

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 937**

Introduced by Nebraska Retirement Systems Committee: Synowiecki, 7,  
Chairperson; Erdman, 47; Heidemann, 1; Karpisek, 32;  
Louden, 49; White, 8.

Read first time January 14, 2008

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2306  
2 and 84-1307, Revised Statutes Cumulative Supplement,  
3 2006, and sections 23-2320 and 84-1322, Revised Statutes  
4 Supplement, 2007; to change contribution requirements  
5 under the County Employees Retirement Act and the State  
6 Employee Retirement Act; and to repeal the original  
7 sections.

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

1           Section 1. Section 23-2306, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           23-2306 (1) The membership of the retirement system shall  
4 be composed of all persons who are or were employed by member  
5 counties and who maintain an account balance with the retirement  
6 system.

7           (2) The following employees of member counties are  
8 authorized to participate in the retirement system: (a) All  
9 permanent full-time employees shall begin participation in the  
10 retirement system upon employment and full-time elected officials  
11 shall begin participation in the retirement system upon taking  
12 office, (b) all permanent part-time employees who have attained  
13 the age of twenty years may exercise the option to begin  
14 participation in the retirement system, and (c) all part-time  
15 elected officials may exercise the option to begin participation  
16 in the retirement system. An employee who exercises the option to  
17 begin participation in the retirement system shall remain in the  
18 system until termination or retirement, regardless of any change of  
19 status as a permanent or temporary employee.

20           (3) Within the first thirty days of employment, a  
21 full-time employee may apply to the board for vesting credit  
22 for years of participation in another Nebraska governmental plan,  
23 as defined by section 414(d) of the Internal Revenue Code. During  
24 the years of participation in the other Nebraska governmental plan,  
25 the employee must have been a full-time employee, as defined in

1 the Nebraska governmental plan in which the credit was earned. The  
2 board may adopt and promulgate rules and regulations governing the  
3 assessment and granting of vesting credit.

4 (4) Any employee who qualifies for membership in the  
5 retirement system pursuant to this section may not be disqualified  
6 from membership in the retirement system solely because such  
7 employee also maintains separate employment which qualifies the  
8 employee for membership in another public retirement system,  
9 nor may membership in this retirement system disqualify such an  
10 employee from membership in another public retirement system solely  
11 by reason of separate employment which qualifies such employee for  
12 membership in this retirement system.

13 (5) A full-time or part-time employee of a city, village,  
14 or township who becomes a county employee pursuant to a merger  
15 of services shall receive vesting credit for his or her years  
16 of participation in a Nebraska governmental plan, as defined by  
17 section 414(d) of the Internal Revenue Code, of the city, village,  
18 or township.

19 (6) A full-time or part-time employee of a city, village,  
20 fire protection district, or township who becomes a municipal  
21 county employee shall receive credit for his or her years of  
22 employment with the city, village, fire protection district, or  
23 township for purposes of the vesting provisions of this section.

24 (7) Counties shall ensure that employees authorized to  
25 participate in the retirement system pursuant to this section

1 shall enroll and make required contributions to the retirement  
2 system ~~within sixty days under rules and regulations adopted and~~  
3 ~~promulgated by the board.~~ immediately upon becoming an employee.  
4 Information necessary to determine membership in the retirement  
5 system shall be provided by the employer.

6           Sec. 2. Section 23-2320, Revised Statutes Supplement,  
7 2007, is amended to read:

8           23-2320 (1) Except as otherwise provided in this section,  
9 a member of the retirement system who has a five-year break in  
10 service shall upon reemployment be considered a new employee with  
11 respect to the County Employees Retirement Act and shall not  
12 receive credit for service prior to his or her reemployment date.

13           (2) (a) A member who ceases to be an employee before  
14 becoming eligible for retirement under section 23-2315 and again  
15 becomes a permanent full-time or permanent part-time county  
16 employee prior to having a five-year break in service shall  
17 immediately be reenrolled in the retirement system and resume  
18 making contributions. ~~under rules and regulations adopted by the~~  
19 ~~board.~~ For purposes of vesting employer contributions made prior to  
20 and after the reentry into the retirement system under subsection  
21 (3) of section 23-2319, years of participation include years of  
22 participation prior to such employee's original termination. For a  
23 member who is not vested and has received a termination benefit  
24 pursuant to section 23-2319, the years of participation prior  
25 to such employee's original termination shall be limited in a

1 ratio equal to the amount that the member repays divided by the  
2 termination benefit withdrawn pursuant to section 23-2319.

3 (b) The reemployed member may repay the value of, or  
4 a portion of the value of, the termination benefit withdrawn  
5 pursuant to section 23-2319. A reemployed member who elects to  
6 repay all or a portion of the value of the termination benefit  
7 withdrawn pursuant to section 23-2319 shall repay the actual  
8 earnings on such value. Repayment of the termination benefit shall  
9 commence within three years of reemployment and shall be completed  
10 within five years of reemployment or prior to termination of  
11 employment, whichever occurs first, through (i) direct payments to  
12 the retirement system, (ii) installment payments made pursuant to  
13 a binding irrevocable payroll deduction authorization made by the  
14 member, (iii) an eligible rollover distribution as provided under  
15 the Internal Revenue Code, or (iv) a direct rollover distribution  
16 made in accordance with section 401(a)(31) of the Internal Revenue  
17 Code.

18 (c) The value of the member's forfeited employer account  
19 or employer cash balance account, as of the date of forfeiture,  
20 shall be restored in a ratio equal to the amount of the benefit  
21 that the member has repaid divided by the termination benefit  
22 received. The employer account or employer cash balance account  
23 shall be restored first out of the current forfeiture amounts and  
24 then by additional employer contributions.

25 (3) For a member who retired pursuant to section 23-2315

1 and becomes a permanent full-time employee or permanent part-time  
2 employee with a county under the County Employees Retirement Act  
3 more than one hundred twenty days after his or her retirement  
4 date, the member shall continue receiving retirement benefits. Such  
5 a retired member or a retired member who received a lump-sum  
6 distribution of his or her benefit shall be considered a new  
7 employee as of the date of reemployment and shall not receive  
8 credit for any service prior to the member's retirement for  
9 purposes of the act.

10 (4) A member who is reinstated as an employee pursuant to  
11 a grievance or appeal of his or her termination by the county shall  
12 be a member upon reemployment and shall not be considered to have  
13 a break in service for such period of time that the grievance or  
14 appeal was pending.

15 Sec. 3. Section 84-1307, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17 84-1307 (1) The membership of the retirement system shall  
18 be composed of all persons who are or were employed by the State  
19 of Nebraska and who maintain an account balance with the retirement  
20 system.

21 (2) The following employees of the State of Nebraska  
22 are authorized to participate in the retirement system: (a) All  
23 permanent full-time employees shall begin participation in the  
24 retirement system upon employment; and (b) all permanent part-time  
25 employees who have attained the age of twenty years may exercise

1 the option to begin participation in the retirement system. An  
2 employee who exercises the option to begin participation in the  
3 retirement system pursuant to this section shall remain in the  
4 retirement system until his or her termination of employment or  
5 retirement, regardless of any change of status as a permanent or  
6 temporary employee.

7 (3) For purposes of this section, (a) permanent full-time  
8 employees includes employees of the Legislature or Legislative  
9 Council who work one-half or more of the regularly scheduled  
10 hours during each pay period of the legislative session and (b)  
11 permanent part-time employees includes employees of the Legislature  
12 or Legislative Council who work less than one-half of the regularly  
13 scheduled hours during each pay period of the legislative session.

14 (4) Within the first thirty days of employment, a  
15 full-time employee may apply to the board for vesting credit  
16 for years of participation in another Nebraska governmental plan,  
17 as defined by section 414(d) of the Internal Revenue Code. During  
18 the years of participation in the other Nebraska governmental plan,  
19 the employee must have been a full-time employee, as defined in  
20 the Nebraska governmental plan in which the credit was earned. The  
21 board may adopt and promulgate rules and regulations governing the  
22 assessment and granting of vesting credit.

23 (5) Any employee who qualifies for membership in the  
24 retirement system pursuant to this section may not be disqualified  
25 for membership in the retirement system solely because such

1 employee also maintains separate employment which qualifies the  
2 employee for membership in another public retirement system,  
3 nor may membership in this retirement system disqualify such an  
4 employee from membership in another public employment system solely  
5 by reason of separate employment which qualifies such employee for  
6 membership in this retirement system.

7 (6) State agencies shall ensure that employees authorized  
8 to participate in the retirement system pursuant to this section  
9 shall enroll and make required contributions to the retirement  
10 system ~~within sixty days under rules and regulations adopted and~~  
11 ~~promulgated by the board.~~ immediately upon becoming an employee.  
12 Information necessary to determine membership in the retirement  
13 system shall be provided by the employer.

14 Sec. 4. Section 84-1322, Revised Statutes Supplement,  
15 2007, is amended to read:

16 84-1322 (1) Except as otherwise provided in this section,  
17 a member of the retirement system who has a five-year break in  
18 service shall upon reemployment be considered a new employee with  
19 respect to the State Employees Retirement Act and shall not receive  
20 credit for service prior to his or her reemployment date.

21 (2)(a) A member who ceases to be an employee before  
22 becoming eligible for retirement under section 84-1317 and again  
23 becomes a permanent full-time or permanent part-time state employee  
24 prior to having a five-year break in service shall immediately  
25 be reenrolled in the retirement system and resume making

1 contributions, ~~under rules and regulations established by the~~  
2 ~~board.~~ For purposes of vesting employer contributions made prior  
3 to and after reentry into the retirement system under subsection  
4 (3) of section 84-1321, years of participation include years of  
5 participation prior to such employee's original termination. For a  
6 member who is not vested and has received a termination benefit  
7 pursuant to section 84-1321, the years of participation prior  
8 to such employee's original termination shall be limited in a  
9 ratio equal to the amount that the member repays divided by the  
10 termination benefit withdrawn pursuant to section 84-1321. This  
11 subsection shall apply whether or not the person was a state  
12 employee on April 20, 1986, or July 17, 1986.

13 (b) The reemployed member may repay the value of, or a  
14 portion of the value of, the termination benefit withdrawn pursuant  
15 to section 84-1321. A reemployed member who elects to repay all  
16 or a portion of the value of the termination benefit withdrawn  
17 pursuant to section 84-1321 shall repay the actual earnings on  
18 such value. Repayment of the termination benefit shall commence  
19 within three years after reemployment and shall be completed  
20 within five years after reemployment or prior to termination of  
21 employment, whichever occurs first, through (i) direct payments to  
22 the retirement system, (ii) installment payments made pursuant to  
23 a binding irrevocable payroll deduction authorization made by the  
24 member, (iii) an eligible rollover distribution as provided under  
25 the Internal Revenue Code, or (iv) a direct rollover distribution

1 made in accordance with section 401(a) (31) of the Internal Revenue  
2 Code.

3 (c) The value of the member's forfeited employer account  
4 or employer cash balance account, as of the date of forfeiture,  
5 shall be restored in a ratio equal to the amount of the benefit  
6 that the member has repaid divided by the termination benefit  
7 received. The employer account or employer cash balance account  
8 shall be restored first out of the current forfeiture amounts and  
9 then by additional employer contributions.

10 (3) For a member who retired pursuant to section 84-1317  
11 and becomes a permanent full-time employee or permanent part-time  
12 employee with the state more than one hundred twenty days after  
13 his or her retirement date, the member shall continue receiving  
14 retirement benefits. Such a retired member or a retired member who  
15 received a lump-sum distribution of his or her benefit shall be  
16 considered a new employee as of the date of reemployment and shall  
17 not receive credit for any service prior to the member's retirement  
18 for purposes of the act.

19 (4) A member who is reinstated as an employee pursuant to  
20 a grievance or appeal of his or her termination by the state shall  
21 be a member upon reemployment and shall not be considered to have  
22 a break in service for such period of time that the grievance or  
23 appeal was pending.

24 Sec. 5. Original sections 23-2306 and 84-1307, Revised  
25 Statutes Cumulative Supplement, 2006, and sections 23-2320 and

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1 84-1322, Revised Statutes Supplement, 2007, are repealed.