

## LEGISLATIVE BILL 237

Approved by the Governor April 25, 1983

Introduced by DeCamp, 40; Hefner, 19; Fenger, 45;  
R. Peterson, 21

AN ACT relating to cities of the first class; to establish a retirement system for police officers as prescribed; to create funds; to authorize a levy; to exclude certain contributions from budget limitation provisions; to provide an operative date; to repeal pension provisions; and to repeal sections 16-330 to 16-336, 16-336.01, and 16-337, Revised Statutes Supplement, 1982.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 19 of this act shall apply to all police officers of a city of the first class.

Sec. 2. For the purposes of sections 1 to 19 of this act, unless the context otherwise requires:

(1) Regular interest shall mean the net rate of interest earned each calendar year commencing January 1, 1984, as determined by the retirement committee in conformity with actual and expected earnings on its investments;

(2) Regular pay shall mean the average salary of a police officer for the five years preceding the date such police officer elects to retire, the five years preceding his or her death, or the five years preceding the date of disability, whichever is earliest;

(3) Salary shall mean all amounts paid to a participating police officer by the employing city for personal services as reported on the participant's federal income tax withholding statement, including the police officer's contributions picked up by the city as provided in subsection (2) of section 5 of this act;

(4) Retirement committee shall mean the retirement committee created pursuant to section 14 of this act;

(5) Retirement value shall mean the accumulated value of the police officer's employee account and employer account;

(6) Group annuity contract shall mean the contract or contracts issued by one or more life insurance

companies to the retirement committee in order to provide the benefits described in sections 1 to 19 of this act. Annuity conversion rates contained in any such contract shall be specified on a sex neutral basis; and

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

Sec. 3. A police officer shall be credited with all years of his or her service after the year 1965 for the purpose of determining vested retirement benefits under sections 1 to 19 of this act.

Sec. 4. Commencing on January 1, 1984, each city of the first class shall keep and maintain a Police Officers' Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system established pursuant to sections 1 to 19 of this act. Upon the passage of sections 1 to 19 of this act all of the contributions made by an officer prior to the operative date of this act will be transferred to the officer's retirement employee account. Regular interest shall begin to accrue on the contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16 of this act.

Sec. 5. (1) Each police officer participating in the retirement system established pursuant to sections 1 to 19 of this act shall contribute to the retirement system a sum equal to six per cent of his or her salary. Such payment shall be made by regular payroll deductions from his or her periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class with police officers participating in a retirement system established pursuant to sections 1 to 19 of this act shall pick up the police officers' contributions required by this section for all compensation paid on or after January 1, 1984, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase.

Sec. 6. Each city of the first class with police officers participating in a retirement system established pursuant to sections 1 to 19 of this act shall contribute to the retirement system a sum equal to six per cent of each such participating police officer's periodic salary. Such payment shall be contributed as provided in section 5 of this act for employee contributions and shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest.

Sec. 7. (1) At any time before the retirement date, the retiring police officer may elect to receive his or her pension benefit either in the form of a straight life annuity or any optional form of annuity benefit specified in the group annuity contract. The retiring police officer may further elect to defer the date of the first payment to the first day of any specified month prior to age seventy. In any case, the amount of the pension benefit shall be the amount purchased or otherwise provided by the retirement value as of the date of the first payment.

(2) For all officers employed on January 1, 1984, the amount of the pension benefit, when determined on the straight life annuity basis, shall not be less than the following amounts:

(a) If retirement occurs following age sixty with twenty-five years of service, or twenty-one years of service if hired prior to November 18, 1965, fifty per cent of regular pay; or

(b) If retirement occurs following age fifty-five but before age sixty with twenty-five years of service, forty per cent of regular pay.

(3) Any retiring police officer whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value in lieu of annuity.

Sec. 8. (1) A police officer of a city of the first class may:

(a) Elect to retire and receive a pension benefit based on his or her full retirement value upon the attainment of age sixty;

(b) Elect to take early retirement if he or she has attained the age of fifty-five and has completed twenty-five years of service; or

(c) Retire as a result of disability, as determined under section 11 of this act, at any age.

(2) A police officer who is eligible to retire pursuant to subdivision (1)(a) of this section but does not, shall continue to contribute to his or her employee account and the city shall continue to contribute to his or her employee account.

(3) The first of the month immediately following the last day of work shall be the retirement

date.

Sec. 9. When prior to retirement, any police officer participating in the retirement system established pursuant to sections 1 to 19 of this act shall die other than in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death or to the deceased police officer's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, straight life annuity, or any other optional form of benefit specified in the group annuity contract.

If such benefits are payable in the form of annuity benefits, and if any police officer employed by such city as a member of its paid police department on January 1, 1984, except those who shall have been formerly employed in such department who are now in military service, shall die other than in the line of duty after becoming fifty-five years of age and before electing to retire, and after serving in the paid police department of such city for at least twenty-one years, then a pension of at least twenty-five per cent of his or her regular pay as defined in section 2 of this act under a straight life annuity shall be paid to the surviving spouse or minor children of such deceased police officer. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess will be applied to increase the amount of the pension benefit. In the event that the pension benefit is payable, the retirement value of the officer's retirement account who died after the age of fifty-five shall be retained by the city.

Sec. 10. When prior to retirement, any police officer participating in the retirement system established pursuant to sections 1 to 19 of this act shall die in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death, or to the deceased police officer's estate in the event that no beneficiary was specified. The retirement value may be received by the beneficiary in the form of a single lump-sum payment, straight life annuity, or any other optional form of benefit specified in the group annuity contract. For a police officer that is survived by a spouse or minor children, a retirement pension of fifty per cent of regular pay shall be paid to the surviving spouse, or upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workmen's compensation benefits on account of death, as provided in section 12 of this act. To the extent that the retirement value at the date of death exceeds the

amount required to purchase the specified retirement pension, reduced by any amounts paid as workmen's compensation benefits, the excess shall be applied to increase the amount of the pension benefit. In the event that the specified retirement pension is payable, the retirement value shall be retained by the city.

Sec. 11. In case any police officer shall become permanently and totally disabled from accident or other cause while in the line of duty and such police officer because of such disability is unable to resume the duties he or she was performing at the time of injury, such police officer shall forthwith be placed upon the roll of pensioned police officers at the regular retirement pension of fifty per cent of regular pay, as defined in section 2 of this act. In case of temporary total disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it shall be ascertained by the city council or other proper municipal authorities within twelve months that such disability has become permanent, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of total and permanent disability. All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under Chapter 48, article 1. Total payments to a disabled police officer, in excess of amounts paid as workmen's compensation benefits, shall not be less than the retirement value at the date of disability.

Sec. 12. No police officer shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under Chapter 48, article 1. All Nebraska workmen's compensation benefits shall be payable in full to such police officer as provided in Chapter 48, article 1, but all amounts paid by the city or its insurer under sections 1 to 19 of this act to any disabled police officer entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 1 to 19 of this act.

Sec. 13. In the event a police officer quits or is discharged, the officer may request and receive as a lump-sum all of the contribution he or she has made toward his or her employee account, including regular interest earned from January 1, 1984. Such officer, if vested, shall also receive a deferred pension benefit in an amount purchased by the retirement value at the date of retirement. The retirement value shall consist of the accumulated value of the police officer's employee account, less any lump-sum distributions received prior to

retirement, together with a vested percentage of the police officer's employer account plus regular interest from the date of termination to the date of retirement. The retirement value of an officer who is employed on January 1, 1984, shall include, when he or she quits or is discharged from the city, an amount equal to the employee's contributions that were made prior to January 1, 1984, subject to the vesting schedule. The vesting schedule is as follows:

(1) If the terminated police officer has been a member of the system for less than four years, such vesting shall be nil;

(2) If the terminating officer has been a member of the paid department of the city of the first class for at least four years, such vesting percentage shall be forty per cent. Such vesting percentage shall be fifty per cent after five years, sixty per cent after six years, seventy per cent after seven years, eighty per cent after eight years, ninety per cent after nine years, and one hundred per cent after ten years; and

(3) All police officers shall be one hundred per cent vested at age sixty.

The deferred pension benefit is payable on the first of the month immediately following the police officer's sixtieth birthday. At the option of the terminating officer, such pension benefit may be paid as of the first of the month after such member attains the age of fifty-five. Such election may be made by the officer anytime prior to the payment of the pension benefits.

In the event that the terminating police officer shall not be credited with one hundred per cent of his or her employer account, the remainder shall first be used to meet the expense charges incurred by the city in connection with administering the police officer retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Sec. 14. A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to sections 1 to 19 of this act. The governing body of the city shall continue to be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee.

Sec. 15. Each retirement committee established pursuant to section 14 of this act shall consist of members from both the police force and designees of the city council. The committee shall consist of six members of which four members shall be selected by the officers from the police force of the city. Two members shall be designated by the city council. The members who are not

participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall receive no salary and shall not be compensated for expenses.

Sec. 16. The funds of the retirement system shall be invested by the retirement committee. The city or committee shall contract with an insurance company, trust company, or other financial institution including, but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit unions, or Farmers Home Administration or Veterans' Administration approved lenders. Such funds shall be invested pursuant to the policies established by the Nebraska Investment Council.

Sec. 17. It shall be the duty of the retirement committee to:

(1) Provide each employee a summary of plan eligibility requirements and benefit provisions;

(2) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive;

(3) Make available for review an annual report of the system's operations describing both (a) the amount of contributions to the system from both employee and employer sources and (b) an identification of the total assets of the retirement system; and

(4) Have an analysis made of the investment return that has been achieved on the assets of the retirement system administered by the committee. Such analysis shall be prepared as of January 1, 1988, and each five years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system.

Sec. 18. In the event that after four or more years of employment a police officer terminates his or her employment for the purpose of becoming a police officer employed by another first-class city in Nebraska, and such new employment commences within ninety days, such police officer shall be entitled to transfer to the Police Officers' Retirement System Fund of the city by which he or she is newly employed, the full amount of his or her contribution and his or her vested portion of the city's contribution at the time of termination, together with regular interest accrued thereon. The transferred funds shall be administered by the retirement committee of the city to which transferred. For the purpose of applying the

vesting schedule in section 13 of this act to contributions made following the commencement of new employment, such police officers shall be deemed a new employee.

Sec. 19. In order to provide the necessary amounts to pay for or fund a pension plan established under sections 1 to 19 of this act, the mayor and council may make a levy in addition to the multiple levies or the all purpose and exclusive levy which such city is authorized by law to make.

Sec. 20. For purposes of subdivision (2) of section 77-3423, new program shall include all contributions of a city of the first class to a retirement system established pursuant to sections 1 to 19 of this act, for one calendar year after January 1, 1984.

Sec. 21. This act shall become operative on January 1, 1984.

Sec. 22. That sections 16-330 to 16-336, 16-336.01, and 16-337, Revised Statutes Supplement, 1982, are repealed.