

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1005

Introduced by Kolterman, 24.

Read first time January 16, 2018

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend sections 23-3527 and
2 79-915, Reissue Revised Statutes of Nebraska, and section 23-2306,
3 Revised Statutes Cumulative Supplement, 2016; to change provisions
4 relating to employer removal or withdrawal from the Retirement
5 System for Nebraska Counties or the School Employees Retirement
6 System of the State of Nebraska; to change provisions relating to
7 facility participation in a retirement system under the County
8 Employees Retirement Act; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2306, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 23-2306 (1) The membership of the retirement system shall be
4 composed of all persons who are or were employed by member counties and
5 who maintain an account balance with the retirement system.

6 (2) The following employees of member counties are authorized to
7 participate in the retirement system: (a) All permanent full-time
8 employees shall begin participation in the retirement system upon
9 employment and full-time elected officials shall begin participation in
10 the retirement system upon taking office, (b) all permanent part-time
11 employees who have attained the age of eighteen years may exercise the
12 option to begin participation in the retirement system within the first
13 thirty days of employment, and (c) all part-time elected officials may
14 exercise the option to begin participation in the retirement system
15 within thirty days after taking office. An employee who exercises the
16 option to begin participation in the retirement system shall remain in
17 the system until termination or retirement, regardless of any change of
18 status as a permanent or temporary employee.

19 (3) On and after July 1, 2010, no employee of a member county shall
20 be authorized to participate in the retirement system provided for in the
21 County Employees Retirement Act unless the employee (a) is a United
22 States citizen or (b) is a qualified alien under the federal Immigration
23 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
24 January 1, 2009, and is lawfully present in the United States.

25 (4)(a)(i) The (4) On and after July 1, 2013, the board may determine
26 that a governmental entity currently participating in the retirement
27 system no longer qualifies, in whole or in part, under section 414(d) of
28 the Internal Revenue Code as a participating employer in a governmental
29 plan. Upon such determination, affected plan members shall be considered
30 fully vested. The board shall notify such entity within ten days after
31 making a determination. Within ninety days after the board's notice to

1 such entity, affected plan members shall become inactive. The entity
2 shall be liable for (A) funding any obligation of the retirement system
3 to provide benefits for the affected plan members, (B) the cost of any
4 actuarial study necessary to aid the board in determining the amount of
5 such obligation, and (C) any administrative costs incurred by the board
6 or the Nebraska Public Employees Retirement Systems in connection with
7 the entity's removal from the retirement system; and ~~The board may adopt
8 and promulgate rules and regulations to carry out this subsection.~~

9 (ii)(A) To aid governmental entities in their business
10 decisionmaking process, any governmental entity contemplating a business
11 transaction that may result in such entity no longer qualifying, in whole
12 or in part, under section 414(d) of the Internal Revenue Code shall
13 notify the board in writing as soon as reasonably practicable, but no
14 later than one hundred eighty days before the transaction is to occur;

15 (B) The board when timely notified shall, as soon as is reasonably
16 practicable, determine (I) whether the entity's contemplated business
17 transaction will cause the entity to no longer qualify under section
18 414(d) of the Internal Revenue Code, (II) whether the contemplated
19 business transaction constitutes a plan termination by the entity, (III)
20 the potential funding obligation of the retirement system to provide
21 benefits for the affected plan members, (IV) the cost of any actuarial
22 study necessary to determine the amount of such obligation, and (V) the
23 administrative costs that will be incurred by the board or the Nebraska
24 Public Employees Retirement Systems in connection with the entity's
25 removal from the retirement system. The entity shall be responsible for
26 the cost of any actuarial study necessary to determine the obligation of
27 the retirement system to provide benefits for the affected plan members.
28 If the entity engages in the contemplated business transaction, the
29 entity shall also be liable for funding any obligation of the retirement
30 system to provide benefits for the affected plan members, and any
31 administrative costs incurred by the board or the Nebraska Public

1 Employees Retirement Systems in connection with the entity's removal from
2 the retirement system; and

3 (C) Failure to timely notify the board may result in the entity
4 being liable for (I) funding the obligation of the retirement system to
5 provide benefits for the affected plan members, (II) the cost of any
6 actuarial study necessary to aid the board in determining the amount of
7 such obligation, and (III) any administrative costs incurred by the board
8 or the Nebraska Public Employees Retirement Systems in connection with
9 the entity's removal from the retirement system as prescribed under
10 subdivision (4)(a)(i) of this section.

11 (b)(i) Prior to January 1, 2019, any governmental entity with
12 specific statutory authority to elect or discontinue participation in the
13 retirement system shall make an election regarding whether to participate
14 in the retirement system. On or after January 1, 2019, no governmental
15 entity may elect or discontinue participation in the retirement system,
16 and the board shall determine whether a governmental entity qualifies for
17 participation in the retirement system; and

18 (ii) Prior to January 1, 2019, if a governmental entity with
19 specific statutory authority elects to withdraw from the retirement
20 system, the affected plan members shall be considered fully vested.
21 Within ninety days after the entity's withdrawal from the retirement
22 system, affected plan members shall become inactive. The entity shall be
23 liable for (A) funding any obligation of the retirement system to provide
24 benefits for the affected plan members, (B) the cost of any actuarial
25 study necessary to determine the amount of such obligation, and (C) any
26 administrative costs incurred by the board or the Nebraska Public
27 Employees Retirement Systems in connection with the entity's removal from
28 the retirement system.

29 (c) For purposes of this subsection:

30 (i) Business transaction means a merger; consolidation; sale of
31 assets, equipment, or facilities; termination of a division, department,

1 section, or subgroup of the entity; or any other business transaction
2 that results in termination of some or all of the entity's workforce; and

3 (ii) Obligation of the retirement system to provide benefits for the
4 affected plan members means the financial liability incurred by the
5 retirement system due to the entity's business decision calculated using
6 the methodology and assumptions recommended by the actuary and approved
7 by the board. The methodology and assumptions used must be structured in
8 a way that ensures the entity is financially liable for all the costs of
9 the entity's business transaction, and the retirement system is not
10 financially liable for any of the cost of the entity's business
11 transaction.

12 (d) The board may adopt and promulgate rules and regulations to
13 carry out this subsection including, but not limited to, the methods of
14 notifying the board of pending business transactions, the acceptable
15 methods of payment, and the timing of such payment.

16 (5) Within the first one hundred eighty days of employment, a full-
17 time employee may apply to the board for vesting credit for years of
18 participation in another Nebraska governmental plan, as defined by
19 section 414(d) of the Internal Revenue Code. During the years of
20 participation in the other Nebraska governmental plan, the employee must
21 have been a full-time employee, as defined in the Nebraska governmental
22 plan in which the credit was earned. The board may adopt and promulgate
23 rules and regulations governing the assessment and granting of vesting
24 credit.

25 (6) Any employee who qualifies for membership in the retirement
26 system pursuant to this section may not be disqualified from membership
27 in the retirement system solely because such employee also maintains
28 separate employment which qualifies the employee for membership in
29 another public retirement system, nor may membership in this retirement
30 system disqualify such an employee from membership in another public
31 retirement system solely by reason of separate employment which qualifies

1 such employee for membership in this retirement system.

2 (7) A full-time or part-time employee of a city, village, or
3 township who becomes a county employee pursuant to a merger of services
4 shall receive vesting credit for his or her years of participation in a
5 Nebraska governmental plan, as defined by section 414(d) of the Internal
6 Revenue Code, of the city, village, or township.

7 (8) A full-time or part-time employee of a city, village, fire
8 protection district, or township who becomes a municipal county employee
9 shall receive credit for his or her years of employment with the city,
10 village, fire protection district, or township for purposes of the
11 vesting provisions of this section.

12 (9) A full-time or part-time employee of the state who becomes a
13 county employee pursuant to transfer of assessment function to a county
14 shall not be deemed to have experienced a termination of employment and
15 shall receive vesting credit for his or her years of participation in the
16 State Employees Retirement System of the State of Nebraska.

17 (10) Counties shall ensure that employees authorized to participate
18 in the retirement system pursuant to this section shall enroll and make
19 required contributions to the retirement system immediately upon becoming
20 an employee. Information necessary to determine membership in the
21 retirement system shall be provided by the employer.

22 Sec. 2. Section 23-3527, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 23-3527 (1) Prior to January 1, 2019, a A facility established under
25 the provisions of section 23-3501, in a county which is presently
26 participating in a retirement system under the County Employees
27 Retirement Act pursuant to Chapter 23, article 23, shall be given the
28 option to continue participation under such act or to discontinue such
29 participation.

30 (2) Prior to January 1, 2019, a A facility established under the
31 provisions of section 23-3501, in a county which in the future shall

1 elect to participate in a retirement system under the County Employees
2 Retirement Act shall be given the option to participate in a retirement
3 system pursuant to such act or to decline such participation.

4 (3) On or after January 1, 2019, no facility established under
5 section 23-3501 may elect or discontinue participation in the retirement
6 system.

7 Sec. 3. Section 79-915, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 79-915 (1) Persons residing outside of the United States and engaged
10 temporarily as school employees in the State of Nebraska shall not become
11 members of the retirement system.

12 (2) On and after July 1, 2010, no school employee shall be
13 authorized to participate in the retirement system provided for in the
14 School Employees Retirement Act unless the employee (a) is a United
15 States citizen or (b) is a qualified alien under the federal Immigration
16 and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on
17 January 1, 2009, and is lawfully present in the United States.

18 (3)(a)(i) The board may determine that a governmental entity
19 currently participating in the retirement system no longer qualifies, in
20 whole or in part, under section 414(d) of the Internal Revenue Code as a
21 participating employer in a governmental plan. Upon such determination,
22 affected plan members shall be considered fully vested. The board shall
23 notify such entity within ten days after making a determination. Within
24 ninety days after the board's notice to such entity, affected plan
25 members shall become inactive. The entity shall be liable for (A) funding
26 any obligation of the retirement system to provide benefits for the
27 affected plan members, (B) the cost of any actuarial study necessary to
28 aid the board in determining the amount of such obligation, and (C) any
29 administrative costs incurred by the board or the Nebraska Public
30 Employees Retirement Systems in connection with the entity's removal from
31 the retirement system; and

1 (ii)(A) To aid governmental entities in their business
2 decisionmaking process, any governmental entity contemplating a business
3 transaction that may result in such entity no longer qualifying, in whole
4 or in part, under section 414(d) of the Internal Revenue Code shall
5 notify the board in writing as soon as reasonably practicable, but no
6 later than one hundred eighty days before the transaction is to occur;

7 (B) The board when timely notified shall, as soon as is reasonably
8 practicable, determine (I) whether the entity's contemplated business
9 transaction will cause the entity to no longer qualify under section
10 414(d) of the Internal Revenue Code, (II) whether the contemplated
11 business transaction constitutes a plan termination by the entity, (III)
12 the potential funding obligation of the retirement system to provide
13 benefits for the affected plan members, (IV) the cost of any actuarial
14 study necessary to determine the amount of such obligation, and (V) the
15 administrative costs that will be incurred by the board or the Nebraska
16 Public Employees Retirement Systems in connection with the entity's
17 removal from the retirement system. The entity shall be responsible for
18 the cost of any actuarial study necessary to determine the obligation of
19 the retirement system to provide benefits for the affected plan members.
20 If the entity engages in the contemplated business transaction, the
21 entity shall also be liable for funding any obligation of the retirement
22 system to provide benefits for the affected plan members, and any
23 administrative costs incurred by the board or the Nebraska Public
24 Employees Retirement Systems in connection with the entity's removal from
25 the retirement system; and

26 (C) Failure to timely notify the board may result in the entity
27 being liable for (I) funding the obligation of the retirement system to
28 provide benefits for the affected plan members, (II) the cost of any
29 actuarial study necessary to aid the board in determining the amount of
30 such obligation, and (III) any administrative costs incurred by the board
31 or the Nebraska Public Employees Retirement Systems in connection with

1 the entity's removal from the retirement system as prescribed under
2 subdivision (3)(a)(i) of this section.

3 (b)(i) Prior to January 1, 2019, any governmental entity with
4 specific statutory authority to elect or discontinue participation in the
5 retirement system shall make an election regarding whether to participate
6 in the retirement system. On or after January 1, 2019, no governmental
7 entity may elect or discontinue participation in the retirement system,
8 and the board shall determine whether a governmental entity qualifies for
9 participation in the retirement system; and

10 (ii) Prior to January 1, 2019, if a governmental entity with
11 specific statutory authority elects to withdraw from the retirement
12 system, the affected plan members shall be considered fully vested.
13 Within ninety days after the entity's withdrawal from the retirement
14 system, affected plan members shall become inactive. The entity shall be
15 liable for (A) funding any obligation of the retirement system to provide
16 benefits for the affected plan members, (B) the cost of any actuarial
17 study necessary to determine the amount of such obligation, and (C) any
18 administrative costs incurred by the board or the Nebraska Public
19 Employees Retirement Systems in connection with the entity's removal from
20 the retirement system.

21 (c) For purposes of this subsection:

22 (i) Business transaction means a merger; consolidation; sale of
23 assets, equipment, or facilities; termination of a division, department,
24 section, or subgroup of the entity; or any other business transaction
25 that results in termination of some or all of the entity's workforce; and

26 (ii) Obligation of the retirement system to provide benefits for the
27 affected plan members means the financial liability incurred by the
28 retirement system due to the entity's business transaction calculated
29 using the methodology and assumptions recommended by the actuary and
30 approved by the board. The methodology and assumptions used must be
31 structured in a way that ensures the entity is financially liable for all

1 the costs of the entity's business transaction, and the retirement system
2 is not financially liable for any of the cost of the entity's business
3 transaction.

4 (d) The board may adopt and promulgate rules and regulations to
5 carry out this subsection including, but not limited to, the methods of
6 notifying the board of pending business transactions, the acceptable
7 methods of payment, and the timing of such payment.

8 Sec. 4. Original sections 23-3527 and 79-915, Reissue Revised
9 Statutes of Nebraska, and section 23-2306, Revised Statutes Cumulative
10 Supplement, 2016, are repealed.