

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 433

Introduced by Sorrentino, 39.

Read first time January 21, 2025

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to government; to amend sections 81-1316 and
2 84-1307, Reissue Revised Statutes of Nebraska; to exempt state
3 agency deputy directors and attorneys from the State Personnel
4 System as prescribed; to change provisions relating to retirement
5 system membership under the State Employees Retirement Act; and to
6 repeal the original sections.

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

1 **Section 1.** Section 81-1316, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1316 (1) All agencies and personnel of state government shall be
4 covered by sections 81-1301 to 81-1319 and shall be considered subject to
5 the State Personnel System, except the following:

- 6 (a) All personnel of the office of the Governor;
- 7 (b) All personnel of the office of the Lieutenant Governor;
- 8 (c) All personnel of the office of the Secretary of State;
- 9 (d) All personnel of the office of the State Treasurer;
- 10 (e) All personnel of the office of the Attorney General;
- 11 (f) All personnel of the office of the Auditor of Public Accounts;
- 12 (g) All personnel of the Legislature;
- 13 (h) All personnel of the court systems;
- 14 (i) All personnel of the Board of Educational Lands and Funds;
- 15 (j) All personnel of the Public Service Commission;
- 16 (k) All personnel of the Nebraska Brand Committee;
- 17 (l) All personnel of the Commission of Industrial Relations;
- 18 (m) All personnel of the State Department of Education;
- 19 (n) All personnel of the Nebraska state colleges and the Board of
20 Trustees of the Nebraska State Colleges;
- 21 (o) All personnel of the University of Nebraska;
- 22 (p) All personnel of the Coordinating Commission for Postsecondary
23 Education;
- 24 (q) All personnel of the Governor's Policy Research Office;
- 25 (r) All personnel of the Commission on Public Advocacy;
- 26 (s) All agency heads;
- 27 (t)(i) The Director of Behavioral Health of the Division of
28 Behavioral Health; (ii) the Director of Children and Family Services of
29 the Division of Children and Family Services; (iii) the Director of
30 Developmental Disabilities of the Division of Developmental Disabilities;
31 (iv) the Director of Medicaid and Long-Term Care of the Division of

1 Medicaid and Long-Term Care; and (v) the Director of Public Health of the
2 Division of Public Health;

3 (u) The chief medical officer established under section 81-3115, the
4 Administrator of the Office of Juvenile Services, and the chief executive
5 officers of the Beatrice State Developmental Center, Lincoln Regional
6 Center, Norfolk Regional Center, Hastings Regional Center, Central
7 Nebraska Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska
8 Veterans' Home, Western Nebraska Veterans' Home, and each youth
9 rehabilitation and treatment center;

10 (v) The chief executive officers of all facilities operated by the
11 Department of Correctional Services and the medical director for the
12 department appointed pursuant to section 83-4,156;

13 (w) All personnel employed as pharmacists, physicians,
14 psychiatrists, or psychologists by the Department of Correctional
15 Services;

16 (x) All personnel employed as pharmacists, physicians,
17 psychiatrists, psychologists, service area administrators, or facility
18 operating officers of the Department of Health and Human Services or the
19 Department of Veterans' Affairs;

20 (y) Deputies and examiners of the Department of Banking and Finance
21 and the Department of Insurance as set forth in sections 8-105 and
22 44-119, except for those deputies and examiners who remain in the State
23 Personnel System;

24 (z) All personnel of the Tax Equalization and Review Commission;

25 (aa) The associate director of the Conservation Division of the
26 Nebraska State Historical Society and all personnel employed as a
27 Conservator I or Conservator II of the Conservation Division of the
28 Nebraska State Historical Society; ~~and~~

29 (bb) Assistant directors and deputies of the Nebraska Public
30 Employees Retirement Systems; -

31 (cc) All personnel employed as deputy directors of all agencies. For

1 purposes of this subdivision, deputy director includes, but is not
2 limited to, any position titled deputy director and any person in the
3 position to fill in and have the authority to act in the absence of the
4 director of an agency on other than an interim basis. Each deputy
5 director hired by a state agency after the effective date of this act
6 shall hold office at the will of the director of the agency and shall
7 receive such salary as fixed by such director and approved by the
8 Governor based upon the level of credentials for the position. Each
9 employee who is employed on the effective date of this act as a deputy
10 director may elect to become employed at will. The election to become
11 employed at will may be made at any time upon notification to the
12 director of the agency in writing, but once made, such election shall be
13 final. Until the election to be employed at will is made, the employee
14 shall be treated as continuing to participate in the State Personnel
15 System; and

16 (dd) All personnel employed as attorneys of all agencies. For
17 purposes of this subdivision, attorney includes, but is not limited to,
18 any position titled attorney and any position that requires the employee
19 to have a juris doctorate degree and be licensed to practice law in the
20 State of Nebraska. Each attorney hired by a state agency after the
21 effective date of this act shall hold office at the will of the director
22 of the agency and shall receive such salary as fixed by such director and
23 approved by the Governor based upon the level of credentials for the
24 position. Each employee who is employed on the effective date of this act
25 as an attorney by a state agency may elect to become employed at will.
26 The election to become employed at will may be made at any time upon
27 notification to the director of the agency in writing, but once made,
28 such election shall be final. Until the election to be employed at will
29 is made, the employee shall be treated as continuing to participate in
30 the State Personnel System.

31 (2) At each agency head's discretion, up to the following number of

1 additional positions may be exempted from the State Personnel System,
2 based on the following agency size categories:

3	Number of Agency	Number of Noncovered
4	Employees	Positions
5	less than 25	0
6	25 to 100	1
7	101 to 250	2
8	251 to 500	3
9	501 to 1000	4
10	1001 to 2000	5
11	2001 to 3000	8
12	3001 to 4000	11
13	4001 to 5000	40
14	over 5000	50

15 The purpose of having such noncovered positions shall be to allow
16 agency heads the opportunity to recruit, hire, and supervise critical,
17 confidential, or policymaking personnel without restrictions from
18 selection procedures, compensation rules, career protections, and
19 grievance privileges. Persons holding the noncovered positions shall
20 serve at the pleasure of the agency head and shall be paid salaries set
21 by the agency head. An agency with over five thousand employees shall
22 provide notice in writing to the Health and Human Services Committee of
23 the Legislature when forty noncovered positions have been filled by the
24 agency head pursuant to this subsection.

25 (3) No changes to this section or to the number of noncovered
26 positions within an agency shall affect the status of personnel employed
27 on the date the changes become operative without their prior written
28 agreement. A state employee's career protections or coverage by personnel
29 rules and regulations shall not be revoked by redesignation of the
30 employee's position as a noncovered position without the prior written
31 agreement of such employee.

1 **Sec. 2.** Section 84-1307, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 84-1307 (1) The membership of the retirement system shall be
4 composed of all persons who are or were employed by the State of Nebraska
5 and who maintain an account balance with the retirement system.

6 (2) The following employees of the State of Nebraska are authorized
7 to participate in the retirement system: (a) All permanent full-time
8 employees who have attained the age of eighteen years shall begin
9 participation in the retirement system upon employment; ~~and~~ (b) all
10 permanent part-time employees who have attained the age of eighteen years
11 may exercise the option to begin participation in the retirement system
12 within the first thirty days of employment except as provided in section
13 84-1322; and (c) all temporary employees who were prior contributing
14 members of the retirement system and who are returning to service with
15 the state prior to having a one-hundred-twenty-day break in service
16 pursuant to subsection (5) of section 84-1322 shall begin participation
17 in the retirement system within the first thirty days of employment as a
18 temporary employee. An employee who exercises the option to begin
19 participation in the retirement system pursuant to this section shall
20 remain in the retirement system until his or her termination of
21 employment or retirement, regardless of any change of status as a
22 permanent or temporary employee.

23 (3) No employee shall be authorized to participate in the retirement
24 system provided for in the State Employees Retirement Act unless the
25 employee is a United States citizen or is lawfully present in the United
26 States. The employing state agency and the employee shall maintain at
27 least one of the following documents which shall be unexpired, if
28 applicable to the particular document, to demonstrate United States
29 citizenship or lawful presence in the United States as of the employee's
30 date of hire and produce any such document so maintained upon request of
31 the retirement board or the Nebraska Public Employees Retirement Systems:

1 (a) A state-issued driver's license;

2 (b) A state-issued identification card;

3 (c) A certified copy of a birth certificate or delayed birth
4 certificate issued in any state, territory, or possession of the United
5 States;

6 (d) A Consular Report of Birth Abroad issued by the United States
7 Department of State;

8 (e) A United States passport;

9 (f) A foreign passport with a United States visa;

10 (g) A United States Certificate of Naturalization;

11 (h) A United States Certificate of Citizenship;

12 (i) A tribal certificate of Native American blood or similar
13 document;

14 (j) A United States Citizenship and Immigration Services Employment
15 Authorization Document, Form I-766;

16 (k) A United States Citizenship and Immigration Services Permanent
17 Resident Card, Form I-551; or

18 (l) Any other document issued by the United States Department of
19 Homeland Security or the United States Citizenship and Immigration
20 Services granting employment authorization in the United States and
21 approved by the retirement board.

22 (4) For purposes of this section, (a) permanent full-time employees
23 includes employees of the Legislature or Legislative Council who work
24 one-half or more of the regularly scheduled hours during each pay period
25 of the legislative session, ~~and~~ (b) permanent part-time employees
26 includes employees of the Legislature or Legislative Council who work
27 less than one-half of the regularly scheduled hours during each pay
28 period of the legislative session, and (c) temporary employees includes
29 employees of the Legislature or Legislative Council who are hired for (i)
30 a limited period of time of less than six months or six months or more
31 and less than or equal to twelve months or two thousand eighty hours or

1 (ii) a grant-funded position or a special project.

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

11 (b) If the contributory retirement plan or contract let pursuant to
12 section 48-609, as such section existed prior to January 1, 2018, is
13 terminated, employees of the Department of Labor who are active
14 participants in such contributory retirement plan or contract on the date
15 of termination of such plan or contract shall be granted vesting credit
16 for their years of participation in such plan or contract.

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

25 (7) State agencies shall ensure that employees authorized to
26 participate in the retirement system pursuant to this section shall
27 enroll and make required contributions to the retirement system
28 immediately upon becoming an employee. Information necessary to determine
29 membership in the retirement system shall be provided by the employer.

30 **Sec. 3.** Original sections 81-1316 and 84-1307, Reissue Revised
31 Statutes of Nebraska, are repealed.