

## LEGISLATIVE BILL 460

Approved by the Governor March 7, 1994

Introduced by Horgan, 4; Crosby, 29; Wickersham, 49

AN ACT relating to retirement; to amend sections 84-1504 to 84-1506, 84-1509, and 84-1510, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to deferred compensation for state employees; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 84-1504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1504. (1) The Public Employees Retirement Board, on behalf of the state, may contract with any state or county employee, including a person under contract providing services to the state or county who is not employed by the University of Nebraska or any of the state colleges or community colleges, to defer a portion of such employee's income.

(2) The income to be deferred shall not exceed the total compensation to be received by the employee or independent contractor from the employer or exceed the limits established by the Internal Revenue Service for such a plan.

(3) The board may invest the income to be deferred under an agreement in the following categories of investment or insurance:

(a) Annuities;

(b) Mutual funds;

(c) Bank savings accounts or savings and loan associations;

(d) Trust companies qualified to act as fiduciaries in this state;

or

(e) An organization established for the purpose of administering public employee deferred compensation retirement plans and authorized to do business in the State of Nebraska.

(4) The deferred compensation program shall serve in addition to but not be a part of any existing retirement or pension system provided for state employees or any other benefit program.

(5) Any income deferred under such a deferred compensation plan shall continue to be included as regular compensation for the purpose of computing the retirement, pension, or social security contributions made or benefits earned by any employee.

(6) Any sum so deferred shall not be included in the computation of any federal or state taxes withheld on behalf of any such employee or independent contractor.

(7) The state, the board, or the agency shall not be responsible for any investment results entered into by the employee or independent contractor in the deferred compensation agreement.

(8) Nothing in this section shall in any way limit, restrict, alter, amend, invalidate, or nullify any deferred compensation plan previously instituted by any instrumentality or agency of the State of Nebraska, and any such plan is hereby authorized and approved, and may, subsequently, with the consent of the employee, purchase a life insurance or fixed or variable annuity contract, for the purpose of funding a deferred compensation plan for the employee, from any insurance company licensed to do business in the state. The total of the premiums paid for the purchase of such life insurance contract or annuity contract and the employee's nondeferred income for any year shall not exceed the limit or limits established by the Internal Revenue Service for such plan. The deferred compensation program shall exist and serve in addition to, and shall not be a part of, any existing retirement or pension system provided for state or county employees or any other benefit program. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension contributions made or benefits earned by any employee. Any sum so deferred shall not be included in the computation of any taxes withheld on behalf of any such employee.

Sec. 2. That section 84-1505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1505. The Public Employees Retirement Board shall act as custodian for all policies and annuity investment contracts purchased in the name of the State of Nebraska under the terms of sections 84-1504 to 84-1506. The board shall receive all rights and incidents of ownership of such policies and annuity investment contracts. The employee shall have no interest in any

~~policy or annuity investment~~ contract or the proceeds thereof until such time as payments shall be paid under the terms of the deferred compensation plan.

Sec. 3. That section 84-1506, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1506. Under the first method of disbursement mentioned in section 84-1508, the Public Employees Retirement Board shall receive payments or benefits of any ~~insurance policies or annuity investment~~ contracts purchased under the ~~provisions~~ of sections 84-1504 to 84-1506. The payments and benefits shall be deposited in the Deferred Compensation Fund which is hereby created. The State Treasurer shall make payments to the employees from the Deferred Compensation Fund.

Sec. 4. That section 84-1509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1509. Under the second method of disbursement mentioned in section 84-1508, the Public Employees Retirement Board may enter into an administrative services agreement with the ~~life insurance or annuity contract carrier an organization authorized to conduct business in Nebraska and to administer public employee deferred compensation retirement plans~~. No such agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

Sec. 5. That section 84-1510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1510. The agreement authorized by section 84-1509 shall provide:

(1) That the ~~carrier organization~~ shall make all disbursements under the contract or contracts issued by it, such disbursements to be made in such manner and amounts as directed by the state whether on account of retirement, termination of services, total disability, or death;

(2) That the ~~carrier organization~~ shall include with each disbursement a statement showing the gross payment, any taxes withheld, and the net amount paid and an annual statement of account;

(3) That the ~~carrier organization~~ shall furnish to the board a monthly statement of all disbursements and withholdings as stipulated in the agreement;

(4) Hold-harmless clauses protecting each party thereto from the negligent acts of the other or for any loss or claim against one party resulting from release of incorrect or misleading information furnished by the other party;

(5) For the right of the state, either directly or through independent auditors, to examine and audit the ~~carrier's organization's~~ records and accounts relating to disbursements made under the agreement;

(6) Protection to the state against assignment of the agreement or the subletting of work done or services furnished under the agreement;

(7) For termination of the agreement; and

(8) Such other terms as may be agreed upon and which the board determines to be in the best interest of the state and its participating employees.

Sec. 6. That original sections 84-1504 to 84-1506, 84-1509, and 84-1510, Reissue Revised Statutes of Nebraska, 1943, are repealed.