

LEGISLATIVE BILL 905

Approved by the Governor March 23, 1974

Introduced by Nebraska Retirement Systems Committee, Whitney, 44, Chmn.; Hasebroock, 18; Goodrich, 20; F. Lewis, 45; Luedtke, 28

AN ACT to amend sections 23-2309, 79-1532, and 84-1310, Reissue Revised Statutes of Nebraska, 1943, sections 24-706 and 60-458, Revised Statutes Supplement, 1972, and sections 23-2301, 24-701, 24-707, and 84-1301, Revised Statutes Supplement, 1973, relating to retirement; to define terms; to change definitions; to change the manner the employee account shall be computed; to change the amount returned when service is terminated prior to retirement or in the event of death; 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, 1973, be amended to read as follows:

23-2301. As used in sections 23-2301 to 23-2331, 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 more than twenty 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 fifty thousand inhabitants;

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

(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;

(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;

(7) Straight life annuity shall mean an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his 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 electors;

(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 life insurance company to the retirement system in order to provide the future service benefits described in sections 23-2301 to 23-2331; and

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

(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.

Sec. 2. 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 employee account. Each year, commencing January 1, 1975, regular interest shall be credited to the employee account. As of January 1, 1975, a member's employee account shall be equal to one hundred three per cent of his employee account as of the next preceding January 1, increased by any amounts deducted from the member's

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

Sec. 3. That section 24-701, Revised Statutes Supplement, 1973, be amended to read as follows:

24-701. As used in sections 24-701 to 24-714, unless the context otherwise requires:

(1) Fund shall mean the Nebraska Retirement Fund for Judges;

(2) Judge shall mean and include all duly elected or appointed Chief Justices or Judges of the Supreme Court and judges of the district courts of Nebraska, who shall serve in such capacity on and after January 3, 1957, and shall mean and include all duly appointed judges of the Nebraska Workmen's Compensation Court who shall serve in such capacity on and after September 20, 1957, judges of separate juvenile courts, county judges of the respective counties, who shall serve in such capacity on and after January 5, 1961, except acting county judges appointed pursuant to section 24-507, district county judges and associate county judges who shall serve in such capacity on and after January 4, 1973, except associate county judges serving on a pro tempore basis as designated by the Supreme Court, and judges of municipal courts established by Chapter 26, article 1, who shall serve in such capacity on and after October 23, 1967;

(3) Prior service shall mean all the periods of time any person has served as a (a) Judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the separate juvenile court, or (e) judge of the municipal court prior to October 23, 1967;

(4) Current service shall mean the period of service any Judge of the Supreme Court or judge of the district court shall serve in such capacity from and after January 3, 1957, and shall mean the period of service any judge of the Nebraska Workmen's Compensation Court shall serve in such capacity from and after September 20, 1957, and any county judge shall serve in such capacity from and after January 5, 1961, and any judge of a separate juvenile court shall serve in such capacity and any judge of the municipal court shall serve in such capacity subsequent to October 23, 1967, and any district county judge or associate county judge shall serve in such capacity subsequent to January 4, 1973;

(5) Military service shall mean active service of any judge of the Supreme Court or district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, and shall mean active service of any judge of the Nebraska Workmen's Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, and shall mean active service of any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, if such service commenced while such judge was holding the office of judge, and shall mean active service of any district county judge or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Total years of service shall mean the total number of years served as a judge, including prior service, military service, and current service as defined in this section computed to the nearest one-twelfth year;

(7) Salary shall mean the statutory salary of a judge or the salary being received by such judge pursuant to law;

(8) Beneficiary shall mean a person so designated by a judge in the last written designation of beneficiary on file with the board, or if no designated person survives or if no designation is on file, the estate of such judge;

(9) Annuity shall mean a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge. The first payment shall be made as of the end of the calendar month in which such annuity was awarded and the last payment shall be at the end of the calendar month in which such judge shall die. The first payment shall include all amounts accrued since the effective date of the award of annuities, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began;

(10) Board shall mean the Public Employees Retirement Board;

(11) Member shall mean a judge, as defined in subdivision (2) of this section, eligible to participate in the retirement system established under the provisions of sections 24-701 to 24-714;

(12) Original member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, and who does not elect to become a future member on or before June 30, 1970;

(13) Future member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, on or after December 25, 1969, or shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) of section 24-703; and

(14) Final average salary shall mean the average monthly salary for the last four years service as a judge or, in the event of a judge serving less than four years, the average monthly salary for such judge's period of service; Provided, that final average salary of any judge who has retired or who will retire during or at the end of the presently current judicial term shall mean the average monthly salary for his last year of service before retirement; and

(15) Regular interest shall mean the rate of interest earned each fiscal year commencing July 1, 1974, as determined by the retirement board in conformity with actual and expected earnings on its investments.

Sec. 4. That section 24-706, Revised Statutes Supplement, 1972, be amended to read as follows:

24-706. (1) Any original member whose service is terminated prior to retirement, for any cause other than death, and whose total service as a judge at the time of termination of service is less than ten years, may, upon written request to the board, (a) have returned to him the total amount of contributions which he has made to the fund, plus regular interest, and the return of such contributions to said judge shall preclude said judge from any benefits hereunder unless and until said judge again serves in such capacity, or (b) leave his contributions in the fund and receive retirement annuity, starting at age sixty-five, as provided in section 24-710. Any original member whose service is terminated prior to retirement, for any cause other than death, and whose total service as a judge is ten or more years,

shall not be entitled to have returned contributions to the fund made by him but shall receive retirement annuities as provided in sections 24-708 to 24-710.

(2) Any future member whose service is terminated prior to age sixty-five, for any cause other than death, may, upon written request to the board, (a) have returned to him the total amount of contributions which he has made to the fund, plus regular interest, and the return of such contributions to such judge shall preclude such judge from any benefits hereunder unless and until such judge again serves in such capacity, or (b) leave his contributions in the fund and receive retirement annuity starting at age seventy as provided in section 24-710. Any future member whose service is terminated at or subsequent to age sixty-five but prior to age seventy shall be considered as a normal retirement and annuity payments shall begin as provided in section 24-710.

Sec. 5. That section 24-707, Revised Statutes Supplement, 1973, be amended to read as follows:

24-707. In the event of the death of a judge prior to his retirement, if such judge has not filed a written statement of intent with the board to elect to receive any other form of annuity which may be provided for by sections 24-707 and 24-710, his beneficiary shall be paid a lump sum equal to all contributions to the fund made by such judge plus regular interest. Any benefits paid to the beneficiary of such judge in lieu of the return of the lump sum equal to all contributions to the fund made by such judge plus regular interest shall be the actuarial equivalent of such lump sum value computed as of the date of death of such judge. In the event of the death of a judge subsequent to his retirement, if such a judge has not filed a written statement of intent with the board to elect to receive any other form of annuity which may be provided for by sections 24-707 and 24-710, the amount of annuities he has received under the provisions of sections 24-701 to 24-714 shall be computed and if such amount shall be less than the contributions to the fund made by such judge, the difference shall be paid to his beneficiary.

Sec. 6. That section 60-458, Revised Statutes Supplement, 1972, be amended to read as follows:

60-458. (1) Should any patrolman, prior to becoming eligible to retire, as provided in section 60-452, become separated from state service as a patrolman for reasons other than death or disability, either voluntarily or involuntarily, such patrolman shall thereupon be entitled to receive all payments which have

been made by salary deductions into the fund created by sections 60-441 to 60-461 plus regular interest earned each fiscal year commencing July 1, 1974, as determined by the retirement board in conformity with actual and expected earnings on its investments.

(2) In lieu of the benefit described in subsection (1) of this section, the patrolman may elect to receive a deferred annuity to commence at age sixty. If this election is made, the contributions made to the system by the patrolman may not be withdrawn from the system. The deferred annuity to commence at age sixty is computed as a percentage of the retirement annuity, as computed in subsection (1) of section 60-452.01. The percentage is zero per cent for the first ten years of service; fifty per cent after ten completed years of service, increasing by five per cent for each completed year of service for the next ten years of service; and one hundred per cent after twenty completed years of service.

Sec. 7. That section 79-1532, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1532. On June 30 of each year the retirement board shall credit the account of each member in the School Employees' Savings Fund with regular interest earned commencing July 1, 1974, at the rate determined as provided in section 79-1504.

Sec. 8. That section 84-1301, Revised Statutes Supplement, 1973, be amended to read as follows:

84-1301. As used in sections 84-1301 to 84-1331, unless the context otherwise requires:

(1) Employee shall mean any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities; but shall not include judges, members of the Nebraska State Patrol, employees of the University of Nebraska, employees of the state colleges, employees of technical community colleges, employees of the Division of Employment of the Department of Labor, the Commissioner of Labor, employees of the State Board of Agriculture whose compensation is not paid out of the General Fund, the Nebraska National Guard air and army technicians, or persons eligible for membership under the School Retirement System of the State of Nebraska, except

that those persons so eligible and who as of September 2, 1973 are contributing to the State Employees Retirement System shall continue as members of such system; Provided, that any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee who works less than one half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and accepting a retirement allowance granted under the provisions of sections 84-1301 to 84-1331;

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

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees, as provided in sections 84-1301 to 84-1331;

(7) 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, that service shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

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

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the retirement system in order to provide the benefits described in sections 84-1301 to 84-1331;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission or other division of state government,

not otherwise specifically defined or exempted in sections 84-1301 to 84-1331, whose employees and officers are not already covered by a retirement plan;

(13) 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 to be of long-continued and indefinite duration; and

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

(15) 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.

Sec. 9. That section 84-1310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1310. A member's share of the fund arising from the salary deductions made in accordance with the provisions of section 84-1308 shall be known as his employee account. Each year commencing January 1, 1975, regular interest shall be credited to the employee account. As of any January 1, 1975, a member's employee account shall be equal to one hundred four per cent of his employee account as of the next preceding January 1, increased by any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 84-1308.

Sec. 10. That original sections 23-2309, 79-1532, and 84-1310, Reissue Revised Statutes of Nebraska, 1943, sections 24-706 and 60-458, Revised Statutes Supplement, 1972, and sections 23-2301, 24-701, 24-707, and 84-1301, Revised Statutes Supplement, 1973, are repealed.