

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 328

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

Read first time January 11, 2007

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2310.04,
2 23-2319.01, 23-2319.02, 23-2320, 84-1314, 84-1321.01, and
3 84-1322, Revised Statutes Cumulative Supplement, 2006; to
4 rename and create funds; to change provisions relating to
5 reemployment of county and state employees; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-2310.04, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 23-2310.04 (1) The County Employees Defined Contribution
4 Retirement ~~System~~ Expense Fund is created. The fund shall be
5 credited with money forfeited pursuant to section 23-2319.01
6 and with money from the retirement system assets and income
7 sufficient to pay the pro rata share of administrative expenses
8 incurred as directed by the board for the proper administration
9 of the County Employees Retirement Act and necessary in connection
10 with the administration and operation of the retirement system,
11 except as provided in sections 23-2308.01, 23-2309.01, 23-2310, and
12 23-2310.05. Any money in the County Employees Retirement System
13 ~~Expense Fund~~ fund available for investment shall be invested by the
14 state investment officer pursuant to the Nebraska Capital Expansion
15 Act and the Nebraska State Funds Investment Act.

16 (2) The County Employees Cash Balance Retirement Expense
17 Fund is created. The fund shall be credited with money forfeited
18 pursuant to section 23-2319.01 and with money from the retirement
19 system assets and income sufficient to pay the pro rata share of
20 administrative expenses incurred as directed by the board for
21 the proper administration of the County Employees Retirement
22 Act and necessary in connection with the administration and
23 operation of the retirement system, except as provided in sections
24 23-2308.01, 23-2309.01, 23-2310, and 23-2310.05. Any money in the
25 fund available for investment shall be invested by the state

1 investment officer pursuant to the Nebraska Capital Expansion Act
2 and the Nebraska State Funds Investment Act.

3 Sec. 2. Section 23-2319.01, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 23-2319.01 (1) For a member who has terminated employment
6 and is not vested, the balance of the member's employer account
7 or employer cash balance account shall be forfeited. The forfeited
8 account shall be credited to the County Employees Retirement Fund
9 and shall first be used to meet the expense charges incurred by the
10 retirement board in connection with administering the retirement
11 system, which charges shall be credited to the County Employees
12 Defined Contribution Retirement System Expense Fund, if the member
13 participated in the defined contribution option, or to the County
14 Employees Cash Balance Retirement Expense Fund, if the member
15 participated in the cash balance option, and the remainder, if any,
16 shall then be used to reduce the county contribution which would
17 otherwise be required to fund future service retirement benefits
18 or to restore employer accounts or employer cash balance accounts.
19 No forfeited amounts shall be applied to increase the benefits
20 any member would otherwise receive under the County Employees
21 Retirement Act.

22 (2) If a member ceases to be an employee due to the
23 termination of his or her employment by the county and a grievance
24 or other appeal of the termination is filed, transactions involving
25 forfeiture of his or her employer account or employer cash balance

1 account shall be suspended pending the final outcome of the
2 grievance or other appeal.

3 (3) The County Employer Retirement Expense Fund is
4 created. The fund shall be administered by the Public Employees
5 Retirement Board. The fund shall consist of any reduction in a
6 county contribution which would otherwise be required to fund
7 future service retirement benefits or to restore employer accounts
8 or employer cash balance accounts referred to in subsection (1) of
9 this section. The fund shall be established and maintained separate
10 from any funds held in trust for the benefit of members under the
11 county employees retirement system. Expenses incurred as a result
12 of a county depositing amounts into the fund shall be deducted
13 prior to any additional expenses being allocated. Any remaining
14 amount shall be allocated in accordance with section 23-2319.02.
15 Any money in the fund available for investment shall be invested
16 by the state investment officer pursuant to the Nebraska Capital
17 Expansion Act and the Nebraska State Funds Investment Act.

18 Sec. 3. Section 23-2319.02, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 23-2319.02 (1) The County Employer Retirement Expense
21 Fund shall be used to meet expenses of the county employees
22 retirement system whether such expenses are incurred in
23 administering the member's employer account or in administering the
24 member's employer cash balance account when the funds available in
25 the County Employees Defined Contribution Retirement System Expense

1 Fund or County Employees Cash Balance Retirement Expense Fund make
2 such use reasonably necessary.

3 (2) The State Employer Retirement Expense Fund shall be
4 used to meet expenses of the State Employees Retirement System
5 of the State of Nebraska whether such expenses are incurred in
6 administering the member's employer account or in administering the
7 member's employer cash balance account when the funds available in
8 the State Employees Defined Contribution Retirement System Expense
9 Fund or State Employees Cash Balance Retirement Expense Fund make
10 such use reasonably necessary.

11 Sec. 4. Section 23-2320, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 23-2320 (1) Except as otherwise provided in this section,
14 a member of the retirement system who has a five-year break in
15 service shall upon reemployment be considered a new employee with
16 respect to the County Employees Retirement Act and shall not
17 receive credit for service prior to his or her reemployment date.

18 (2)(a) A member who ceases to be an employee before
19 becoming eligible for retirement under section 23-2315 and
20 again becomes a permanent full-time or permanent part-time
21 county employee prior to having a five-year break in service
22 shall immediately be reenrolled in the retirement system and
23 resume making contributions ~~within sixty days~~ under rules and
24 regulations adopted by the board. For purposes of vesting employer
25 contributions made prior to and after the reentry into the

1 retirement system under subsection (3) of section 23-2319, years
2 of participation include years of participation prior to such
3 employee's original termination. For a member who is not vested and
4 has received a termination benefit pursuant to section 23-2319,
5 the years of participation prior to such employee's original
6 termination shall be limited in a ratio equal to the amount that
7 the member repays divided by the termination benefit withdrawn
8 pursuant to section 23-2319.

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

24 (c) The value of the member's forfeited employer account
25 or employer cash balance account, as of the date of forfeiture,

1 shall be restored in a ratio equal to the amount of the benefit
2 that the member has repaid divided by the termination benefit
3 received. The employer account or employer cash balance account
4 shall be restored first out of the current forfeiture amounts and
5 then by additional employer contributions.

6 (3) For a member who retired pursuant to section 23-2315
7 and becomes a permanent full-time employee or permanent part-time
8 employee with a county under the County Employees Retirement Act
9 more than one hundred twenty days after his or her retirement
10 date, the member shall continue receiving retirement benefits. Such
11 a retired member or a retired member who received a lump-sum
12 distribution of his or her benefit shall be considered a new
13 employee as of the date of reemployment and shall not receive
14 credit for any service prior to the member's retirement for
15 purposes of the act.

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

21 Sec. 5. Section 84-1314, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 84-1314 (1) The State Employees Defined Contribution
24 Retirement ~~System~~ Expense Fund is created. The fund shall be
25 credited with money forfeited pursuant to section 84-1321.01

1 and with money from the retirement system assets and income
2 sufficient to pay the pro rata share of administrative expenses
3 incurred as directed by the board for the proper administration
4 of the State Employees Retirement Act and necessary in connection
5 with the administration and operation of the retirement system,
6 except as provided in sections 84-1309.02, 84-1310.01, 84-1311,
7 and 84-1311.03. Any money in the ~~State Employees Retirement System~~
8 ~~Expense Fund~~ fund available for investment shall be invested by the
9 state investment officer pursuant to the Nebraska Capital Expansion
10 Act and the Nebraska State Funds Investment Act.

11 (2) The State Employees Cash Balance Retirement Expense
12 Fund is created. The fund shall be credited with money forfeited
13 pursuant to section 84-1321.01 and with money from the retirement
14 system assets and income sufficient to pay the pro rata share
15 of administrative expenses incurred as directed by the board
16 for the proper administration of the State Employees Retirement
17 Act and necessary in connection with the administration and
18 operation of the retirement system, except as provided in sections
19 84-1309.02, 84-1310.01, 84-1311, and 84-1311.03. Any money in the
20 fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act
22 and the Nebraska State Funds Investment Act.

23 Sec. 6. Section 84-1321.01, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 84-1321.01 (1) For a member who has terminated employment

1 and is not vested, the balance of the member's employer account
2 or employer cash balance account shall be forfeited. The forfeited
3 account shall be credited to the State Employees Retirement Fund
4 and shall first be used to meet the expense charges incurred by the
5 retirement board in connection with administering the retirement
6 system, which charges shall be credited to the State Employees
7 Defined Contribution Retirement System Expense Fund, if the member
8 participated in the defined contribution option, or to the State
9 Employees Cash Balance Retirement Expense Fund, if the member
10 participated in the cash balance option, and the remainder, if any,
11 shall then be used to reduce the state contribution which would
12 otherwise be required to fund future service retirement benefits
13 or to restore employer accounts or employer cash balance accounts.
14 No forfeited amounts shall be applied to increase the benefits any
15 member would otherwise receive under the State Employees Retirement
16 Act.

17 (2) If a member ceases to be an employee due to the
18 termination of his or her employment by the state and a grievance
19 or other appeal of the termination is filed, transactions involving
20 forfeiture of his or her employer account or employer cash balance
21 account shall be suspended pending the final outcome of the
22 grievance or other appeal.

23 (3) The State Employer Retirement Expense Fund is
24 created. The fund shall be administered by the Public Employees
25 Retirement Board. The fund shall be established and maintained

1 separate from any funds held in trust for the benefit of members
2 under the retirement system. The director of the Nebraska Public
3 Employees Retirement Systems shall certify to the Accounting
4 Administrator of the Department of Administrative Services when
5 accumulated employer account forfeiture funds are available to
6 reduce the state contribution which would otherwise be required
7 to fund future service retirement benefits or to restore employer
8 accounts or employer cash balance accounts referred to in
9 subsection (1) of this section. Following such certification, the
10 Accounting Administrator shall transfer the amount reduced from the
11 state contribution from the Imprest Payroll Distributive Fund to
12 the State Employer Retirement Expense Fund. Expenses incurred as
13 a result of the state depositing amounts into the State Employer
14 Retirement Expense Fund shall be deducted prior to any additional
15 expenses being allocated. Any remaining amount shall be allocated
16 in accordance with section 23-2319.02. Any money in the fund
17 available for investment shall be invested by the state investment
18 officer pursuant to the Nebraska Capital Expansion Act and the
19 Nebraska State Funds Investment Act.

20 Sec. 7. Section 84-1322, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 84-1322 (1) Except as otherwise provided in this section,
23 a member of the retirement system who has a five-year break in
24 service shall upon reemployment be considered a new employee with
25 respect to the State Employees Retirement Act and shall not receive

1 credit for service prior to his or her reemployment date.

2 (2) (a) A member who ceases to be an employee before
3 becoming eligible for retirement under section 84-1317 and again
4 becomes a permanent full-time or permanent part-time state employee
5 prior to having a five-year break in service shall immediately be
6 reenrolled in the retirement system and resume making contributions
7 ~~within sixty days~~ under rules and regulations established by the
8 board. For purposes of vesting employer contributions made prior
9 to and after reentry into the retirement system under subsection
10 (3) of section 84-1321, years of participation include years of
11 participation prior to such employee's original termination. For a
12 member who is not vested and has received a termination benefit
13 pursuant to section 84-1321, the years of participation prior
14 to such employee's original termination shall be limited in a
15 ratio equal to the amount that the member repays divided by the
16 termination benefit withdrawn pursuant to section 84-1321. This
17 subsection shall apply whether or not the person was a state
18 employee on April 20, 1986, or July 17, 1986.

19 (b) The reemployed member may repay the value of, or a
20 portion of the value of, the termination benefit withdrawn pursuant
21 to section 84-1321. A reemployed member who elects to repay all
22 or a portion of the value of the termination benefit withdrawn
23 pursuant to section 84-1321 shall repay the actual earnings on
24 such value. Repayment of the termination benefit shall commence
25 within three years after reemployment and shall be completed

1 within five years after reemployment or prior to termination of
2 employment, whichever occurs first, through (i) direct payments to
3 the retirement system, (ii) installment payments made pursuant to
4 a binding irrevocable payroll deduction authorization made by the
5 member, (iii) an eligible rollover distribution as provided under
6 the Internal Revenue Code, or (iv) a direct rollover distribution
7 made in accordance with section 401(a)(31) of the Internal Revenue
8 Code.

9 (c) The value of the member's forfeited employer account
10 or employer cash balance account, as of the date of forfeiture,
11 shall be restored in a ratio equal to the amount of the benefit
12 that the member has repaid divided by the termination benefit
13 received. The employer account or employer cash balance account
14 shall be restored first out of the current forfeiture amounts and
15 then by additional employer contributions.

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

25 (4) A member who is reinstated as an employee pursuant to

1 a grievance or appeal of his or her termination by the state shall
2 be a member upon reemployment and shall not be considered to have
3 a break in service for such period of time that the grievance or
4 appeal was pending.

5 Sec. 8. Original sections 23-2310.04, 23-2319.01,
6 23-2319.02, 23-2320, 84-1314, 84-1321.01, and 84-1322, Revised
7 Statutes Cumulative Supplement, 2006, are repealed.