

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT (CORRECTED)
LB916

Hearing Date: Thursday January 26, 2012
Committee On: Nebraska Retirement Systems
Introducer: Nebraska Retirement Systems
One Liner: Change provisions relating to retirement

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Heidemann, Karpisek, Lambert, Loudon, Mello, Nordquist
Nay:
Absent:
Present Not Voting:

Proponents:
Kate Allen
Jason Hayes

Representing:
Introducing for Retirement Systems Committee
Nebraska Public Employees Retirement Systems

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 916 was introduced at the request of the Nebraska Public Employees Retirement System and contains plan clarifications and Internal Revenue Code compliance updates to the County, Judges, State Patrol, Schools, Omaha School, and State Employees Retirement Acts as follows:

1. Per diems are removed as compensation for purposes of retirement;
2. Employers are required to notify the Public Employees Retirement Board upon the termination of an employee member;
3. Allows plan members following termination or retirement to rollover into a Roth IRA;
4. Allows a non-spousal beneficiary to make a direct transfer or rollover of the member's death benefit into a qualified retirement plan;
5. Allows a lump sum direct transfer of a death benefit into a qualified retirement plan, and
6. Implements provisions of the Heroes Earnings Assistance and Relief (HEART) Act requiring a member's beneficiary to be entitled to an additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when death occurred.

In the School Retirement Plan, membership in the plan is limited to employees who are at least 18 years of age. In addition, voluntary service provided during the 180 days following termination must be bona fide unpaid voluntary service.

LB 916 also authorizes the Public Employees Retirement Board to set materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures.

Explanation of amendments:

Committee Amendment 1739 adds several technical and clarifying amendments to LB 916 and incorporates two bills as amended -- LB 1036 and LB 973.

LB 916 technical and clarifying amendments:

1. Clarifies a death benefit provision in the school plan;
2. Deletes obsolete language regarding school districts' obligation to inform the Public Employees Retirement Board about salary increases above 7%;
3. Changes notification requirements to plan members if an adjustment is made to a member's account balance by the Public Employees Retirement Board;
4. Clarifies that patrol members who enter the Deferred Retirement Option Plan (DROP) are considered retired, but not terminated; and
5. Adds severability and emergency clauses.

LB 1036 as amended:

LB 1036 as amended provides an additional opportunity for active county and state defined contribution plan members to opt in to the cash balance plans between September 1, 2012 through October 31, 2012.

In addition, LB 1036 eliminates the State and County Employer Retirement Expense Funds effective July 1, 2012, which were held outside the trust. It disallows use of forfeiture funds (the state and county employer contributions for members who have not vested) to reduce employer contributions. The Department of Administrative Services is authorized to establish subfunds to separately account for defined contribution and cash balance assets in the County Employees Retirement Fund and State Employees Retirement Fund.

LB 973 as amended:

LB 973 as amended, provides an exception to the prohibition on the attachment of pension benefits in the following public retirement plans: metropolitan utility district; first class city police officers and fire fighters; counties; judges; county, municipality, or other political subdivision deferred compensation plans; schools; Class V Omaha school; state patrol; state employees; and deferred compensation administered by the Public Employees Retirement Board.

Once the member pension benefits, annuities or deferred compensation are distributed they may be attached to satisfy civil damages if the member has been convicted or pled no contest to a felony and a civil judgment has been entered. The felony is limited to assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement.

The court may exempt amounts necessary for the support of the member or beneficiaries. An order for payment of benefits is not stayed on appeal of the conviction. If the conviction is reversed, all benefits paid are forfeited to the member. The provisions of LB 973 operate retroactively and apply to persons convicted of a felony or persons who pled no contest and were found liable for civil damages prior to, on, or after the effective date of the act.

Section-by-Section Summary of Committee AM1739:

Metropolitan Utility District Pension

Section 1. [amends 14-2111] Allows attachment of metropolitan utility district pensions once the pension benefit is distributed to the employee or appointee if the employee or appointee has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 1-5)

First Class City Police and Firefighters Pensions

Section 2. [amends 16-1019] Allows attachment of first class city police officer pension benefits once the pension is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 5-8)

Section 3. [amends 16-1038] Allows attachment of first class city firefighter pension benefits once the pension is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 8-11)

County Employees Retirement Plan

Section 4. [amends 23-2301] Clarifies that per diems are not compensation for purposes of the county plan; clarifies that it is the responsibility of the county/employer that terminates employment to notify the Public Employees Retirement Board of any change in employment following termination. (pages 11-18)

Section 5. [amends 23-2308] Allows Department of Administrative Services to create subfunds in the County Employees Retirement Fund to separately account for defined contribution and cash balance assets. (pages 18-19)

Section 6. [amends 23-2308.01] Creates a window beginning September 1, 2012 through October 31, 2012 for active county employees who are currently defined contribution plan members, to opt in to the cash balance plan. For those who opt in, membership in the cash balance plan commences January 2, 2013. (pages 19-22)

Section 7. [amends 23-2309.01] Reference update. (page 22-25)

Section 8. [amends 23-2310.05] Revisor internal reference change. (page 25-26)

Section 9. [amends 23-2317] Internal reference change; strikes obsolete language. (page 26-32)

Section 10. [amends 23-2319.01] Clarifies that forfeited amounts may be used to calculate possible dividends for county cash balance members, but may not be used to increase any other benefit a member may receive; eliminates the County Employer Retirement Expense Fund effective July 1, 2012; disallows the use of forfeiture funds to reduce county employer contributions; strikes language that becomes obsolete directing the Director of the Nebraska Public Employees Retirement System to certify to Department of Administrative Services when forfeiture funds are available; effective July 1, 2012, money in the County Employer Retirement Expense Fund is transferred to the County Employees Retirement Fund. (pages 32-34)

Section 11. [amends 23-2321] In the county plan, provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 34-36)

Section 12. [amends 23-2322] Allows attachment of county employee pension benefits once the pension is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 36-37)

Section 13. [amends 23-2323.02] Allows members or surviving spouse to rollover into a Roth IRA ; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 37-39)

Judges Retirement Plan

Section 14. [amends 24-701] Clarifies that per diems are not compensation for purposes of the judges' plan; requires the employer in the judges' plan to notify the Public Employees Retirement Board if there is a change in the member's employment following termination; the Public Employees Retirement Board has the authority to determine if termination has occurred, and if termination has not occurred, may require the member to repay any retirement benefit received. (pages 39-47)

Section 15. [amends 24-707] In the judge's plan, provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 47-48)

Section 16. [amends 24-710.02] Allows attachment of judge pension benefits and annuities once the pension or annuity is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 48-50)

Section 17. [amends 24-710.05] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by Internal Revenue Code. (pages 50-52)

County, Municipality and Other Political Subdivision Deferred Compensation Plan

Section 18. [amends 48-1401] Allows attachment of county, municipality, or other political subdivision deferred compensation once the compensation is distributed to the participant if the participant has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 52-56)

School Employees Retirement Plan

Section 19. [amends 79-902] Participation in the School Employees Retirement Plan is limited to employees who have attained the age of 18; strikes obsolete language; removes per diem as compensation for the purposes of retirement; clarifies requirement that an employer notify the Public Employees Retirement Board upon a termination of an employee member; requires that a retirement benefit paid in error must be returned to the Public Employees Retirement System; clarifies that voluntary service during the 180 days following termination must be bona fide unpaid voluntary service. (pages 56-70)

Section 20. [amends 79-906] Deletes obsolete language regarding school districts' obligation to inform the Public Employees Retirement Board about salary increases above 7%. (pages 70-71)

Section 21. [amends 79-933.01] In the school plan, provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 71-73)

Section 22. [amends 79-948] Allows attachment of school employee pension benefit or annuity once the pension or annuity is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 73-74)

Section 23. [amends 79-956] Clarifies the death benefit provision found in the school plan; if the deceased member

worked more than 20 years, the beneficiary may take a lump sum death benefit that includes the employee's contribution plus the employer match; enables a non-spousal beneficiary to make a direct transfer or rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 74-77)

Class V (Omaha) School Employees Plan

Section 24. [amends 79-980] Clarifies references to the Internal Revenue Code in the Class V School Employees Retirement Plan. (pages 77-80)

Section 25. [amends 79-998] Clarifies references to the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 80-84)

Section 26. [amends 79-9,104] Allows attachment of Omaha school employee pension benefit and annuity once the pension or annuity is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 84-86)

Section 27. [amends 79-9,106] Enables a non-spousal beneficiary to make a direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 86-87)

Nebraska State Patrol Retirement Plan

Section 28. [amends 81-2014] Clarifies in the Nebraska State Patrol Retirement Plan that per diems are not compensation for purposes of the state patrol plan; requires the employer in the state patrol plan to notify the Public Employees Retirement Board if there is a change in the member's employment following termination; the Public Employees Retirement Board has the authority to determine if termination has occurred, and if termination has not occurred, may require the member to repay any retirement benefit received; strikes obsolete language; clarifies that an officer is considered retired, but not terminated upon entering the Deferred Option Retirement Plan (DROP). (pages 87-92)

Section 29. [amends 81-2026] Provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary to be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 92-98)

Section 30. [amends 81-2031.03] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 98-101)

Section 31. [amends 81-2032] Allows attachment of state patrol annuities or pension benefit once the annuity or pension is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 101-102)

Section 32. [amends 81-2041] Clarifies that an officer is considered retired, but not terminated upon entering the Deferred Option Retirement Plan (DROP). (pages 102-105)

State Employees Retirement Plan

Section 33. [amends 84-1301] Clarifies that per diems are not compensation for purposes of the state employees plan; revisor technical change. (pages 105-114)

Section 34. [amends 84-1309] Allows Department of Administrative Services, to create subfunds in the State Employees Retirement Fund to separately account for defined contribution and cash balance assets. (pages 114-115)

Section 35. [amends 84-1309.02] Creates a window beginning September 1, 2012 through October 31, 2012 for active state employees who are currently defined contribution plan members, to opt in to the cash balance plan. For those who opt in, membership in the cash balance plan commences January 2, 2013. (pages 115-118)

Section 36. [amends 84-1310.01] Reference update and internal reference change. (pages 118-121)

Section 37. [amends 84-1311.03] Revisor technical internal reference change. (pages 121-122)

Section 38. [amends 84-1312] Provides for a rollover into a Roth IRA as permitted by the Internal Revenue Code; enables a non-spousal beneficiary to make a rollover into a qualified retirement plan as permitted by the Internal Revenue Code. (pages 122-124)

Section 39. [amends 84-1319] Revisor technical internal reference change, (pages 124-130)

Section 40. [amends 84-1321.01] Clarifies that forfeited amounts may be used to calculate possible dividends for state cash balance members, but may not be used to increase any other benefit a member may receive; eliminates the State Employer Retirement Expense Fund effective July 1, 2012; disallows the use of forfeiture funds to reduce state employer contributions; strikes language that becomes obsolete directing the Director of the Nebraska Public Employees Retirement System to certify to Department of Administrative Services when forfeiture funds are available; effective July 1, 2012, money in the State Employer Retirement Expense Fund is transferred to the State Employees Retirement Fund. (pages 130-132)

Section 41. [amends 84-1323] Provides for a lump sum death benefit direct transfer into a qualified retirement plan as permitted by the Internal Revenue Code; implements provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requiring a member's beneficiary be entitled to any additional death benefit that he or she would be entitled to had the member been employed during the period of qualified military service when the death occurred. (pages 133-134)

Section 42. [amends 84-1324] Allows attachment of school employee annuities or pension benefits once the annuity or pension is distributed to the member if the member has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 134-135)

Public Employees Retirement Board

Section 43. [amends 84-1503] Grants the Public Employees Retirement Board the authority to adopt rules and regulations regarding materiality and de minimus amounts for agency transactions, adjustments, and inactive account closures; clarifies references to the Internal Revenue Code. (pages 135-141)

Section 44. [amends 84-1505] Allows attachment of deferred compensation administered by the Public Employees Retirement Board for state employees once deferred compensation is distributed to the participant if the the participant has been convicted or pled no contest to assault, sexual assault, kidnapping, child abuse, false imprisonment or theft by embezzlement and a civil judgment has been entered for restitution; provisions apply retroactively. (pages 141-143)

Section 45. Severability clause. (page 143)

Section 46. Repealer. (page 143)

Section 47. Repealer. (page 143)

Section 48. Emergency clause. (pages 143-144)

Jeremy Nordquist, Chairperson