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

FOR AN ACT relating to cash balance benefit elections; to amend sections 23-2308.01, 23-2317, 84-1309.02, and 84-1319, Revised Statutes Cumulative Supplement, 2006; to provide for the retirement election for state and county employees as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska, Section 1. Section 23-2308.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 as specified in section 23-2316 except as provided in this section.

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

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

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

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

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

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

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

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

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

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

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the County Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 as specified in section 84-1318 except as provided in this section.

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

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

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

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

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

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

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

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

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

For an employee who is a member prior to January 1, 2003, who has elected not to participate in the cash balance benefit prior to January 1, 2003, <u>or on or after November 1, 2007, but before January 1, 2008,</u> pursuant to section 84-1309.02, and who, at the time of retirement, chooses the annuity option rather than the lump-sum option, his or her employee and employer accounts as of the date of final account value shall be converted to an annuity using an interest rate that is equal to the lesser of (i) the Pension Benefits Guarantee Corporation initial interest rate for valuing annuities for terminating plans as of the beginning of the year during which payment begins plus three-fourths of one percent or (ii) the interest rate used in the actuarial valuation as recommended by the actuary and approved by the board.

(b) For the calendar year beginning January 1, 2003, and each calendar year thereafter, the actuary for the board shall perform an actuarial valuation of the system using the entry age actuarial cost method. Under this method, the actuarially required funding rate is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level-payment basis. The normal cost under this method shall be determined for each individual member on a level percentage of salary basis. The normal cost amount is then summed for all members. The initial unfunded actual accrued liability as of January 1, 2003, if any, shall be amortized over a twenty-five-year period. During each subsequent actuarial valuation, changes in the unfunded actuarial accrued liability due to changes in benefits, actuarial assumptions, the asset valuation method, or actuarial gains or losses shall be measured and amortized over a twenty-five-year period beginning on the valuation date of such change. If the unfunded actuarial accrued liability under the entry age actuarial cost method is zero or less than zero on an actuarial valuation date, then all prior unfunded actuarial accrued liabilities shall be considered fully funded and the unfunded actuarial accrued liability shall be reinitialized and amortized over a twenty-five-year period as of the actuarial valuation date. If the actuarially required contribution rate exceeds the rate of all contributions required pursuant to the State Employees Retirement Act, there shall be a supplemental appropriation sufficient to pay for the difference between the actuarially required contribution rate and the rate of all contributions required pursuant to the act.

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

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

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