

LEGISLATIVE BILL 1082

Approved by the Governor April 16, 2012

Introduced by Karpisek, 32.

FOR AN ACT relating to retirement; to amend sections 16-1001, 16-1002, 16-1003, 16-1004, 16-1005, 16-1006, 16-1007, 16-1009, 16-1010, 16-1012, 16-1013, 16-1014, 16-1016, 16-1019, and 16-1038, Reissue Revised Statutes of Nebraska, section 18-1723, Revised Statutes Cumulative Supplement, 2010, and section 16-1017, Revised Statutes Supplement, 2011; to name the Police Officers Retirement Act; to redefine terms; to change provisions relating to employee and employer contributions and vesting; to change provisions relating to administration of police officer and firefighter retirement systems as prescribed; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 16-1001, Reissue Revised Statutes of Nebraska, is amended to read:

16-1001 Sections 16-1001 to 16-1019 shall be known and may be cited as the Police Officers Retirement Act and shall apply to all police officers of a city of the first class.

Sec. 2. Section 16-1002, Reissue Revised Statutes of Nebraska, is amended to read:

16-1002 For purposes of ~~sections 16-1001 to 16-1019,~~ the Police Officers Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent ~~shall mean~~ means equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalent of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by the police officer's retirement value. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Beneficiary ~~shall mean~~ means the person or persons designated by a police officer, pursuant to a written instrument filed with the retirement committee before the police officer's death, to receive death benefits which may be payable under the retirement system;

(3) Funding agent ~~shall mean~~ means any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the city or retirement committee to hold or invest the funds of the retirement system;

(4) Regular interest ~~shall mean~~ means the rate of interest earned each calendar year ~~commencing January 1, 1984,~~ equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings ~~shall mean~~ means the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year;

(5) 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, except that for any police officer who retires, dies, or becomes disabled after July 15, 1992, regular pay shall mean~~ means the average salary of the police officer for the period of five consecutive years preceding ~~such~~ elective retirement, death, or date of disability which produces the highest average;

(6) Salary ~~shall mean~~ means 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 16-1005 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code;

(7) Retirement committee ~~shall mean~~ means the retirement committee created pursuant to section 16-1014;

(8) Retirement system ~~shall mean~~ means a retirement system

established pursuant to ~~sections 16-1001 to 16-1019, the act;~~

(9) Retirement value ~~shall mean~~ means the accumulated value of the police officer's employee account and employer account. The retirement value ~~shall consist~~ consists of the sum of the contributions made or transferred to such accounts by the police officer and by the city on the police officer's behalf and the regular interest credited to the accounts as of the date of computation, reduced by any realized losses which were not taken into account in determining regular interest in any year, and further adjusted each year to reflect the pro rata share for the accounts of the appreciation or depreciation of the fair market value of the assets of the retirement system as determined by the retirement committee. The retirement value shall be reduced by the amount of all distributions made to or on the behalf of the police officer from the retirement system. Such valuation shall be computed annually as of December 31. If separate investment accounts are established pursuant to subsection (3) of section 16-1004, a police officer's retirement value with respect to such accounts shall be equal to the value of his or her separate investment accounts as determined under such subsection;

(10) Annuity contract ~~shall mean~~ means the contract or contracts issued by one or more life insurance companies and purchased by the retirement system in order to provide any of the benefits described in ~~sections 16-1001 to 16-1019, the act.~~ Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis; and

(11) Straight life annuity ~~shall mean~~ means 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. Section 16-1003, Reissue Revised Statutes of Nebraska, is amended to read:

16-1003 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 16-1001 to 16-1019, the Police Officers Retirement Act.~~

Sec. 4. Section 16-1004, Reissue Revised Statutes of Nebraska, is amended to read:

16-1004 (1) ~~Commencing on January 1, 1984, each~~ 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. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered under the direction of the city and the retirement committee exclusively for the purposes of the retirement system and for the benefit of participating police officers and their beneficiaries. The fund shall be established as a trust under the laws of this state for all purposes of section 401(a) of the Internal Revenue Code. ~~Upon the passage of sections 16-1001 to 16-1019 all of the contributions made by a police officer prior to January 1, 1984, will be transferred to the police officer's employee account without interest unless the city, at the time of the transfer, credited interest on such contributions. Regular interest shall begin to accrue on the any contributions transferred into the fund, from January 1, 1984.~~ Such funds shall be invested in the manner prescribed in section 16-1016.

(2) The city shall establish a medium for funding of the retirement system, which may be a pension trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1016 and to provide the retirement, death, and disability benefits for police officers pursuant to ~~sections 16-1001 to 16-1019, the Police Officers Retirement Act.~~ The trustee or custodian of any trust fund may be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, a city officer authorized to administer funds of the city, or a combination thereof.

(3) Upon direction of the city, there may be established separate investment accounts for each participating police officer for the purpose of allowing each police officer to direct the investment of all or a portion of his or her employee account or employer account subject to the requirements of section 16-1016 and any other rules or limitations that may be established by the city or the retirement committee. If separate investment accounts are established, each account shall be separately invested and reinvested, separately credited with all earnings and gains with respect to the investment of the assets of the investment account, and separately debited with the losses of the account. Each investment account shall be adjusted each year to reflect the appreciation or depreciation of the fair market value of the assets held in such account as determined by the retirement committee. The expenses incurred by the retirement system when a police officer directs the

investment of all or a portion of his or her individual investment account shall be charged against the police officer's investment account and shall reduce the police officer's retirement value.

Sec. 5. Section 16-1005, Reissue Revised Statutes of Nebraska, is amended to read:

16-1005 ~~(1) Each~~ (1) Until October 1, 2013, each police officer participating in the retirement system shall contribute to the retirement system a sum equal to six percent of his or her salary. Beginning October 1, 2013, until October 1, 2015, each police officer shall contribute to the retirement system a sum equal to six and one-half percent of his or her salary. Beginning October 1, 2015, each police officer shall contribute to the retirement system a sum equal to seven percent of his or her salary. Such payment shall be made by regular payroll deductions from ~~his or her~~ the police officer's 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 16-1001 to 16-1019 shall pick up the police officers' contributions required by subsection (1) of 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 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 Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. 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. A police officer shall not be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each police officer participating in the retirement system shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code. Voluntary contributions shall be credited to the police officer's employee account and shall thereafter be credited with regular interest. A police officer's voluntary contribution shall become a part of the Police Officers Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Sec. 6. Section 16-1006, Reissue Revised Statutes of Nebraska, is amended to read:

16-1006 ~~Beginning January 1, 1984, each~~ Each city of the first class with police officers participating in a retirement system shall contribute to the retirement system a sum equal to ~~six~~ one hundred percent of the amounts deducted, in accordance with subsection (1) of section 16-1005, from each such participating police officer's periodic salary. Such payment shall be contributed as provided in subsection (1) of section 16-1005 for employee contributions and shall be credited to ~~his or her~~ the police officer's employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any police officer employed by the city on January 1, 1984, an amount equal to the employee contributions of such police officer that were made to the city prior to January 1, 1984, without interest, with such contribution to be made at the time the police officer retires or terminates employment with the city. The city may contribute such amount before the police officer's retirement or termination of employment or credit interest on such contribution.

Sec. 7. Section 16-1007, Reissue Revised Statutes of Nebraska, is amended to read:

16-1007 (1) At any time before the retirement date, the retiring police officer may elect to receive at his or her retirement date a pension benefit either in the form of a straight life annuity or any optional form of annuity benefit established by the retirement committee and provided under a purchased annuity contract. The optional annuity benefit shall be specified in the funding medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring police officer and, after the death of the retiree, monthly payments, as elected by the retiring police officer,

of either one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring police officer during his or her life, to the beneficiary selected by the retiring police officer at the time of the original application for an annuity. ~~For any police officer whose retirement date is on or after January 1, 1997, the~~ The optional benefit forms for the retirement system shall include a single lump-sum payment of the police officer's retirement value. ~~For police officers whose retirement date is prior to January 1, 1997, a single lump-sum payment shall be available only if the city has adopted such distribution option in the funding medium established for the retirement system.~~ The retiring police officer may further elect to defer the date of the first annuity payment or lump-sum payment to the first day of any specified month prior to age seventy. If the retiring police officer elects to receive his or her pension benefit in the form of an annuity, the amount of annuity benefit shall be the amount paid by the annuity contract purchased or otherwise provided by his or her retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the police officer and, upon such distribution, all obligations of the retirement system to pay retirement, death, or disability benefits to the police officer and his or her beneficiaries shall terminate, without exception.

~~(2)~~ (2) (a) For all officers employed on January 1, 1984, and continuously employed by the city from such date through the date of their retirement, the amount of the pension benefit, when determined on the straight life annuity basis, shall not be less than the following amounts:

~~(a)~~ (i) If retirement occurs following age sixty and with twenty-five years of service with the city, ~~or twenty-one years of service if hired prior to November 18, 1965,~~ fifty percent of regular pay; or

~~(b)~~ (ii) If retirement occurs following age fifty-five but before age sixty and with twenty-five years of service with the city, forty percent of regular pay.

(b) A police officer entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of this section, including a single lump-sum payment. ~~if the officer retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for officers retiring before January 1, 1997, in the funding medium for the retirement system.~~ If the minimum pension benefit is paid in a form other than a straight life annuity, such benefit shall be the actuarial equivalent of the straight life annuity that would otherwise be paid to the officer pursuant to this subsection.

(c) If the police officer chooses the single lump-sum payment option, the officer can request that the actuarial equivalent be equal to the average of the cost of three annuity contracts purchased on the open market. Of the three annuity contracts used for comparison, one shall be chosen by the police officer, one shall be chosen by the retirement committee, and one shall be chosen by the city.

(3) If the retirement value of an officer entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the first payment to purchase or provide the required pension benefit, the city shall transfer such funds as may be necessary to the employer account of the police officer so that the retirement value of such officer is sufficient to purchase or provide for the required pension benefit.

(4) 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 and shall not be entitled to elect to receive annuity benefits.

Sec. 8. Section 16-1009, Reissue Revised Statutes of Nebraska, is amended to read:

16-1009 (1) When prior to retirement any police officer ~~participating in the retirement system~~ dies other than in the line of duty and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased police officer prior to his or her death or to the deceased police officer's estate if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. If benefits are paid in the form of an annuity, the annuity shall be the amount paid by the annuity contract purchased or otherwise provided by the amount of the beneficiary's share of the retirement value as of the date of the first payment. Upon the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.

(2) 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~~ were formerly employed in such department who are now in military service, dies while employed by the city as a police officer, 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 percent of his or her regular pay in the form of a straight life annuity shall be paid to the surviving spouse of such deceased police officer. If the deceased police officer is not survived by a spouse or if the surviving spouse dies before the children of the police officer attain the age of majority, the pension benefit shall be paid to the police officer's minor children until they attain the age of majority. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess shall be paid in the manner provided in subsection (1) of this section. If the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary to purchase or provide for the required pension benefit. If a deceased police officer described in this subsection is not survived by a spouse or minor children, his or her death benefits shall be provided under subsection (1) of this section as if such officer was not employed by the city on January 1, 1984.

(3) Any payments for the benefit of a minor child shall be made on behalf of the child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child.

Sec. 9. Section 16-1010, Reissue Revised Statutes of Nebraska, is amended to read:

16-1010 When prior to retirement any police officer ~~participating in the retirement system~~ dies in the line of duty or ~~in case~~ his or her death is caused by or is the result of injuries received while in the line of duty and if such police officer is not survived by a spouse or by minor children, 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 if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. For a police officer who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor children during each child's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1012. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child. To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified retirement pension, as reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1009. If the actuarial equivalent of the pension benefit payable to a surviving spouse or minor children under this section exceeds the retirement value at the time of the first payment, the city shall contribute such additional amount as may be necessary to purchase or provide for the required pension benefit.

Sec. 10. Section 16-1012, Reissue Revised Statutes of Nebraska, is amended to read:

16-1012 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 the Nebraska Workers' Compensation Act. All Nebraska workers' compensation benefits shall be payable in full to such police officer as provided in the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under the Nebraska Workers' Compensation 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 16-1001 to 16-1019.~~ the Police Officers Retirement Act.

Sec. 11. Section 16-1013, Reissue Revised Statutes of Nebraska, is

amended to read:

16-1013 (1) If a police officer quits or is discharged before his or her normal or early retirement date, the officer may request and receive as a lump-sum payment an amount equal to the retirement value of his or her employee account as determined at the valuation date preceding his or her termination of employment. Such police officer, if vested, shall also receive a deferred pension benefit in an amount purchased or provided by the retirement value at the date of retirement. The retirement value at such retirement date shall consist of the accumulated value of the police officer's employee account, as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the police officer's employer account at the date of retirement.

The (2) Until July 1, 2012, the vesting schedule shall be as follows:

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

(2) (b) 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 percent. Such vesting percentage shall be fifty percent after five years, sixty percent after six years, seventy percent after seven years, eighty percent after eight years, ninety percent after nine years, and one hundred percent after ten years; and

(3) (c) All police officers shall be one hundred percent vested upon attainment of age sixty while employed by the city as a police officer.

(3) Beginning July 1, 2012, the vesting schedule shall be as follows:

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

(b) If the terminating officer has been a member of the paid department of the city of the first class for at least two years, such vesting percentage shall be forty percent. Such vesting percentage shall be sixty percent after four years, eighty percent after five years, and one hundred percent after seven years; and

(c) All police officers shall be one hundred percent vested upon attainment of age sixty while employed by the city as a police officer.

(4) The deferred pension benefit shall be payable on the first of the month immediately following the police officer's sixtieth birthday. At the option of the terminating police officer, such pension benefit may be paid as of the first of the month after such police officer attains the age of fifty-five. Such election may be made by the police officer any time prior to the payment of the pension benefits. The deferred pension benefit shall be paid in the form of the benefit options specified in subsection (1) of section 16-1007 as elected by the police officer. If the police officer's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, the city may elect to pay such police officer his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a (5) A police officer may elect upon his or her termination of employment to receive his or her vested retirement value in the form of a single lump-sum payment. For a police officer whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating police officers in the funding medium established for the retirement system.

(6) Upon any lump-sum payment of a terminating police officer's retirement value under this section, such police officer will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such police officer or his or her beneficiaries any benefits under sections 16-1001 to 16-1019. the Police Officers Retirement Act.

(7) If the terminating police officer is not credited with one hundred percent of his or her employer account, the nonvested portion of the account shall be forfeited and first used to meet the expense charges incurred by the city in connection with administering the police officers retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Sec. 12. Section 16-1014, Reissue Revised Statutes of Nebraska, is amended to read:

16-1014 A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to sections 16-1001 to 16-1019. the Police Officers Retirement 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. Whenever duties or powers are vested in the city or the retirement committee under ~~such sections~~ the act or whenever ~~such sections fail~~ the act fails to specifically allocate the duties or powers of administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee. The city and the retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system.

Sec. 13. Section 16-1016, Reissue Revised Statutes of Nebraska, is amended to read:

16-1016 The funds of the retirement system shall be invested under the general direction of the retirement committee. The city or the retirement committee if delegated such function by the city shall select and contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by ~~sections 16-1001 to 16-1019.~~ the Police Officers Retirement Act. The city or committee may select and contract with investment managers registered under the federal Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or committee. All funds of the retirement system shall be invested pursuant to the policies established by the Nebraska Investment Council.

Sec. 14. Section 16-1017, Revised Statutes Supplement, 2011, is amended to read:

16-1017 (1) It shall be the duty of the retirement committee to:

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

(b) 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; and

(c) Make available for review an annual report of the retirement system's operations describing both (i) the amount of contributions to the retirement system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2) (a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the retirement committee shall file with the Public Employees Retirement Board ~~an annual a~~ report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to ~~sections 16-1001 to 16-1019~~ the Police Officers Retirement Act and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the retirement committee shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The report shall consist of a full actuarial analysis of each such retirement plan administered by a retirement system established pursuant to ~~sections 16-1001 to 16-1019.~~ the act. The analysis shall be prepared by an independent private organization or public entity

employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Sec. 15. Section 16-1019, Reissue Revised Statutes of Nebraska, is amended to read:

16-1019 (1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed and section 401(a)(9)(G) relating to incidental death benefit requirements, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, and section 401(a)(25) relating to the specification of actuarial assumptions, section 401(a)(31) relating to direct rollover distributions from eligible retirement plans, and section 401(a)(37) relating to the death benefit of a police officer who dies while performing qualified military service. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under ~~sections 16-1001 to 16-1019~~, the Police Officers Retirement Act, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A police officer whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under ~~sections 16-1001 to 16-1019~~, the act, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Sec. 16. Section 16-1038, Reissue Revised Statutes of Nebraska, is amended to read:

16-1038 (1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to

government retirement plans under section 401(a) of the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed and section 401(a)(9)(G) relating to incidental death benefit requirements, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, section 401(a)(25) relating to the specification of actuarial assumptions, and section 401(a)(31) relating to direct rollover distribution from ~~qualified~~ eligible retirement plans, and section 401(a)(37) relating to the death benefit of a firefighter who dies while performing qualified military service. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under sections 16-1020 to 16-1042, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A firefighter whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under sections 16-1020 to 16-1042, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Sec. 17. Section 18-1723, Revised Statutes Cumulative Supplement, 2010, is amended to read:

18-1723 Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of the Police Officers Retirement Act, Chapter 15, article 10, sections ~~16-1001~~ 16-1020 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December 25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Sec. 18. Original sections 16-1001, 16-1002, 16-1003, 16-1004, 16-1005, 16-1006, 16-1007, 16-1009, 16-1010, 16-1012, 16-1013, 16-1014, 16-1016, 16-1019, and 16-1038, Reissue Revised Statutes of Nebraska, section 18-1723, Revised Statutes Cumulative Supplement, 2010, and section 16-1017, Revised Statutes Supplement, 2011, are repealed.

Sec. 19. Since an emergency exists, this act takes effect when passed and approved according to law.