

LEGISLATIVE BILL 347

Approved by the Governor April 26, 1985

Introduced by Nebraska Retirement Systems Committee,
Harris, 27, Chairperson; Goodrich, 20;
Vickers, 38; Warner, 25; Wesely, 26

AN ACT relating to county government; to amend sections 23-2302, 23-2305, 23-2309, 23-2310, 23-2312, 23-2317, 23-2320, 23-2321, 23-2322, 23-2326, 23-2327, 23-2328, 23-2329, 23-2330, and 23-2331, Reissue Revised Statutes of Nebraska, 1943, and sections 23-2301 and 23-2307, Revised Statutes Supplement, 1984; to define terms; to change provisions relating to the investment of retirement funds; to authorize retirement investment options as prescribed; to harmonize provisions; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-2301, Revised Statutes Supplement, 1984, be amended to read as follows:

23-2301. As used in ~~sections 23-2301 to 23-2331~~ the County Employees Retirement Act, unless the context otherwise requires:

(1) Employees shall mean all persons or officers who are employed by a county of the State of Nebraska devoting twenty or more hours per week to such employment, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by whom they are employed, except that the term shall not include judges, persons making contributions to the School Retirement System of the State of Nebraska, or nonelected employees and nonelected officials of any county having a population in excess of one hundred thousand inhabitants;

(2) Retirement shall mean qualifying for and accepting a retirement allowance granted under ~~the provisions of sections 23-2301 to 23-2331~~ the County Employees Retirement Act;

(3) Retirement board or board shall mean the Public Employees Retirement Board;

(4) Retirement system shall mean the Retirement System for Nebraska Counties;

(5) Required contribution shall mean the deduction to be made from the salary of employees, as provided in ~~sections 23-2301 to 23-2331~~ the County Employees Retirement Act;

(6) Service shall mean the actual total length of employment as an employee and shall include leave of

absence because of disability or military service when properly authorized by the retirement board, PROVIDED, except that service shall not include any period of disability for which disability retirement benefits are received under the provisions of section 23-2315;

(7) Straight life annuity shall mean an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind;

(8) Date of adoption of the retirement system by each county shall mean the first day of the month next following the date of approval of the retirement system by the county board;

(9) Prior service shall mean service prior to the date of adoption of the retirement system;

(10) Future service shall mean service following the date of adoption of the retirement system;

(11) Group annuity contract shall mean the contract issued by a one or more life insurance companies company to the board retirement system in order to provide the future service benefits described in sections 23-2301 to 23-2331 the County Employees Retirement Act;

(12) Carrier shall mean the life insurance company or trust company designated by the retirement board as the underwriter or trustee administrator of the retirement system;

(13) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments;

(14) Disability shall mean an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration; and

(15) Date of disability shall mean the date on which a member is determined by the board to be disabled;

(16) Guaranteed investment contract shall mean an investment contract which guarantees that the account maintained for any participant will not decrease in value, but will increase each year by the contribution allocated to the account and by investment earnings and will decrease by the amount of expenses reasonably determined to be allocated to the account; and

(17) Investment manager shall mean one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the funds of the County Employees Retirement Act.

Sec. 2. That section 23-2302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2302. A county employees' retirement system may be established for the purpose of providing a

retirement annuity or other benefits for employees as provided by the provisions of sections 23-2301 to 23-2331 County Employees Retirement Act. It shall be known as the Retirement System for Nebraska Counties, and by such name shall transact all business and hold all cash and other property as provided in sections 23-2301 to 23-2331 the County Employees Retirement Act.

Sec. 3. That section 23-2305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2305. It shall be the duty of the board to administer the County Employees Retirement Act provisions of sections 23-2301 to 23-2331 as provided in section 84-1503.

Sec. 4. That section 23-2307, Revised Statutes Supplement, 1984, be amended to read as follows:

23-2307. Each employee who is a member of the retirement system shall pay to the county or have picked up by the county a sum equal to three and two-tenths per cent of his or her salary for each pay period. The county shall pick up the employee contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service, or the federal courts, rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The county shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated for all purposes of sections 23-2301 to 23-2331 the County Employees Retirement Act in the same manner and to the extent as employee contributions made prior to the date picked up.

Sec. 5. That section 23-2309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2309. A member's share of the fund arising from the salary deductions made in accordance with the provisions of section 23-2307 shall be known as his or her employee account. Each year, commencing January 1, 1975, and ending December 31, 1985, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred per cent of his or her employee account as of the next preceding January 1, increased by any regular interest earned and any amounts deducted from the member's

salary since the next preceding January 1 in accordance with the provisions of section 23-2307.

On and after January 1, 1986, the employee account shall be equal to the sum of the employee's guaranteed investment account, equities account, and any assets of additional accounts created pursuant to section 11 of this act.

Sec. 6. That section 23-2310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2310. (1) A member's share of the fund arising from the county contributions shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by two hundred per cent of any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 23-2307. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by two hundred per cent of the amounts deducted from the member's salary for the first nine months of the year and two hundred fifty per cent for the final three months of the year in accordance with the provisions of section 23-2307. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by two hundred fifty per cent of the amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 23-2307. The member's employer account shall be increased by any interest allocated under the provisions of the group annuity guaranteed investment contract and reduced by any expense charges made under the provisions of the guaranteed investment group annuity contract. A member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with the provisions of section 23-2319.

(2) Notwithstanding anything to the contrary in Chapter 23, article 23, the total additions made to both the employee account and the employer account for any calendar year shall not exceed the lesser of twenty-five thousand dollars, as adjusted for cost-of-living adjustments announced by the Internal Revenue Service for each calendar year in which the adjustment is announced, or twenty-five per cent of the member's salary for such year. For purposes of this subsection, total additions for a calendar year shall equal the full amount allocated to the employer account for that year plus the lesser of (a) one half of the member's contributions for that year or (b) the amount of the member's contributions in excess of six per cent of his or her salary for that year.

Sec. 7. That section 23-2312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2312. The carrier shall keep a complete record of all members with respect to names, ages, contributions, and any such other facts as may be necessary in the administration of the provisions of sections 23-2301 to 23-2331 County Employees Retirement Act. For the purpose of obtaining such facts, the carrier shall have access to the records of the various counties. A certified copy of a birth certificate or delayed birth certificate shall be prima facie evidence of the age of the person named therein.

Sec. 8. That section 23-2317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2317. (1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent, as determined by the group annuity contract and the actuarial assumptions used therein, of the retirement value 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. A retiring employee may elect to receive, in lieu of an annuity, a lump-sum settlement equal to the retirement value if the retirement value is less than eight thousand dollars. A copy of the contract shall be kept on file with the board.

At any time before the retirement date, the retiring employee may choose to receive his or her annuity either in the form of a straight life annuity or any optional form specified in the group annuity contract that is determined 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, except as provided in this section.

(2) 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 date of purchase 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 January 1, 1984, or male annuity purchase rates on the date of purchase, if greater than those in effect on January 1, 1984; 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) Retirement benefits for persons who retire prior to January 1, 1984, shall not be affected by changes to this section which become operative on or after January 1, 1984.

Sec. 9. That section 23-2320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2320. A member of the system who ceases to be an employee, shall, upon again becoming an employee, be considered a new employee with respect to the provisions of sections 23-2301 to 23-2331 County Employees Retirement Act, except that any employee who ceases to become an employee of one county and commences immediately employment with a different county shall be treated for all purposes of the County Employees Retirement Act sections 23-2301 to 23-2331 the same as if he or she had maintained continuous employment with one county. For purposes of computing prior service benefits, an employee he shall be treated the same as if he the employee had maintained continuous service with the county employing him such employee on his or her sixty-fifth birthday and any refund due from the carrier, as provided in section 23-2319, shall be paid to the last county employing him of employment.

Sec. 10. That section 23-2321, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2321. In the event of the death before his or her retirement date of any employee who is a member of the system, a death benefit shall be paid to the member's beneficiary, as provided in the group annuity contract. The death benefit shall be equal to the total of the employee account and the employer account.

Sec. 11. (1) On or after January 1, 1986, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A fund which shall be known as a guaranteed investment account and which shall be invested in a guaranteed investment contract offered by one or more life insurance companies operating under contract with the board; and

(b) An account which shall be known as an equities account and which shall be invested in common stocks.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in increments of twenty-five per cent in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except that a member's investment in a guaranteed investment account shall not be transferred. The board shall establish provisions for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

If the board directs withdrawal of funds from an investment manager, the member shall also direct the investment of those funds.

(3) The board shall develop a schedule for the allocation of administrative costs of the various investment options and shall assess such costs so that each member pays a fair proportion based upon his or her choice of options and number of transfers among options.

(4) In order to carry out this section, the board may enter into administrative services agreements for accounting or recordkeeping services. No such 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 county and its participating employees.

Sec. 12. That section 23-2322, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2322. All annuities or benefits which any person shall be entitled to receive under the County Employees Retirement Act provisions of sections 23-2301 to 23-2331 shall not be subject to garnishment, attachment, or levy, and the same shall at all times be exempt from claims of creditors.

Sec. 13. That section 23-2326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2326. The retirement allowances and benefits provided for by sections 23-2301 to 23-2331 the County Employees Retirement Act shall be in addition to benefits and allowances payable under the provisions of the federal Social Security Act.

Sec. 14. That section 23-2327, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2327. The group annuity contract may contain any provisions, not inconsistent with the provisions of sections 23-2301 to 23-2331 County Employees Retirement Act, which, in the judgment of the board, are necessary for the administration of the provisions of sections 23-2301 to 23-2331 such act.

Sec. 15. That section 23-2328, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2328. The provisions of the County Employees Retirement Act sections 23-2301 to 23-2331 pertaining to

elected officials or other employees having a regular term of office shall be so interpreted as to effectuate its general purpose and to take effect as soon as the same may become operative under the Constitution of the State of Nebraska.

Sec. 16. That section 23-2329, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2329. The provisions of sections 23-2301 to 23-2331 County Employees Retirement Act shall become effective for each county upon ~~their~~ its adoption by the county board.

Sec. 17. That section 23-2330, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2330. Upon the adoption of the retirement system by the county board, the county clerk shall certify such action to the retirement board. The clerk He shall also submit a list of all employees then eligible for participation in the plan, which list shall state the name and address of the employee and his or her gross monthly wage.

Sec. 18. That section 23-2331, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2331. Sections 23-2301 to 23-2331 and section 11 of this act shall be known and may be cited as the County Employees Retirement Act.

Sec. 19. That original sections 23-2302, 23-2305, 23-2309, 23-2310, 23-2312, 23-2317, 23-2320, 23-2321, 23-2322, 23-2326, 23-2327, 23-2328, 23-2329, 23-2330, and 23-2331, Reissue Revised Statutes of Nebraska, 1943, and sections 23-2301 and 23-2307, Revised Statutes Supplement, 1984, are repealed.