

**ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024**  
**COMMITTEE STATEMENT**  
**LB686**

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**Hearing Date:** Wednesday March 22, 2023  
**Committee On:** Nebraska Retirement Systems  
**Introducer:** Walz  
**One Liner:** Adopt the Cities of the First Class Firefighters Cash Balance Retirement Act

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

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**Vote Results:**  
**Aye:** 4 Senators Vargas, McDonnell, Hardin, Conrad  
**Nay:** 2 Senators Clements, Ibach  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

**Proponents:**

Senator Lynne Walz  
Darren Garrean  
Phil Thomas  
Anthony Strawn  
Dave Wordekemper

**Representing:**

Opening Presenter  
Nebraska Professional Firefighters  
Grand Island Fire Department  
Papillion Professional Firefighters IAFF 3767  
Fremont Professional Firefighters Local 1015 and  
Nebraska Professional Firefighters Association

**Opponents:**

Lynn Rex

**Representing:**

League of NE Municipalities

**Neutral:**

**Representing:**

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

Overview

LB 686 proposes to create a Cash Balance Retirement Plan for firefighters in First Class Cities. The bill addresses the various provisions necessary for a new retirement plan. Some of the common provisions: Member accounts are guaranteed a 5% return; Employees contribute 6 ½% to account and cities pay three times employee contribution; New hires (after Jan 1, 2025) are required to be in Cash Balance, prior employees may elect to stay in defined contribution plan or transfer to new plan.

Section by section



Section 1 Title: First Class Firefighters Cash Balance Act.

Section 2 Definitions: Variety of definitions. Items of note: Interest credit rate—greater of 5% or federal mid term rate +1 ½ percent (subsection (19))

Section 3 Intent language and require creation of a retirement system in each First Class city that employs firefighters.

Section 4 Provides that all firefighters employed by the city are members of the system; provides an option for a member to participate in the Cash Balance system;

Section 5 Provides a timeline for those participating in the defined contribution to elect to participate in the cash balance plan; if no election is made, employee remains in defined contribution plan; Cash balance Plan begins January 1, 2025.

Section 6 Requires city/employer to provide lists of employees to retirement board and requires transfer of retirement assets for employees electing the cash balance plan.

Section 7 Determines amounts paid to the plan. Amount is 6 ½ % of employees contribution or greater amount if determined by board if actuary determines necessary to retain solvency. Contributions designated as employee contributions are paid by employer and not included as gross income as sums are treated as employer contributions per Internal Revenue Code.

Section 8 Additional ½ % is paid into fund by employer and not included as gross income.

Section 9 Limits amounts of contributions to system to contributions outlined in statute, repayment of refunded contributions, military service contributions, actuarially required contributions, certain transfers, and corrections.

Section 10 Cities pay 3 times the amount contributed by employee.

Section 11 Board establishes due date for payments and may charge employer administrative fee and daily late fee for late payment. Administrative charge is \$25 and late payment is .038% of late amount.

Section 12 Contributions to retirement system held in trust and only used for benefits and administrative costs.

Section 13 Creates First Class Firefighters Cash Balance Contributions fund. Amounts in fund are invested pursuant to Investment Council policies.

Section 14 Creates Firefighters Retirement System Death and Disability Fund. Funds used for Death and Disability benefits. Amounts in fund are invested pursuant to Investment Council policies.

Section 15 Creates Cities of the First Class Firefighters Cash Balance Retirement Fund. Funds used for administrative and operational expenses of the system. Amounts in fund are invested pursuant to Investment Council policies.

Section 16 Requires the various funds to be maintained separately in trust for members and beneficiaries. Trustee or custodian is a designated funding agent.

Section 17 Allows trustee or custodian, as directed by board, to deposit funds in any financial institution. Requires a



monthly report to board showing credits and disbursements to board.

Section 18 Describes amounts in employee and employer accounts including contributions, interest, and dividends. Allows board to enter into administrative services agreements and development of accounting and record keeping cost schedule.

Section 19 Creates Retirement Board and establishes duty to maintain, manage, administer and invest assets of the retirement system. May adopt rules and regs. Board Commissioners are deemed fiduciaries of the retirement system.

Section 20 Board consist of nine commissioners: five selected by active members (commissioners are active or retired members); four commissioners selected by cities. Four-year terms are staggered. No compensation for commissioners, but reimbursed for expenses.

Section 21 Provides duties of the board. Includes electing chair and vice-chair, and hold regular meetings. Other duties include: contracting with an actuary (technical advisor), provide member statements, maintain status as a qualified plan, and other reports.

Section 22 Board has power to investigate overpayments and order corrections through refunds, requiring additional payments, or adjusting benefits. Provides subpoena powers.

Section 23 Requires board to maintain member records and conduct testing to assure accuracy. Board develops employer education program.

Section 24 Has State Auditor conduct annual audit with reports to board and the Legislature. Members of the Legislature receive copy of audit on request.

Section 25 Applications for benefits can be made after age fifty-five or at any age in the case of disability. If unable to locate member or beneficiary, benefit goes to Unclaimed Property system.

Section 26 Retirement value is benefit provided under section 18.

Section 27 Describes benefit payment options including annuity, lump sum, and cost of living increases. Allows deferral of benefit payments.

Section 28 Addresses disability situations. Disabled members receive 50% of regular pay as benefit during disability. Requires medical examination information to be presented to the board and the board may require additional examinations during first three years. For temporary disability, member receives salary for up to twelve months. If temporary disability becomes long-term disability, member receives disability benefit. If member no longer disabled, disability pension terminated and account amount reduced by disability payments. Provides for reemployment if member no longer disabled.

Section 29 During any temporary disability, any Worker Compensation benefit reduces salary under temporary disability benefit provisions.

Section 30 Board actuary performs annual valuation of system. If actuarially required contribution (ARC) exceeds member contributions, member rate is adjusted to meet ARC. If ARC is less than zero, board may provide dividend.

Section 31 Upon termination, other than retirement or disability, non vested members receive benefit based on



employee account and if vested, receive benefit based on employee and employer account. Benefits can be either lump sum or annuity. Full vesting occurs after seven years.

Section 32 If terminated employee is not fully vested, employer account is forfeited and goes to retirement fund. If termination is subject to appeal or grievance, benefit transactions are suspended until final disposition of appeal or grievance.

Section 33 A break in service of more than five years results in the employee being treated as a new employee. If an employee not eligible to retire has a break in service of less than five years resumes status in the plan including previous years of service. If receiving benefits, the employee may repay received amounts in a variety of methods. If an employee is successful in an appeal or grievance is not considered to have a break in service.

Section 34 Provides for distribution of benefits if member dies not in line of duty. Member account is paid to designated beneficiary in form of annuity or lump sum or to estate. Provides exception if member is serving in military at death (not line of duty), over 50 years old and served in fire department for at 21 years, pension of 25% is paid to surviving spouse and minor children. If spouse or minor children die prior to pension benefits equaling the member's account, remainder of member account paid to beneficiaries or estate.

Section 35 Provides for distribution of benefits if member dies in line of duty. If there is no surviving spouse or minor children, member account is paid to designated beneficiary in form of annuity or lump sum or to estate. Surviving spouse receives pension of 50% of regular pay. If spouse remarries, benefit is paid to minor children if exist. If spouse or minor children die prior to pension benefits equaling the member's account, remainder of member account paid to beneficiaries.

Section 36 Benefits or annuities are not subject to garnishment, attachment or bankruptcy laws. Benefits are not assignable unless subject to domestic relations order.

Section 37 If member enters and serves in military while an employee, and becomes an employee within 90 days of discharge or separation, member is credited for time in military. Allows member to pay contributions that would have been incurred during military service (within 5 years ) and if made, treated as if no break in service with employer contributions added.

Section 38 Provides definitions and procedures to roll over distributions from a qualified plan to another retirement vehicle. Includes rollover transfers for beneficiaries and pursuant to domestic relations order.

Section 39 Allows transfers to a member's account in the case of repayment for a break in service.

Section 40 Allows trustee-to-trustee transfers of annuities or deferred compensation plans to member's accounts for payment of previously withdrawn amounts.

Section 41 Provides that members retain their status while members of the plan.

Section 42 Provides penalties (including criminal and benefit based) for fraudulent activity related to the retirement system.

Section 43 Allows retirement system to be sued with a 2 year statute of limitations.

Section 44 If system terminated, rights of members are nonforfeitable.



Section 45 Amends section 16-1020, regarding application of sections to include new hires or members who elect to participate in cash balance plan.

Section 46 Severability clause.

Section 47 Repeals original sections

Section 48 Emergency clause

Explanation of Amendment

Overview

AM2984 is a white copy amendment that replaces the original content in LB 686. While originally LB 686 proposed a cash balance retirement plan, this amendment maintains but changes provisions of the current defined contribution plan.

The amendment includes provisions from other bills including LB 221 (definition of salary), LB 197 (Social Security referendum), and LB 406 (contribution rates from employees/employers). There are also new provisions regarding surviving spouse remarriage, pooling of retirement investments, and retirement health care.

In addition, there are some nonconsequential changes such as numerous changes spread throughout the amendment that rename sections 16-1020 to 16-1042 as "Cities of the First Class Firefighters Retirement Act. This follows a Revisor's policy of naming multiple sections of statute as an Act rather than referring to the range. There are also several references to include "Section 16" (retirement health care) in the range of sections included in the Act. This indicates that the section would be placed by the Revisor in Act rather than in, for example Chapter 44 (Insurance). Other nonconsequential changes include divisions of sections into subsections and removal of obsolete language.

Section by Section

Section 1 Amends section 16-1020 to title sections 16-1020 to 1042 as "Cities of the First Class Firefighters Retirement Act".

Section 2 Amends section 16-1021 that contains the definitions for the Act, by adding a new subsection (1) that defines "absolute coverage group" to reflect a certain Social Security status. This definition will impact sections regarding employee/employer contributions. Subsection (11) is a rewrite of the definition of "salary". This addition is made to reflect provisions of LB 221. While the language is not a mirror of the original LB 221 language, it does reflect discussions on the issue from the parties impacted by the bill.

Section 3 Amends section 16-1022 to include a reference to section 16.

Section 4 Amends section 16-1022 which requires a retirement system, to provide a reference to the named Act and section 16.

Section 5 Amends section 16-1024 regarding employee contributions to the retirement system, by dividing subsection (1) into 2 parts. Subsection (1)(a) addresses firefighters in an absolute coverage group and subsection (1)(b) applies to firefighters not in an absolute coverage group.



Firefighters in the absolute coverage also pay into Social Security. For firefighters in the absolute coverage group (subsection (1)(a)), the contribution rates to the retirement plan remain the same as current statute (6.5%) of salary.

Subsection (1)(b), for firefighters not in an absolute coverage group (who do not contribute to Social Security) establishes a schedule of contribution increases:

Until September 30, 2024, 6.5% of salary (current rate)

October 1, 2024 to September 30, 2025, 8.7%.

October 1, 2025 to September 30, 2026, 10.7%.

Beginning October 1, 2026, 12.7%

Section 6 Amends section 16-1025 (employer contributions) by dividing subsection (1) into 3 parts. Subsection (1)(a) addresses cities with firefighters in an absolute coverage group with a population of 60,000 or more in a county of 100,000 or more. For cities with firefighters in the absolute coverage group (subsection (1)(a)), the contribution rates to the retirement plan remain the same as current statute at 13% of salary.

A new subsection (1)(b) applies to cities with firefighters in an absolute coverage group with a population of less than 60,000. Cities with firefighters in the absolute coverage also pay into Social Security. The city contribution rate for this category is set at 8.8%

Subsection (1)(c), for cities not in an absolute coverage group (who do not contribute to Social Security) establishes a schedule of contribution increases:

Until September 30, 2025, 13% of salary (current rate)

October 1, 2025 to September 30, 2026, 14%.

Beginning October 1, 2026, 15%

Section 7 Amends section 16-1030 regarding beneficiary benefits by dividing the section into subsections and adding a new subsection (4).

Subsection (4) provides that a surviving spouse (with no minor children) that remarries is entitled to the difference between what remains in the firefighters employee account less any amounts paid to the firefighter and his or her beneficiaries, if any.

Section 8 Amends section 16-1032 to include a reference to section 16.

Section 9 Amends section 16-1033 regarding termination prior to retirement by providing a reference to the named Act.

Section 10 Amends section 16-1034 regarding establishment of a retirement committee by providing a reference to the named Act.

Section 11 Amends section 16-1036 regarding investment of retirement funds by providing a reference to the named Act and adding a new subsection (2). Subsection (2) allows the retirement committees of two or more cities to agree to pool investment and administration costs with a single agent to reduce costs and increase investment returns.

Section 12 Amends section 16-1036.01 to include a reference to section 16.



Section 13 Amends section 16-1037 addressing retirement committee functions by deleting subsection (2) containing outdated and obsolete language.

Section 14 Amends section 16-1038 regarding retirement administration and limitations by providing a reference to the named Act.

Section 15 Amends section 16-1041 addressing application to pre 1984 benefits by providing a reference to the named Act.

Section 16 is a new section that allows a retiring firefighter to maintain health coverage within the City's group coverage for active firefighters for a two year period by paying the employee portion of premiums.

Section 17 Amends section 18-1723 regarding death or disability in the line of duty by providing a reference to the named Act.

Section 18 Amends section 35-1001 regarding death or disability (cancer) in the line of duty by providing a reference to the named Act.

Section 19 Amends section 68-621 regarding a referendum to allow Social Security coverage for police and fire employees. While the language is not a mirror of the language in LB 197 as it contains Revisor's changes, it does remove a restriction in subsection (3) that prohibited police officers and firefighters from participating in a Social Security referendum. See "Background on Social Security Coverage of State and Local Employees Under Nebraska's Section 218 Agreement" by the Nebraska Retirement Systems Committee (2022) for a comprehensive history of the issue. It is available on the Legislature's website under "Reports—Committee—Standing Committees —Nebraska Retirement Systems Committee—Nebraska Retirement Committee Reports.

Section 20 Amends section 81-8,317 regarding benefits for a death in the line of duty by providing a reference to the named Act.

Section 21 Repeal original sections.

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**Explanation of amendments:**

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Mike McDonnell, Chairperson

