

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 979

Introduced by Nebraska Retirement Systems Committee: Pankonin, 2,
Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49;
Mello, 5; Nordquist, 7.

Read first time January 19, 2010

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to the State Employees Retirement Act; to amend
2 section 84-1301, Reissue Revised Statutes of Nebraska,
3 and section 84-1307, Revised Statutes Supplement, 2009;
4 to provide for the transition of certain employees to the
5 State Employees Retirement System as prescribed; and to
6 repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-1301, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 84-1301 For purposes of the State Employees Retirement
4 Act, unless the context otherwise requires:

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

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

24 (3) Annuity start date means the date upon which a
25 member's annuity is first effective and shall be the first day of

1 the month following the member's termination or following the date
2 the application is received by the board, whichever is later;

3 (4) Cash balance benefit means a member's retirement
4 benefit that is equal to an amount based on annual employee
5 contribution credits plus interest credits and, if vested, employer
6 contribution credits plus interest credits and dividend amounts
7 credited in accordance with subdivision (4)(c) of section 84-1319;

8 (5)(a) Compensation means gross wages or salaries payable
9 to the member for personal services performed during the plan
10 year. Compensation does not include insurance premiums converted
11 into cash payments, reimbursement for expenses incurred, fringe
12 benefits, or bonuses for services not actually rendered, including,
13 but not limited to, early retirement inducements, cash awards,
14 and severance pay, except for retroactive salary payments paid
15 pursuant to court order, arbitration, or litigation and grievance
16 settlements. Compensation includes overtime pay, member retirement
17 contributions, and amounts contributed by the member to plans under
18 sections 125, 403(b), and 457 of the Internal Revenue Code or any
19 other section of the code which defers or excludes such amounts
20 from income.

21 (b) Compensation in excess of the limitations set forth
22 in section 401(a)(17) of the Internal Revenue Code shall be
23 disregarded. For an employee who was a member of the retirement
24 system before the first plan year beginning after December 31,
25 1995, the limitation on compensation shall not be less than the

1 amount which was allowed to be taken into account under the
2 retirement system as in effect on July 1, 1993;

3 (6) Date of disability means the date on which a member
4 is determined to be disabled by the board;

5 (7) Defined contribution benefit means a member's
6 retirement benefit from a money purchase plan in which member
7 benefits equal annual contributions and earnings pursuant to
8 section 84-1310 and, if vested, employer contributions and earnings
9 pursuant to section 84-1311;

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

14 (9) Employee means any employee of the State Board of
15 Agriculture who is a member of the state retirement system on
16 July 1, 1982, and any person or officer employed by the State of
17 Nebraska whose compensation is paid out of state funds or funds
18 controlled or administered by a state department through any of
19 its executive or administrative officers when acting exclusively in
20 their respective official, executive, or administrative capacities.
21 Employee does not include (a) judges as defined in section 24-701,
22 (b) members of the Nebraska State Patrol, except for those members
23 of the Nebraska State Patrol who elected pursuant to section
24 60-1304 to remain members of the State Employees Retirement System
25 of the State of Nebraska, (c) employees of the University of

1 Nebraska, (d) employees of the state colleges, (e) employees
2 of community colleges, (f) employees of the Department of Labor
3 employed prior to July 1, 1984, and paid from funds provided
4 pursuant to Title III of the federal Social Security Act or funds
5 from other federal sources, unless and until the contributory
6 retirement system or contract let for such purpose under section
7 48-609 is terminated, at which time such employees shall be
8 deemed employees for purposes of the State Employees Retirement
9 Act, (g) the Commissioner of Labor employed prior to July 1,
10 1984, (h) employees of the State Board of Agriculture who are
11 not members of the state retirement system on July 1, 1982, (i)
12 the Nebraska National Guard air and army technicians, (j) persons
13 eligible for membership under the School Retirement System of
14 the State of Nebraska who have not elected to become members of
15 the retirement system pursuant to section 79-920 or been made
16 members of the system pursuant to such section, except that
17 those persons so eligible and who as of September 2, 1973, are
18 contributing to the State Employees Retirement System of the
19 State of Nebraska shall continue as members of such system, or
20 (k) employees of the Coordinating Commission for Postsecondary
21 Education who are eligible for and have elected to become members
22 of a qualified retirement program approved by the commission which
23 is commensurate with retirement programs at the University of
24 Nebraska. Any individual appointed by the Governor may elect not
25 to become a member of the State Employees Retirement System of the

1 State of Nebraska;

2 (10) Employee contribution credit means an amount equal
3 to the member contribution amount required by section 84-1308;

4 (11) Employer contribution credit means an amount equal
5 to the employer contribution amount required by section 84-1309;

6 (12) Final account value means the value of a member's
7 account on the date the account is either distributed to the member
8 or used to purchase an annuity from the plan, which date shall
9 occur as soon as administratively practicable after receipt of a
10 valid application for benefits, but no sooner than forty-five days
11 after the member's termination;

12 (13) Five-year break in service means five consecutive
13 one-year breaks in service;

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

17 (15) Fund means the State Employees Retirement Fund
18 created by section 84-1309;

19 (16) Guaranteed investment contract means an investment
20 contract or account offering a return of principal invested plus
21 interest at a specified rate. For investments made after July
22 19, 1996, guaranteed investment contract does not include direct
23 obligations of the United States or its instrumentalities, bonds,
24 participation certificates or other obligations of the Federal
25 National Mortgage Association, the Federal Home Loan Mortgage

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

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

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

1 commences receipt of a distribution from the plan;

2 (19) Member cash balance account means an account equal
3 to the sum of the employee cash balance account and, if vested,
4 the employer cash balance account and dividend amounts credited in
5 accordance with subdivision (4)(c) of section 84-1319;

6 (20) One-year break in service means a plan year during
7 which the member has not completed more than five hundred hours of
8 service;

9 (21) Participation means qualifying for and making the
10 required deposits to the retirement system during the course of a
11 plan year;

12 (22) Part-time employee means an employee who is employed
13 to work less than one-half of the regularly scheduled hours during
14 each pay period;

15 (23) Plan year means the twelve-month period beginning on
16 January 1 and ending on December 31;

17 (24) Prior service means service before January 1, 1964;

18 (25) Regular interest means the rate of interest earned
19 each calendar year commencing January 1, 1975, as determined by the
20 retirement board in conformity with actual and expected earnings on
21 the investments through December 31, 1984;

22 (26) Required contribution means the deduction to be made
23 from the compensation of employees as provided in section 84-1308;

24 (27) Retirement means qualifying for and accepting the
25 retirement benefit granted under the State Employees Retirement Act

1 after terminating employment;

2 (28) Retirement board or board means the Public Employees
3 Retirement Board;

4 (29) Retirement system means the State Employees
5 Retirement System of the State of Nebraska;

6 (30) Service means the actual total length of employment
7 as an employee and shall not be deemed to be interrupted by (a)
8 temporary or seasonal suspension of service that does not terminate
9 the employee's employment, (b) leave of absence authorized by
10 the employer for a period not exceeding twelve months, (c) leave
11 of absence because of disability, or (d) military service, when
12 properly authorized by the retirement board. Service does not
13 include any period of disability for which disability retirement
14 benefits are received under section 84-1317;

15 (31) State department means any department, bureau,
16 commission, or other division of state government not otherwise
17 specifically defined or exempted in the act, the employees and
18 officers of which are not already covered by a retirement plan;

19 (32) Surviving spouse means (a) the spouse married to
20 the member on the date of the member's death or (b) the spouse
21 or former spouse of the member if survivorship rights are provided
22 under a qualified domestic relations order filed with the board
23 pursuant to the Spousal Pension Rights Act. The spouse or former
24 spouse shall supersede the spouse married to the member on the
25 date of the member's death as provided under a qualified domestic

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

6 (33) Termination of employment occurs on the date on
7 which the agency which employs the member determines that the
8 member's employer-employee relationship with the State of Nebraska
9 is dissolved. The agency which employs the member shall notify
10 the board of the date on which such a termination has occurred.
11 Termination of employment does not occur if an employee whose
12 employer-employee relationship with the State of Nebraska is
13 dissolved enters into an employer-employee relationship with the
14 same or another agency of the State of Nebraska and there are
15 less than one hundred twenty days between the date when the
16 employee's employer-employee relationship ceased with the state and
17 the date when the employer-employee relationship commenced with
18 the same or another agency. It shall be the responsibility of the
19 current employer to notify the board of such change in employment
20 and provide the board with such information as the board deems
21 necessary. If the board determines that termination of employment
22 has not occurred and a termination benefit has been paid to a
23 member of the retirement system pursuant to section 84-1321, the
24 board shall require the member who has received such benefit to
25 repay the benefit to the retirement system; and

1 (34) Vesting credit means credit for years, or a fraction
2 of a year, of participation in another Nebraska governmental plan
3 for purposes of determining vesting of the employer account.

4 Sec. 2. Section 84-1307, Revised Statutes Supplement,
5 2009, is amended to read:

6 84-1307 (1) The membership of the retirement system shall
7 be composed of all persons who are or were employed by the State
8 of Nebraska and who maintain an account balance with the retirement
9 system.

10 (2) The following employees of the State of Nebraska
11 are authorized to participate in the retirement system: (a) All
12 permanent full-time employees shall begin participation in the
13 retirement system upon employment; and (b) all permanent part-time
14 employees who have attained the age of twenty years may exercise
15 the option to begin participation in the retirement system. An
16 employee who exercises the option to begin participation in the
17 retirement system pursuant to this section shall remain in the
18 retirement system until his or her termination of employment or
19 retirement, regardless of any change of status as a permanent or
20 temporary employee.

21 (3) For purposes of this section, (a) permanent full-time
22 employees includes employees of the Legislature or Legislative
23 Council who work one-half or more of the regularly scheduled
24 hours during each pay period of the legislative session and (b)
25 permanent part-time employees includes employees of the Legislature

1 or Legislative Council who work less than one-half of the regularly
2 scheduled hours during each pay period of the legislative session.

3 ~~(4)~~ (4) (a) Within the first one hundred eighty days
4 of employment, a full-time employee may apply to the board for
5 vesting credit for years of participation in another Nebraska
6 governmental plan, as defined by section 414(d) of the Internal
7 Revenue Code. During the years of participation in the other
8 Nebraska governmental plan, the employee must have been a full-time
9 employee, as defined in the Nebraska governmental plan in which
10 the credit was earned. The board may adopt and promulgate rules
11 and regulations governing the assessment and granting of vesting
12 credit.

13 (b) If the contributory retirement system established
14 pursuant to section 48-609 is terminated, employees of the
15 Department of Labor who are active participants in such
16 contributory retirement system on the date of termination shall be
17 granted vesting credit for their years of participation in such
18 contributory retirement system.

19 (5) Any employee who qualifies for membership in the
20 retirement system pursuant to this section may not be disqualified
21 for membership in the retirement system solely because such
22 employee also maintains separate employment which qualifies the
23 employee for membership in another public retirement system,
24 nor may membership in this retirement system disqualify such an
25 employee from membership in another public employment system solely

1 by reason of separate employment which qualifies such employee for
2 membership in this retirement system.

3 (6) State agencies shall ensure that employees authorized
4 to participate in the retirement system pursuant to this section
5 shall enroll and make required contributions to the retirement
6 system immediately upon becoming an employee. Information necessary
7 to determine membership in the retirement system shall be provided
8 by the employer.

9 Sec. 3. Original section 84-1301, Reissue Revised
10 Statutes of Nebraska, and section 84-1307, Revised Statutes
11 Supplement, 2009, are repealed.