

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 32

Introduced by Kolterman, 24; Watermeier, 1.

Read first time January 05, 2017

Committee:

- 1 A BILL FOR AN ACT relating to retirement; to amend sections 23-2334 and
2 84-1319, Reissue Revised Statutes of Nebraska, and section 23-2317,
3 Revised Statutes Cumulative Supplement, 2016; to eliminate a duty of
4 the Public Employees Retirement Board to provide tax information to
5 county and state employees; to change provisions relating to prior
6 service retirement benefit payments under the County Employees
7 Retirement Act; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2317, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 23-2317 (1) The future service retirement benefit shall be an
4 annuity, payable monthly with the first payment made no earlier than the
5 annuity start date, which shall be the actuarial equivalent of the
6 retirement value as specified in section 23-2316 based on factors
7 determined by the board, except that gender shall not be a factor when
8 determining the amount of such payments pursuant to subsection (2) of
9 this section.

10 Except as provided in section 42-1107, at any time before the
11 annuity start date, the retiring employee may choose to receive his or
12 her annuity either in the form of an annuity as provided under subsection
13 (4) of this section or any optional form that is determined by the board.

14 Except as provided in section 42-1107, in lieu of the future service
15 retirement annuity, a retiring employee may receive a benefit not to
16 exceed the amount in his or her employer and employee accounts as of the
17 date of final account value payable in a lump sum and, if the employee
18 chooses not to receive the entire amount in such accounts, an annuity
19 equal to the actuarial equivalent of the remainder of the retirement
20 value, and the employee may choose any form of such annuity as provided
21 for by the board.

22 In any case, the amount of the monthly payment shall be such that
23 the annuity chosen shall be the actuarial equivalent of the retirement
24 value as specified in section 23-2316 except as provided in this section.

25 ~~The board shall provide to any county employee who is eligible for~~
26 ~~retirement, prior to his or her selecting any of the retirement options~~
27 ~~provided by this section, information on the federal and state income tax~~
28 ~~consequences of the various annuity or retirement benefit options.~~

29 (2) Except as provided in subsection (4) of this section, the
30 monthly income payable to a member retiring on or after January 1, 1984,
31 shall be as follows:

1 He or she shall receive at retirement the amount which may be
2 purchased by the accumulated contributions based on annuity rates in
3 effect on the annuity start date which do not utilize gender as a factor,
4 except that such amounts shall not be less than the retirement income
5 which can be provided by the sum of the amounts derived pursuant to
6 subdivisions (a) and (b) of this subsection as follows:

7 (a) The income provided by the accumulated contributions made prior
8 to January 1, 1984, based on male annuity purchase rates in effect on the
9 date of purchase; and

10 (b) The income provided by the accumulated contributions made on and
11 after January 1, 1984, based on the annuity purchase rates in effect on
12 the date of purchase which do not use gender as a factor.

13 (3) Any amount, in excess of contributions, which may be required in
14 order to purchase the retirement income specified in subsection (2) of
15 this section shall be withdrawn from the County Equal Retirement Benefit
16 Fund.

17 (4)(a) The normal form of payment shall be a single life annuity
18 with five-year certain, which is an annuity payable monthly during the
19 remainder of the member's life with the provision that, in the event of
20 his or her death before sixty monthly payments have been made, the
21 monthly payments will be continued to his or her estate or to the
22 beneficiary he or she has designated until sixty monthly payments have
23 been made in total. Such annuity shall be equal to the actuarial
24 equivalent of the member cash balance account or the sum of the employee
25 and employer accounts, whichever is applicable, as of the date of final
26 account value. As a part of the annuity, the normal form of payment may
27 include a two and one-half percent cost-of-living adjustment purchased by
28 the member, if the member elects such a payment option.

29 Except as provided in section 42-1107, a member may elect a lump-sum
30 distribution of his or her member cash balance account as of the date of
31 final account value upon termination of service or retirement.

1 For a member employed and participating in the retirement system
2 prior to January 1, 2003, who has elected to participate in the cash
3 balance benefit pursuant to section 23-2308.01, or for a member employed
4 and participating in the retirement system beginning on and after January
5 1, 2003, the balance of his or her member cash balance account as of the
6 date of final account value shall be converted to an annuity using an
7 interest rate used in the actuarial valuation as recommended by the
8 actuary and approved by the board.

9 For an employee who is a member prior to January 1, 2003, who has
10 elected not to participate in the cash balance benefit pursuant to
11 section 23-2308.01, and who, at the time of retirement, chooses the
12 annuity option rather than the lump-sum option, his or her employee and
13 employer accounts as of the date of final account value shall be
14 converted to an annuity using an interest rate that is equal to the
15 lesser of (i) the Pension Benefit Guaranty Corporation initial interest
16 rate for valuing annuities for terminating plans as of the beginning of
17 the year during which payment begins plus three-fourths of one percent or
18 (ii) the interest rate used in the actuarial valuation as recommended by
19 the actuary and approved by the board.

20 (b) For the calendar year beginning January 1, 2003, and each
21 calendar year thereafter, the actuary for the board shall perform an
22 actuarial valuation of the system using the entry age actuarial cost
23 method. Under this method, the actuarially required funding rate is equal
24 to the normal cost rate plus the contribution rate necessary to amortize
25 the unfunded actuarial accrued liability on a level-payment basis. The
26 normal cost under this method shall be determined for each individual
27 member on a level percentage of salary basis. The normal cost amount is
28 then summed for all members. The initial unfunded actual accrued
29 liability as of January 1, 2003, if any, shall be amortized over a
30 twenty-five-year period. During each subsequent actuarial valuation,
31 changes in the unfunded actuarial accrued liability due to changes in

1 benefits, actuarial assumptions, the asset valuation method, or actuarial
2 gains or losses shall be measured and amortized over a twenty-five-year
3 period beginning on the valuation date of such change. If the unfunded
4 actuarial accrued liability under the entry age actuarial cost method is
5 zero or less than zero on an actuarial valuation date, then all prior
6 unfunded actuarial accrued liabilities shall be considered fully funded
7 and the unfunded actuarial accrued liability shall be reinitialized and
8 amortized over a twenty-five-year period as of the actuarial valuation
9 date. If the actuarially required contribution rate exceeds the rate of
10 all contributions required pursuant to the County Employees Retirement
11 Act, there shall be a supplemental appropriation sufficient to pay for
12 the difference between the actuarially required contribution rate and the
13 rate of all contributions required pursuant to the act.

14 (c) If the unfunded accrued actuarial liability under the entry age
15 actuarial cost method is less than zero on an actuarial valuation date,
16 and on the basis of all data in the possession of the retirement board,
17 including such mortality and other tables as are recommended by the
18 actuary engaged by the retirement board and adopted by the retirement
19 board, the retirement board may elect to pay a dividend to all members
20 participating in the cash balance option in an amount that would not
21 increase the actuarial contribution rate above ninety percent of the
22 actual contribution rate. Dividends shall be credited to the employee
23 cash balance account and the employer cash balance account based on the
24 account balances on the actuarial valuation date. In the event a dividend
25 is granted and paid after the actuarial valuation date, interest for the
26 period from the actuarial valuation date until the dividend is actually
27 paid shall be paid on the dividend amount. The interest rate shall be the
28 interest credit rate earned on regular contributions.

29 (5) At the option of the retiring member, any lump sum or annuity
30 provided under this section or section 23-2334 may be deferred to
31 commence at any time, except that no benefit shall be deferred later than

1 April 1 of the year following the year in which the employee has both
2 attained at least seventy and one-half years of age and has terminated
3 his or her employment with the county. Such election by the retiring
4 member may be made at any time prior to the commencement of the lump-sum
5 or annuity payments.

6 (6) A participant or beneficiary who would have been required to
7 receive required minimum distributions for 2009 but for the enactment of
8 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
9 satisfied that requirement by receiving distributions that are either
10 equal to the 2009 required minimum distributions or one or more payments
11 in a series of substantially equal distributions, including the 2009
12 required minimum distribution, made at least annually and expected to
13 last for the life or life expectancy of the participant, the joint lives
14 or joint life expectancy of the participant and the participant's
15 designated beneficiary, or for a period of at least ten years, shall
16 receive those distributions for 2009 unless the participant or
17 beneficiary chooses not to receive such distributions. Participants and
18 beneficiaries shall be given the opportunity to elect to stop receiving
19 the distributions described in this subsection.

20 Sec. 2. Section 23-2334, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 23-2334 The prior service retirement benefit shall be a straight
23 life annuity, payable monthly, quarterly, semiannually, or annually with
24 the first payment made as of the annuity start date, in an amount
25 determined in accordance with section 23-2333. ~~No , except that if the~~
26 ~~monthly payment would be less than ten dollars, payments shall be made~~
27 ~~annually in advance with each annual payment equal to 11.54 multiplied by~~
28 ~~the monthly payment that would have been made in the absence of this~~
29 ~~restriction on small monthly payments, and no~~ prior service retirement
30 benefit shall be paid to any person who terminates his or her employment
31 unless such person has been continuously employed by the county for ten

1 or more years immediately prior to termination. An employee meeting such
2 requirement and who terminates his or her employment shall not receive a
3 prior service benefit determined in accordance with section 23-2333 prior
4 to attaining age sixty-five.

5 Prior service retirement benefits shall be paid directly by the
6 county to the retired employee.

7 Sec. 3. Section 84-1319, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 84-1319 (1) The future service retirement benefit shall be an
10 annuity, payable monthly with the first payment made no earlier than the
11 annuity start date, which shall be the actuarial equivalent of the
12 retirement value as specified in section 84-1318 based on factors
13 determined by the board, except that gender shall not be a factor when
14 determining the amount of such payments except as provided in this
15 section.

16 Except as provided in section 42-1107, at any time before the
17 annuity start date, the retiring employee may choose to receive his or
18 her annuity either in the form of an annuity as provided under subsection
19 (4) of this section or any optional form that is determined acceptable by
20 the board.

21 Except as provided in section 42-1107, in lieu of the future service
22 retirement annuity, a retiring employee may receive a benefit not to
23 exceed the amount in his or her employer and employee accounts as of the
24 date of final account value payable in a lump sum and, if the employee
25 chooses not to receive the entire amount in such accounts, an annuity
26 equal to the actuarial equivalent of the remainder of the retirement
27 value, and the employee may choose any form of such annuity as provided
28 for by the board.

29 In any case, the amount of the monthly payment shall be such that
30 the annuity chosen shall be the actuarial equivalent of the retirement
31 value as specified in section 84-1318 except as provided in this section.

1 ~~The board shall provide to any state employee who is eligible for~~
2 ~~retirement, prior to his or her selecting any of the retirement options~~
3 ~~provided by this section, information on the federal and state income tax~~
4 ~~consequences of the various annuity or retirement benefit options.~~

5 (2) Except as provided in subsection (4) of this section, the
6 monthly annuity income payable to a member retiring on or after January
7 1, 1984, shall be as follows:

8 He or she shall receive at retirement the amount which may be
9 purchased by the accumulated contributions based on annuity rates in
10 effect on the annuity start date which do not utilize gender as a factor,
11 except that such amounts shall not be less than the retirement income
12 which can be provided by the sum of the amounts derived pursuant to
13 subdivisions (a) and (b) of this subsection as follows:

14 (a) The income provided by the accumulated contributions made prior
15 to January 1, 1984, based on male annuity purchase rates in effect on the
16 date of purchase; and

17 (b) The income provided by the accumulated contributions made on and
18 after January 1, 1984, based on the annuity purchase rates in effect on
19 the date of purchase which do not use gender as a factor.

20 (3) Any amounts, in excess of contributions, which may be required
21 in order to purchase the retirement income specified in subsection (2) of
22 this section shall be withdrawn from the State Equal Retirement Benefit
23 Fund.

24 (4)(a) The normal form of payment shall be a single life annuity
25 with five-year certain, which is an annuity payable monthly during the
26 remainder of the member's life with the provision that, in the event of
27 his or her death before sixty monthly payments have been made, the
28 monthly payments will be continued to his or her estate or to the
29 beneficiary he or she has designated until sixty monthly payments have
30 been made in total. Such annuity shall be equal to the actuarial
31 equivalent of the member cash balance account or the sum of the employee

1 and employer accounts, whichever is applicable, as of the date of final
2 account value. As a part of the annuity, the normal form of payment may
3 include a two and one-half percent cost-of-living adjustment purchased by
4 the member, if the member elects such a payment option.

5 Except as provided in section 42-1107, a member may elect a lump-sum
6 distribution of his or her member cash balance account as of the date of
7 final account value upon termination of service or retirement.

8 For a member employed and participating in the retirement system
9 prior to January 1, 2003, who has elected to participate in the cash
10 balance benefit pursuant to section 84-1309.02, or for a member employed
11 and participating in the retirement system beginning on and after January
12 1, 2003, the balance of his or her member cash balance account as of the
13 date of final account value shall be converted to an annuity using an
14 interest rate used in the actuarial valuation as recommended by the
15 actuary and approved by the board.

16 For an employee who is a member prior to January 1, 2003, who has
17 elected not to participate in the cash balance benefit pursuant to
18 section 84-1309.02, and who, at the time of retirement, chooses the
19 annuity option rather than the lump-sum option, his or her employee and
20 employer accounts as of the date of final account value shall be
21 converted to an annuity using an interest rate that is equal to the
22 lesser of (i) the Pension Benefit Guaranty Corporation initial interest
23 rate for valuing annuities for terminating plans as of the beginning of
24 the year during which payment begins plus three-fourths of one percent or
25 (ii) the interest rate used in the actuarial valuation as recommended by
26 the actuary and approved by the board.

27 (b) For the calendar year beginning January 1, 2003, and each
28 calendar year thereafter, the actuary for the board shall perform an
29 actuarial valuation of the system using the entry age actuarial cost
30 method. Under this method, the actuarially required funding rate is equal
31 to the normal cost rate plus the contribution rate necessary to amortize

1 the unfunded actuarial accrued liability on a level-payment basis. The
2 normal cost under this method shall be determined for each individual
3 member on a level percentage of salary basis. The normal cost amount is
4 then summed for all members. The initial unfunded actual accrued
5 liability as of January 1, 2003, if any, shall be amortized over a
6 twenty-five-year period. During each subsequent actuarial valuation,
7 changes in the unfunded actuarial accrued liability due to changes in
8 benefits, actuarial assumptions, the asset valuation method, or actuarial
9 gains or losses shall be measured and amortized over a twenty-five-year
10 period beginning on the valuation date of such change. If the unfunded
11 actuarial accrued liability under the entry age actuarial cost method is
12 zero or less than zero on an actuarial valuation date, then all prior
13 unfunded actuarial accrued liabilities shall be considered fully funded
14 and the unfunded actuarial accrued liability shall be reinitialized and
15 amortized over a twenty-five-year period as of the actuarial valuation
16 date. If the actuarially required contribution rate exceeds the rate of
17 all contributions required pursuant to the State Employees Retirement
18 Act, there shall be a supplemental appropriation sufficient to pay for
19 the difference between the actuarially required contribution rate and the
20 rate of all contributions required pursuant to the act.

21 (c) If the unfunded accrued actuarial liability under the entry age
22 actuarial cost method is less than zero on an actuarial valuation date,
23 and on the basis of all data in the possession of the retirement board,
24 including such mortality and other tables as are recommended by the
25 actuary engaged by the retirement board and adopted by the retirement
26 board, the retirement board may elect to pay a dividend to all members
27 participating in the cash balance option in an amount that would not
28 increase the actuarial contribution rate above ninety percent of the
29 actual contribution rate. Dividends shall be credited to the employee
30 cash balance account and the employer cash balance account based on the
31 account balances on the actuarial valuation date. In the event a dividend

1 is granted and paid after the actuarial valuation date, interest for the
2 period from the actuarial valuation date until the dividend is actually
3 paid shall be paid on the dividend amount. The interest rate shall be the
4 interest credit rate earned on regular contributions.

5 (5) At the option of the retiring member, any lump sum or annuity
6 provided under this section or section 84-1320 may be deferred to
7 commence at any time, except that no benefit shall be deferred later than
8 April 1 of the year following the year in which the employee has both
9 attained at least seventy and one-half years of age and has terminated
10 his or her employment with the state. Such election by the retiring
11 member may be made at any time prior to the commencement of the lump-sum
12 or annuity payments.

13 (6) A participant or beneficiary who would have been required to
14 receive required minimum distributions for 2009 but for the enactment of
15 section 401(a)(9)(H) of the Internal Revenue Code, and who would have
16 satisfied that requirement by receiving distributions that are either
17 equal to the 2009 required minimum distributions or one or more payments
18 in a series of substantially equal distributions, including the 2009
19 required minimum distribution, made at least annually and expected to
20 last for the life or life expectancy of the participant, the joint lives
21 or joint life expectancy of the participant and the participant's
22 designated beneficiary, or for a period of at least ten years, shall
23 receive those distributions for 2009 unless the participant or
24 beneficiary chooses not to receive such distributions. Participants and
25 beneficiaries shall be given the opportunity to elect to stop receiving
26 the distributions described in this subsection.

27 Sec. 4. Original sections 23-2334 and 84-1319, Reissue Revised
28 Statutes of Nebraska, and section 23-2317, Revised Statutes Cumulative
29 Supplement, 2016, are repealed.