

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 532

Introduced by Kolterman, 24.

Read first time January 18, 2017

Committee: Nebraska Retirement Systems

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2323.01,
- 2 24-710.04, 79-926, 81-2034, and 84-1325, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to a military service credit
- 4 for certain retirement plans as prescribed; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2323.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 23-2323.01 (1)(a) For military service rendered on or after
4 December 12, 1994, but before January 1, 2018, any ~~(1)~~ Any employee who,
5 while an employee, entered into and served in the armed forces of the
6 United States and who within ninety days after honorable discharge or
7 honorable separation from active duty again became an employee shall be
8 credited, for the purposes of section 23-2315, with all the time actually
9 served in the armed forces as if such person had been an employee
10 throughout such service in the armed forces pursuant to the terms and
11 conditions of subdivision (b) subsection (2) of this subsection ~~section~~.

12 (b) (2) Under such rules and regulations as the retirement board
13 adopts and promulgates, an employee who is reemployed on or after
14 December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., may pay to the
15 retirement system an amount equal to the sum of all deductions which
16 would have been made from the employee's compensation during such period
17 of military service. Payment shall be made within the period required by
18 law, not to exceed five years. To the extent that payment is made, (i)
19 ~~(a)~~ the employee shall be treated as not having incurred a break in
20 service by reason of his or her period of military service, (ii) ~~(b)~~ the
21 period of military service shall be credited for the purposes of
22 determining the nonforfeitability of the member's accrued benefits and
23 the accrual of benefits under the plan, and (iii) ~~(c)~~ the employer shall
24 allocate the amount of employer contributions to the member's employer
25 account in the same manner and to the same extent the allocation occurs
26 for other employees during the period of service. For purposes of member
27 and employer contributions under this section, the member's compensation
28 during the period of military service shall be the rate the member would
29 have received but for the military service or, if not reasonably
30 determinable, the average rate the member received during the twelve-
31 month period immediately preceding military service.

1 (c) ~~(3)~~ The employer shall pick up the member contributions made
2 through irrevocable payroll deduction authorizations pursuant to this
3 subsection ~~section~~, and the contributions so picked up shall be treated
4 as employer contributions in the same manner as contributions picked up
5 under section 23-2307.

6 (2)(a) For military service rendered on or after January 1, 2018,
7 any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall
8 be treated as not having incurred a break in service by reason of his or
9 her period of military service. Such military service shall be credited
10 for purposes of determining the nonforfeitability of the member's accrued
11 benefits and the accrual of benefits under the plan.

12 (b) The county employing the member shall be liable for funding any
13 obligation of the plan to provide benefits based upon such period of
14 military service. To satisfy the liability, the county employing the
15 member shall pay to the retirement system an amount equal to:

16 (i) The sum of the employee and employer contributions that would
17 have been paid during such period of military service; and

18 (ii) Any actuarial costs necessary to fund the obligation of the
19 plan to provide benefits based upon such period of military service.

20 (c) The amount paid pursuant to subdivision (b) of this subsection
21 shall be paid to the retirement system as soon as reasonably practicable
22 following the date of reemployment but must be paid within a period equal
23 to three times the length of military service, not to exceed five years.

24 (d) The retirement board may adopt and promulgate rules and
25 regulations to carry out this subsection, including, but not limited to,
26 rules and regulations on:

27 (i) How and when the employee and employer must notify the
28 retirement system of a period of military service;

29 (ii) The acceptable methods of payment;

30 (iii) Determining the compensation upon which the contributions must
31 be made; and

1 (iv) The documentation required to substantiate that the individual
2 was reemployed pursuant to 38 U.S.C. 4301 et seq.

3 (3) This section only applies to military service that falls within
4 the definition of uniformed service under 38 U.S.C. 4301 et seq., and
5 does not apply to service provided pursuant to the Military Code.

6 Sec. 2. Section 24-710.04, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 24-710.04 (1) Any ~~Under such rules and regulations as the~~
9 ~~retirement board adopts and promulgates,~~ any judge who is reemployed on
10 ~~or after December 12, 1994,~~ pursuant to 38 U.S.C. 4301 et seq. chapter
11 43, shall be treated as not having incurred a break in service by reason
12 of his or her period of military service. Such military service shall be
13 credited for purposes of determining the nonforfeitability of the
14 member's accrued benefits and the accrual of benefits under the plan.

15 (2) The state shall be liable for funding any obligation of the plan
16 to provide benefits based upon such period of military service. To
17 satisfy the liability, an amount shall be assessed against the
18 appropriation of the Supreme Court and paid to the retirement system that
19 is equal to:

20 (a) The sum of the member and employer contributions that would have
21 been paid during such period of military service; and

22 (b) Any actuarial costs necessary to fund the obligation of the plan
23 to provide benefits based upon such period of military service.

24 (3) The amount paid pursuant to subsection (2) of this section shall
25 be paid to the retirement system as soon as reasonably practicable
26 following the date of reemployment but must be paid within a period equal
27 to three times the length of military service, not to exceed five years.

28 (4) The board may adopt and promulgate rules and regulations to
29 carry out this section, including, but not limited to, rules and
30 regulations on:

31 (a) How and when the member and employer must notify the retirement

1 system of a period of military service;

2 (b) The acceptable methods of payment;

3 (c) Determining the compensation upon which the contributions must
4 be made; and

5 (d) The documentation required to substantiate that the judge was
6 reemployed pursuant to 38 U.S.C. 4301 et seq.

7 (5) This section only applies to military service that falls within
8 the definition of uniformed service under 38 U.S.C. 4301 et seq., and
9 does not apply to service provided pursuant to the Military Code.

10 Sec. 3. Section 79-926, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 79-926 (1) Under such rules and regulations as the retirement board
13 adopts and promulgates, each person who was a school employee at any time
14 prior to the establishment of the retirement system and who becomes a
15 member of the retirement system shall, within two years after becoming a
16 member, file a detailed statement of all service as a school employee
17 rendered by him or her prior to the date of establishment of the
18 retirement system. In order to qualify for prior service credit toward a
19 service annuity, a school employee, unless temporarily out of service for
20 further professional education, for service in the armed forces, or for
21 temporary disability, must have completed four years of service on a
22 part-time or full-time basis during the five calendar years immediately
23 preceding July 1, 1945, or have completed eighteen years out of the last
24 twenty-five years prior to July 1, 1945, full time or part time, and two
25 years out of the five years immediately preceding July 1, 1945, full time
26 or part time, or such school employee must complete, unless temporarily
27 out of service for further professional education, for service in the
28 armed forces, or for temporary disability, four years of service within
29 the five calendar years immediately following July 1, 1945. In order to
30 qualify for prior service credit toward a service annuity, a school
31 employee who becomes a member of the retirement system on or before

1 September 30, 1951, or from July 1, 1945, to the date of becoming a
2 member shall have been continuously employed in a public school in
3 Nebraska operating under any other regularly established retirement or
4 pension system.

5 ~~(2) Any person who, after having served or signing a contract to~~
6 ~~serve as a school employee, entered into and served or enters into and~~
7 ~~serves in the armed forces of the United States during a declared~~
8 ~~emergency or was drafted under a federal mandatory draft law into the~~
9 ~~armed forces of the United States during a time of peace, as described~~
10 ~~and prescribed under such rules and regulations as the retirement board~~
11 ~~adopts and promulgates, and who, within three calendar years after~~
12 ~~honorable discharge or honorable separation from active duty or within~~
13 ~~one year from the date of completion of training provided in the federal~~
14 ~~Servicemen's Readjustment Act of 1944 or the federal Veterans'~~
15 ~~Readjustment Assistance Act of 1952, became or becomes a school employee~~
16 ~~shall be credited, in determining benefits due such member from the~~
17 ~~retirement system, for a maximum of five years of the time actually~~
18 ~~served in the armed forces as if such person had been a school employee~~
19 ~~throughout such time.~~

20 ~~(2)(a) Any (3) Under such rules and regulations as the retirement~~
21 ~~board adopts and promulgates, any school employee who is reemployed on or~~
22 ~~after December 12, 1994, pursuant to 38 U.S.C. 4301 et seq., shall be~~
23 ~~treated as not having incurred a break in service by reason of his or her~~
24 ~~period of military service. Such military service shall be credited for~~
25 ~~purposes of determining the nonforfeitability of the member's accrued~~
26 ~~benefits and the accrual of benefits under the plan.~~

27 (b) The employer shall be liable for funding any obligation of the
28 plan to provide benefits based upon such period of military service. To
29 satisfy the liability, the employer shall pay to the retirement system an
30 amount equal to:

31 (i) The sum of the member and employer contributions that would have

1 been paid during such period of military service; and

2 (ii) Any actuarial costs necessary to fund the obligation of the
3 plan to provide benefits based upon such period of military service.

4 (c) The amount paid pursuant to subdivision (b) of this subsection
5 shall be paid to the retirement system as soon as reasonably practicable
6 following the date of reemployment but must be paid within a period equal
7 to three times the length of military service, not to exceed five years.

8 (d) The retirement board may adopt and promulgate rules and
9 regulations to carry out this subsection, including, but not limited to,
10 rules and regulations on:

11 (i) How and when the member and employer must notify the retirement
12 system of a period of military service;

13 (ii) The acceptable methods of payment;

14 (iii) Determining the compensation upon which the contributions must
15 be made; and

16 (iv) The documentation required to substantiate that the member was
17 reemployed pursuant to 38 U.S.C. 4301 et seq.

18 (3) This section only applies to military service that falls within
19 the definition of uniformed service under 38 U.S.C. 4301 et seq., and
20 does not apply to service provided pursuant to the Military Code.

21 Sec. 4. Section 81-2034, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 ~~81-2034 (1) Any member of the Nebraska State Patrol who, while a~~
24 ~~member of the Nebraska State Patrol, entered into and served or shall~~
25 ~~enter into and serve in the armed forces of the United States during a~~
26 ~~declared emergency, as defined and prescribed under such rules and~~
27 ~~regulations as the board may adopt, and who, within six months after~~
28 ~~honorable discharge or honorable separation from active duty, returned or~~
29 ~~returns to the service of the state and again becomes a member of the~~
30 ~~Nebraska State Patrol shall be credited, in determining benefits due such~~
31 ~~member from the State Patrol Retirement Fund, for all the time actually~~

1 ~~served in the armed forces as if such person had been in the service of~~
2 ~~the Nebraska State Patrol throughout such declared emergency service in~~
3 ~~the armed forces.~~

4 ~~(1)(a) Any (2) Under such rules and regulations as the board adopts~~
5 ~~and promulgates, any member of the Nebraska State Patrol who is~~
6 ~~reemployed on or after December 12, 1994, pursuant to 38 U.S.C. 4301 et~~
7 ~~seq. chapter 43, shall be treated as not having incurred a break in~~
8 ~~service by reason of his or her period of military service. Such military~~
9 ~~service shall be credited for purposes of determining the~~
10 ~~nonforfeitability of the member's accrued benefits and the accrual of~~
11 ~~benefits under the plan.~~

12 ~~(b) The state shall be liable for funding any obligation of the plan~~
13 ~~to provide benefits based upon such period of military service. To~~
14 ~~satisfy the liability, the Nebraska State Patrol shall pay to the~~
15 ~~retirement system an amount equal to:~~

16 ~~(i) The sum of the member and employer contributions that would have~~
17 ~~been paid during such period of military service; and~~

18 ~~(ii) Any actuarial costs necessary to fund the obligation of the~~
19 ~~plan to provide benefits based upon such period of military service.~~

20 ~~(c) The amount paid pursuant to subdivision (b) of this subsection~~
21 ~~shall be paid to the retirement system as soon as reasonably practicable~~
22 ~~following the date of reemployment but must be paid within a period equal~~
23 ~~to three times the length of military service, not to exceed five years.~~

24 ~~(d) The board may adopt and promulgate rules and regulations to~~
25 ~~carry out this subsection, including, but not limited to, rules and~~
26 ~~regulations on:~~

27 ~~(i) How and when the member and Nebraska State Patrol must notify~~
28 ~~the retirement system of a period of military service;~~

29 ~~(ii) The acceptable methods of payment;~~

30 ~~(iii) Determining the compensation upon which the contributions must~~
31 ~~be made; and~~

1 (iv) The documentation required to substantiate that the member was
2 reemployed pursuant to 38 U.S.C. 4301 et seq.

3 (2) This section only applies to military service that falls within
4 the definition of uniformed service under 38 U.S.C. 4301 et seq., and
5 does not apply to service provided pursuant to the Military Code.

6 Sec. 5. Section 84-1325, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 84-1325 (1)(a) For military service rendered on or after December
9 12, 1994, but before January 1, 2018, any ~~(1)~~ Any employee who, while an
10 employee, entered into and served in the armed forces of the United
11 States and who within ninety days after honorable discharge or honorable
12 separation from active duty again became an employee shall be credited,
13 for the purposes of the provisions of section 84-1317, with all the time
14 actually served in the armed forces as if such person had been an
15 employee throughout such service in the armed forces pursuant to the
16 terms and conditions of subdivision (b) subsection ~~(2)~~ of this subsection
17 section.

18 (b) (2) Under such rules and regulations as the retirement board
19 adopts and promulgates, any employee who is reemployed ~~on or after~~
20 ~~December 12, 1994,~~ pursuant to 38 U.S.C. 4301 et seq., may pay to the
21 retirement system an amount equal to the sum of all deductions which
22 would have been made from the employee's compensation during such period
23 of military service. Payment shall be made within the period required by
24 law, not to exceed five years. To the extent that payment is made, (i)
25 ~~(a)~~ the employee shall be treated as not having incurred a break in
26 service by reason of his or her period of military service, (ii) ~~(b)~~ the
27 period of military service shall be credited for the purposes of
28 determining the nonforfeitability of the member's accrued benefits and
29 the accrual of benefits under the plan, and (iii) ~~(c)~~ the employer shall
30 allocate the amount of employer contributions to the member's employer
31 account in the same manner and to the same extent the allocation occurs

1 for other employees during the period of service. For purposes of member
2 and employer contributions under this subsection, the member's
3 compensation during the period of military service shall be the rate the
4 member would have received but for the military service or, if not
5 reasonably determinable, the average rate the member received during the
6 twelve-month period immediately preceding military service.

7 (c) ~~(3)~~ The employer shall pick up the member contributions made
8 through irrevocable payroll deduction authorizations pursuant to this
9 subsection ~~section~~, and the contributions so picked up shall be treated
10 as employer contributions in the same manner as contributions picked up
11 under subsection (1) of section 84-1308.

12 (2)(a) For military service rendered on or after January 1, 2018,
13 any employee who is reemployed pursuant to 38 U.S.C. 4301 et seq., shall
14 be treated as not having incurred a break in service by reason of his or
15 her period of military service. Such military service shall be credited
16 for purposes of determining the nonforfeitability of the member's accrued
17 benefits and the accrual of benefits under the plan.

18 (b) The agency employing the member shall be liable for funding any
19 obligation of the plan to provide benefits based upon such period of
20 military service. To satisfy the liability, the agency employing the
21 member shall pay to the retirement system an amount equal to:

22 (i) The sum of the employee and employer contributions that would
23 have been paid during such period of military service; and

24 (ii) Any actuarial costs necessary to fund the obligation of the
25 plan to provide benefits based upon such period of military service.

26 (c) The amount paid pursuant to subdivision (b) of this subsection
27 shall be paid to the retirement system as soon as reasonably practicable
28 following the date of reemployment but must be paid within a period equal
29 to three times the length of military service, not to exceed five years.

30 (d) The retirement board may adopt and promulgate rules and
31 regulations to carry out this subsection, including, but not limited to,

1 rules and regulations on:

2 (i) How and when the employee and employer must notify the
3 retirement system of a period of military service;

4 (ii) The acceptable methods of payment;

5 (iii) Determining the compensation upon which the contributions must
6 be made; and

7 (iv) The documentation required to substantiate that the individual
8 was reemployed pursuant to 38 U.S.C. 4301 et seq.

9 (3) This section only applies to military service that falls within
10 the definition of uniformed service under 38 U.S.C. 4301 et seq., and
11 does not apply to service provided pursuant to the Military Code.

12 Sec. 6. Original sections 23-2323.01, 24-710.04, 79-926, 81-2034,
13 and 84-1325, Reissue Revised Statutes of Nebraska, are repealed.