the monthly payments will be continued to his or
19 her estate or to the beneficiary he or she has designated until
20 sixty monthly payments have been made in total. Such annuity shall
21 be equal to the actuarial equivalent of the member cash balance
22 account or the sum of the employee and employer accounts, whichever
23 is applicable, as of the date of final account value. As a part
24 of the annuity, the normal form of payment may include a two and
25 one-half percent cost-of-living adjustment purchased by the member,

1 if the member elects such a payment option.

2 Except as provided in section 42-1107, a member may elect
3 a lump-sum distribution of his or her member cash balance account
4 as of the date of final account value upon termination of service
5 or retirement.

6 For a member employed and participating in the retirement
7 system prior to January 1, 2003, who has elected to participate
8 in the cash balance benefit pursuant to section 23-2308.01, or
9 for a member employed and participating in the retirement system
10 beginning on and after January 1, 2003, the balance of his or her
11 member cash balance account as of the date of final account value
12 shall be converted to an annuity using an interest rate used in the
13 actuarial valuation as recommended by the actuary and approved by
14 the board.

15 For an employee who is a member prior to January 1, 2003,
16 who has elected not to participate in the cash balance benefit
17 prior to January 1, 2003, or on or after November 1, 2007, but
18 before January 1, 2008, pursuant to section 23-2308.01, and who,
19 at the time of retirement, chooses the annuity option rather than
20 the lump-sum option, his or her employee and employer accounts
21 as of the date of final account value shall be converted to an
22 annuity using an interest rate that is equal to the lesser of (i)
23 the Pension Benefits Guarantee Corporation initial interest rate
24 for valuing annuities for terminating plans as of the beginning
25 of the year during which payment begins plus three-fourths of one

1 percent or (ii) the interest rate used in the actuarial valuation
2 as recommended by the actuary and approved by the board.

3 (b) For the calendar year beginning January 1, 2003, and
4 each calendar year thereafter, the actuary for the board shall
5 perform an actuarial valuation of the system using the entry
6 age actuarial cost method. Under this method, the actuarially
7 required funding rate is equal to the normal cost rate plus the
8 contribution rate necessary to amortize the unfunded actuarial
9 accrued liability on a level-payment basis. The normal cost under
10 this method shall be determined for each individual member on
11 a level percentage of salary basis. The normal cost amount is
12 then summed for all members. The initial unfunded actual accrued
13 liability as of January 1, 2003, if any, shall be amortized
14 over a twenty-five-year period. During each subsequent actuarial
15 valuation, changes in the unfunded actuarial accrued liability
16 due to changes in benefits, actuarial assumptions, the asset
17 valuation method, or actuarial gains or losses shall be measured
18 and amortized over a twenty-five-year period beginning on the
19 valuation date of such change. If the unfunded actuarial accrued
20 liability under the entry age actuarial cost method is zero or
21 less than zero on an actuarial valuation date, then all prior
22 unfunded actuarial accrued liabilities shall be considered fully
23 funded and the unfunded actuarial accrued liability shall be
24 reinitialized and amortized over a twenty-five-year period as
25 of the actuarial valuation date. If the actuarially required

1 contribution rate exceeds the rate of all contributions required
2 pursuant to the County Employees Retirement Act, there shall be
3 a supplemental appropriation sufficient to pay for the difference
4 between the actuarially required contribution rate and the rate of
5 all contributions required pursuant to the act.

6 (c) If the unfunded accrued actuarial liability under the
7 entry age actuarial cost method is less than zero on an actuarial
8 valuation date, and on the basis of all data in the possession
9 of the retirement board, including such mortality and other tables
10 as are recommended by the actuary engaged by the retirement board
11 and adopted by the retirement board, the retirement board may
12 elect to pay a dividend to all members participating in the
13 cash balance option in an amount that would not increase the
14 actuarial contribution rate above ninety percent of the actual
15 contribution rate. Dividends shall be credited to the employee cash
16 balance account and the employer cash balance account based on the
17 account balances on the actuarial valuation date. In the event a
18 dividend is granted and paid after the actuarial valuation date,
19 interest for the period from the actuarial valuation date until the
20 dividend is actually paid shall be paid on the dividend amount. The
21 interest rate shall be the interest credit rate earned on regular
22 contributions.

23 (5) At the option of the retiring member, any lump sum
24 or annuity provided under this section or section 23-2334 may be
25 deferred to commence at any time, except that no benefit shall be

1 deferred later than April 1 of the year following the year in which
2 the employee has both attained at least seventy and one-half years
3 of age and has terminated his or her employment with the county.
4 Such election by the retiring member may be made at any time prior
5 to the commencement of the lump-sum or annuity payments.

6 Sec. 3. Section 84-1309.02, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 84-1309.02 (1) It is the intent of the Legislature that,
9 in order to improve the competitiveness of the retirement plan for
10 state employees, a cash balance benefit shall be added to the State
11 Employees Retirement Act on and after January 1, 2003. Each member
12 who is employed and participating in the retirement system prior
13 to January 1, 2003, may either elect to continue participation
14 in the defined contribution benefit as provided in the act prior
15 to January 1, 2003, or elect to participate in the cash balance
16 benefit as set forth in this section. The member shall make the
17 election prior to January 1, 2003, or on or after November 1, 2007,
18 but before January 1, 2008. If no election is made prior to January
19 1, 2003, or on or after November 1, 2007, but before January 1,
20 2008, the member shall be treated as though he or she elected
21 to continue participating in the defined contribution benefit as
22 provided in the act prior to January 1, 2003. Any member who made
23 the election prior to January 1, 2003, does not have to reelect
24 the cash balance benefit on or after November 1, 2007, but before
25 January 1, 2008.

1 (2) For a member employed and participating in the
2 retirement system beginning on and after January 1, 2003, or a
3 member employed and participating in the retirement system on
4 January 1, 2003, who, prior to January 1, 2003, or on or after
5 November 1, 2007, but before January 1, 2008, elects to convert his
6 or her employee and employer accounts to the cash balance benefit:

7 (a) The employee cash balance account shall, at any time,
8 be equal to the following:

9 (i) The initial employee account balance, if any,
10 transferred from the defined contribution plan account described in
11 section 84-1310; plus

12 (ii) Employee contribution credits deposited in
13 accordance with section 84-1308; plus

14 (iii) Interest credits credited in accordance with
15 subdivision (18) of section 84-1301; plus

16 (iv) Dividend amounts credited in accordance with
17 subdivision (4)(c) of section 84-1319; and

18 (b) The employer cash balance account shall, at any time,
19 be equal to the following:

20 (i) The initial employer account balance, if any,
21 transferred from the defined contribution plan account described in
22 section 84-1311; plus

23 (ii) Employer contribution credits deposited in
24 accordance with section 84-1309; plus

25 (iii) Interest credits credited in accordance with

1 subdivision (18) of section 84-1301; plus

2 (iv) Dividend amounts credited in accordance with
3 subdivision (4)(c) of section 84-1319.

4 (3) In order to carry out the provisions of this section,
5 the board may enter into administrative services agreements for
6 accounting or record-keeping services. No agreement shall be
7 entered into unless the board determines that it will result
8 in administrative economy and will be in the best interests of
9 the state and its participating employees. The board may develop
10 a schedule for the allocation of the administrative services
11 agreements costs for accounting or record-keeping services and may
12 assess the costs so that each member pays a reasonable fee as
13 determined by the board. The money forfeited pursuant to section
14 84-1321.01 shall not be used to pay the administrative costs
15 incurred pursuant to this subsection.

16 Sec. 4. Section 84-1319, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 84-1319 (1) The future service retirement benefit shall
19 be an annuity, payable monthly with the first payment made no
20 earlier than the annuity start date, which shall be the actuarial
21 equivalent of the retirement value as specified in section 84-1318
22 based on factors determined by the board, except that gender shall
23 not be a factor when determining the amount of such payments except
24 as provided in this section.

25 Except as provided in section 42-1107, at any time before

1 the annuity start date, the retiring employee may choose to receive
2 his or her annuity either in the form of an annuity as provided
3 under subsection (4) of this section or any optional form that is
4 determined acceptable by the board.

5 Except as provided in section 42-1107, in lieu of the
6 future service retirement annuity, a retiring employee may receive
7 a benefit not to exceed the amount in his or her employer and
8 employee accounts as of the date of final account value payable
9 in a lump sum and, if the employee chooses not to receive the
10 entire amount in such accounts, an annuity equal to the actuarial
11 equivalent of the remainder of the retirement value, and the
12 employee may choose any form of such annuity as provided for by the
13 board.

14 In any case, the amount of the monthly payment shall
15 be such that the annuity chosen shall be the actuarial equivalent
16 of the retirement value as specified in section 84-1318 except as
17 provided in this section.

18 The board shall provide to any state employee who is
19 eligible for retirement, prior to his or her selecting any of the
20 retirement options provided by this section, information on the
21 federal and state income tax consequences of the various annuity or
22 retirement benefit options.

23 (2) Except as provided in subsection (4) of this section,
24 the monthly annuity income payable to a member retiring on or after
25 January 1, 1984, shall be as follows:

1 He or she shall receive at retirement the amount which
2 may be purchased by the accumulated contributions based on annuity
3 rates in effect on the annuity start date which do not utilize
4 gender as a factor, except that such amounts shall not be less
5 than the retirement income which can be provided by the sum of
6 the amounts derived pursuant to subdivisions (a) and (b) of this
7 subsection as follows:

8 (a) The income provided by the accumulated contributions
9 made prior to January 1, 1984, based on male annuity purchase rates
10 in effect on the date of purchase; and

11 (b) The income provided by the accumulated contributions
12 made on and after January 1, 1984, based on the annuity purchase
13 rates in effect on the date of purchase which do not use gender as
14 a factor.

15 (3) Any amounts, in excess of contributions, which may be
16 required in order to purchase the retirement income specified in
17 subsection (2) of this section shall be withdrawn from the State
18 Equal Retirement Benefit Fund.

19 (4) (a) The normal form of payment shall be a single life
20 annuity with five-year certain, which is an annuity payable monthly
21 during the remainder of the member's life with the provision that,
22 in the event of his or her death before sixty monthly payments
23 have been made, the monthly payments will be continued to his or
24 her estate or to the beneficiary he or she has designated until
25 sixty monthly payments have been made in total. Such annuity shall

1 be equal to the actuarial equivalent of the member cash balance
2 account or the sum of the employee and employer accounts, whichever
3 is applicable, as of the date of final account value. As a part
4 of the annuity, the normal form of payment may include a two and
5 one-half percent cost-of-living adjustment purchased by the member,
6 if the member elects such a payment option.

7 Except as provided in section 42-1107, a member may elect
8 a lump-sum distribution of his or her member cash balance account
9 as of the date of final account value upon termination of service
10 or retirement.

11 For a member employed and participating in the retirement
12 system prior to January 1, 2003, who has elected to participate
13 in the cash balance benefit pursuant to section 84-1309.02, or
14 for a member employed and participating in the retirement system
15 beginning on and after January 1, 2003, the balance of his or her
16 member cash balance account as of the date of final account value
17 shall be converted to an annuity using an interest rate used in the
18 actuarial valuation as recommended by the actuary and approved by
19 the board.

20 For an employee who is a member prior to January 1, 2003,
21 who has elected not to participate in the cash balance benefit
22 prior to January 1, 2003, or on or after November 1, 2007, but
23 before January 1, 2008, pursuant to section 84-1309.02, and who,
24 at the time of retirement, chooses the annuity option rather than
25 the lump-sum option, his or her employee and employer accounts

1 as of the date of final account value shall be converted to an
2 annuity using an interest rate that is equal to the lesser of (i)
3 the Pension Benefits Guarantee Corporation initial interest rate
4 for valuing annuities for terminating plans as of the beginning
5 of the year during which payment begins plus three-fourths of one
6 percent or (ii) the interest rate used in the actuarial valuation
7 as recommended by the actuary and approved by the board.

8 (b) For the calendar year beginning January 1, 2003, and
9 each calendar year thereafter, the actuary for the board shall
10 perform an actuarial valuation of the system using the entry
11 age actuarial cost method. Under this method, the actuarially
12 required funding rate is equal to the normal cost rate plus the
13 contribution rate necessary to amortize the unfunded actuarial
14 accrued liability on a level-payment basis. The normal cost under
15 this method shall be determined for each individual member on
16 a level percentage of salary basis. The normal cost amount is
17 then summed for all members. The initial unfunded actual accrued
18 liability as of January 1, 2003, if any, shall be amortized
19 over a twenty-five-year period. During each subsequent actuarial
20 valuation, changes in the unfunded actuarial accrued liability
21 due to changes in benefits, actuarial assumptions, the asset
22 valuation method, or actuarial gains or losses shall be measured
23 and amortized over a twenty-five-year period beginning on the
24 valuation date of such change. If the unfunded actuarial accrued
25 liability under the entry age actuarial cost method is zero or

1 less than zero on an actuarial valuation date, then all prior
2 unfunded actuarial accrued liabilities shall be considered fully
3 funded and the unfunded actuarial accrued liability shall be
4 reinitialized and amortized over a twenty-five-year period as
5 of the actuarial valuation date. If the actuarially required
6 contribution rate exceeds the rate of all contributions required
7 pursuant to the State Employees Retirement Act, there shall be
8 a supplemental appropriation sufficient to pay for the difference
9 between the actuarially required contribution rate and the rate of
10 all contributions required pursuant to the act.

11 (c) If the unfunded accrued actuarial liability under the
12 entry age actuarial cost method is less than zero on an actuarial
13 valuation date, and on the basis of all data in the possession
14 of the retirement board, including such mortality and other tables
15 as are recommended by the actuary engaged by the retirement board
16 and adopted by the retirement board, the retirement board may
17 elect to pay a dividend to all members participating in the
18 cash balance option in an amount that would not increase the
19 actuarial contribution rate above ninety percent of the actual
20 contribution rate. Dividends shall be credited to the employee cash
21 balance account and the employer cash balance account based on the
22 account balances on the actuarial valuation date. In the event a
23 dividend is granted and paid after the actuarial valuation date,
24 interest for the period from the actuarial valuation date until the
25 dividend is actually paid shall be paid on the dividend amount. The

1 interest rate shall be the interest credit rate earned on regular
2 contributions.

3 (5) At the option of the retiring member, any lump sum
4 or annuity provided under this section or section 84-1320 may be
5 deferred to commence at any time, except that no benefit shall be
6 deferred later than April 1 of the year following the year in which
7 the employee has both attained at least seventy and one-half years
8 of age and has terminated his or her employment with the state.
9 Such election by the retiring member may be made at any time prior
10 to the commencement of the lump-sum or annuity payments.

11 Sec. 5. Original sections 23-2308.01, 23-2317,
12 84-1309.02, and 84-1319, Revised Statutes Cumulative Supplement,
13 2006, are repealed.