

LEGISLATIVE BILL 189

Approved by the Governor May 22, 1975

Introduced by Barnett, 26

AN ACT relating to retirement; to amend sections 15-1001, 15-1002, 15-1004, and 15-1006, Reissue Revised Statutes of Nebraska, 1943, and section 15-1007, Revised Statutes Supplement, 1974; to define terms; to provide for increased pension benefits for firemen and policemen; to provide that firemen and policemen may receive pension benefits at a younger age; to provide for optional benefits; to provide vested rights for certain employees whose status is changed; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. As used in sections 15-1001 to 15-1018, unless the context otherwise requires:

(1) Regular pay shall mean the average pay of a fireman or policeman for the five years preceding the date such fireman or policeman elects to retire or his death whichever is earlier; and

(2) Regular interest shall mean the rate of interest determined by the city in conformity with actual and expected earnings on investment of the fund created by section 15-1016.

Sec. 2. That section 15-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1001. Every primary city shall pension all firemen and policemen whenever such firemen or policemen shall (1) have first served in the paid fire or police department for a period of twenty-one years, (2) have attained the age of fifty-five years, and (3) elect to retire from active service and go upon the retired list. Such pension shall be paid by the city in the same manner as salaries of firemen and policemen upon the active list are paid and such pension shall be a straight life pension of fifty per cent of the regular pay for such fireman or policeman paid monthly. The pension of a policeman or fireman who elects to remain on active duty after becoming eligible for retirement shall be increased by one two per cent of his regular pay for each year of

additional service, subject to a maximum increase of ten per cent. ~~Any fireman or policeman who retires on or after his fiftieth birthday but prior to his fifty-fifth birthday and who has completed at least twenty-one years of service shall receive the actuarial equivalent of the benefit which would otherwise be provided at age fifty-five. Regular pay shall be defined as the average pay of such policeman or fireman for the five years preceding the date such policeman or fireman elects to retire or his death whichever is earlier.~~

Sec. 3. That section 15-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1002. (1) On or prior to the effective date of such retirement, but not thereafter, any such policeman or fireman may elect, by written notice filed with the city, to receive his pension as a straight life pension as defined, or he may elect to receive the actuarial equivalent of his straight life pension in a reduced pension payable throughout his life, and nominate a survivor beneficiary, having an insurable interest, in accordance with the provisions of option A or B, as hereinafter set forth in this section. Said actuarial equivalent shall be computed upon the basis of the 1937 Standard Annuity Mortality Table and an interest computation of three per cent per annum, compounded annually.

Option A. Under option A, a retired policeman or fireman shall receive a reduced pension payable throughout his life and upon his death his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.

Option B. Under option B, a retired policeman or fireman shall receive a reduced pension payable throughout his life and upon his death one half of his said reduced pension shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the city on or prior to the effective date of his retirement.

(2) In the event a retired fireman or policeman and his survivor beneficiary, if any, die before the aggregate amount of pension payments received by the said retired fireman or policeman and his survivor beneficiary, if any, equals the total amount of contributions made to the retirement plan by the said

retired fireman or policeman, without plus regular interest, the difference between the total amount of his contributions and the aggregate amount of pension payments received by the retired fireman or policeman and his survivor beneficiary, if any, shall be paid, in a single sum, to such person or persons as the retired fireman or policeman shall have nominated by his written designation duly executed and filed with the city. If there be no such designated person or persons surviving the retired fireman or policeman and his survivor beneficiary, if any, such difference, if any, shall be paid to his duly qualified personal representative; Provided, that if the difference is less than three hundred dollars, the city may pay same to such claimant or claimants as the city, in its discretion shall determine to be entitled to same.

(3) Any election or designation, permitted under the provisions of sections 15-1001 to 15-1015, may be made by a fireman or policeman after he is eligible to retire, or within one year prior thereto, or after he has served for at least twenty years and is at least fifty-four years of age.

(4) Any election or designation, permitted under the provisions of sections 15-1001 to 15-1015, by a fireman or policeman, prior to retirement, may be revoked or changed by him, without the consent of any other person, or a new election or designation be substituted by him, as often as such fireman or policeman may desire, not later than the applicable final date on which he may make election.

(5) In event of mental incapacity of a fireman or policeman, the right of election and designation, permitted under the provisions of sections 15-1001 to 15-1015, may be exercised by his guardian.

Sec. 4. That section 15-1004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1004. (1) If any fireman or policeman hereafter entering the employment of any primary city as a member of its paid fire or police department, except those who shall have been formerly employed in such department who are now in military service, shall die under conditions not bringing the death within the provisions of section 15-1005 or 15-1006, after becoming fifty years of age and before age fifty-five, and after serving in the paid fire or police department of such city for at least ~~twenty-five~~ twenty-one years, then the same pension shall be paid as if such deceased fireman or

policeman were fifty-five years of age and eligible to retire at the time of his death. The payments shall be made in accordance with the survivor beneficiary designation, if any, made by such deceased fireman or policeman under option A, set forth in subsection (1) of section 15-1002, and if no such designation has been made, then the payments shall be made to the surviving wife of such deceased fireman or policeman under option A, set forth in subsection (1) of section 15-1002.

Sec. 5. That section 15-1006, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1006. (1) In case any such fireman or policeman shall become permanently and totally disabled, from accident or other cause, for the work he was doing at the time of such accident or other cause, while in the line of duty, he shall forthwith be placed upon the roll of pensioned firemen or policemen, at the rate of fifty per cent of his regular pay as defined in section 15-1001 paid monthly; Provided, that if such disability occurred after such fireman or policeman was eligible to retire, the ~~said~~ rate shall be increased ~~one~~ two per cent per year for each additional year of service from the time of such eligibility up to the time of such disability, but not to exceed a total increase of ten per cent. In case of the death of any fireman or policeman who has been placed on such pension roll for such disability, his pension paid monthly shall be paid to his surviving wife so long as she remains unmarried, if he was married to her prior to his being placed on such pension roll, and upon her death or remarriage, to his minor children until the youngest living child reaches eighteen years of age; and provided further, that any such fireman or policeman shall have, as set forth in subsection (2) of this section, the election, on or prior to the effective date of such disability retirement, or within thirty days thereafter, to elect to nominate a survivor beneficiary in accordance with the provisions of option A or option B contained in subsection (1) of section 15-1002, the payments to be based upon the amount provided under such designated option for retirement as of the date on which such fireman or policeman was placed on the pension roll because of said disability.

(2) The election shall apply where such disability occurs after such fireman or policeman is eligible to retire.

(3) In case of the temporary total disability of a fireman or policeman received while in the line of duty, he shall receive his salary during the continuance

of such disability for a period not to exceed twelve months; Provided, if it shall be ascertained by the city council or other proper municipal authorities within twelve months that such disability has become permanent, then his salary shall cease and he shall be entitled to the benefits of the provisions with reference to pensions in case of total and permanent disability contained in subsections (1) and (2) of this section. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workmen's Compensation Act, as hereinafter provided in sections 15-1001 to 15-1015.

(4) In case any such fireman or policeman shall become permanently and totally disabled, from accident or other cause, for the work he was doing at the time of such accident or other cause, while not in the line of duty, he shall forthwith be placed upon the roll of pensioned firemen or policemen at the following percentage of his regular pay as defined in section 15-1001: (a) Fifteen per cent if he has five years of service or more but less than ten years, (b) thirty per cent if he has ten years of service or more but less than fifteen years, or (c) forty-five per cent if he has fifteen years of service or more. If such accident or other cause results in death while not in line of duty, the same pension shall be paid to his widow during her lifetime or until she remarries, or a reduced amount shall be paid to a surviving beneficiary pursuant to an election made under the provisions of section 15-1002, which election, for purposes of this subsection, may be made at any time after five years of service; Provided, that until the date any such disabled member attains or would have attained age sixty-two years, the amount of pension payable in accordance with the provisions of this subsection shall be reduced by the sum of the following amounts: (a) Amounts paid under any workmen's compensation act; and (b) amounts paid under any program of sickness and accident insurance, disability insurance, or similar insurance program, supported in whole or in part by an employer of such policeman or fireman, ~~and (c) payments under the Federal Old-Age, Survivors, and Disability Insurance program on account of the member's disability or death.~~

Sec. 6. That section 15-1007, Revised Statutes Supplement, 1974, be amended to read as follows:

15-1007. From and after December 25, 1969, every such fireman or policeman shall contribute to the city an amount equal to seven per cent of his salary, until such fireman or policeman shall be entitled to retire or otherwise become eligible for a pension under the

provisions of sections 15-1001 to 15-1015, which amount may be deducted from the salary of every such fireman or policeman. No fireman or policeman, continuing in the employment of the city as a member of such department after becoming eligible to retire at age fifty-five with twenty-one years of service, shall be required to make any further contribution. Any fireman or policeman whose employment--shall--terminate,--whether--by--discharge--or otherwise, prior to the time he shall become entitled--to a pension, and who shall have made contributions from his salary, as hereinbefore provided in this section,--shall, upon demand, be reimbursed by the city for the amount--of such contributions--without interest.

Sec. 7. Any fireman or policeman of a primary class city who retires on or after age fifty-five with fewer than twenty-one years of service shall receive a pension of at least fifty per cent of his regular pay multiplied by the ratio of the years of his service to twenty-one.

Sec. 8. Any fireman or policeman of a primary class city who terminates employment, either voluntarily or involuntarily, for reasons other than death or disability before becoming eligible to retire shall have the option to receive one of the following benefits:

(1) The lump-sum return of accumulated contributions with regular interest to the date of termination; or

(2) In lieu of such lump-sum benefit, a member with ten or more years of service may elect to receive a deferred annuity to commence at age fifty-five on a regular basis or at age fifty on an actuarially equivalent basis. If this election is made, the accumulated contributions of the member may not be withdrawn from the system. The deferred annuity to commence at age fifty-five shall be computed as fifty per cent of his regular pay at the date of termination multiplied by the ratio of the years of his service at the date of termination to the larger of the number of years from his date of employment to the attainment of age fifty-five or twenty-one, such ratio not to exceed one. In the event of the death of a terminated member during the deferred period, the accumulated contributions with regular interest to the date of death shall be paid as a lump-sum benefit.

Sec. 9. Any state employee who is a member of the State Employees Retirement System and whose status is changed by the Legislature to that of an employee of a mental health region or an employee of a community mental

health center shall, upon application to the Public Employees Retirement Board, obtain full and immediate vesting in any prior service retirement benefits and any future service retirement benefits which have accrued to the date of transfer. Such employee may not withdraw the amount in his employee account prior to his retirement and still receive such vested benefits.

Sec. 10. The provisions of section 9 of this act shall be retroactively operative as of July 1, 1974.

Sec. 11. That original sections 15-1001, 15-1002, 15-1004, and 15-1006, Reissue Revised Statutes of Nebraska, 1943, and section 15-1007, Revised Statutes Supplement, 1974, are repealed.

Sec. 12. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.