LEGISLATIVE BILL 1005

Introduced by Kolterman, 24.

Read first time January 16, 2018

Committee: Nebraska Retirement Systems

A BILL FOR AN ACT relating to retirement; to amend sections 23-3527 and 79-915, Reissue Revised Statutes of Nebraska, and section 23-2306, Revised Statutes Cumulative Supplement, 2016; to change provisions relating to employer removal or withdrawal from the Retirement System for Nebraska Counties or the School Employees Retirement System of the State of Nebraska; to change provisions relating to facility participation in a retirement system under the County Employees Retirement Act; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 23-2306, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

(2) The following employees of member counties are authorized to participate in the retirement system: (a) All permanent full-time employees shall begin participation in the retirement system upon employment and full-time elected officials shall begin participation in the retirement system upon taking office, (b) all permanent part-time employees who have attained the age of eighteen years may exercise the option to begin participation in the retirement system within the first thirty days of employment, and (c) all part-time elected officials may exercise the option to begin participation in the retirement system within thirty days after taking office. An employee who exercises the option to begin participation in the retirement system shall remain in the system until termination or retirement, regardless of any change of status as a permanent or temporary employee.

(3) On and after July 1, 2010, no employee of a member county shall be authorized to participate in the retirement system provided for in the County Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(4)(a)(i) The board may determine that a governmental entity currently participating in the retirement system no longer qualifies, in whole or in part, under section 414(d) of the Internal Revenue Code as a participating employer in a governmental plan. Upon such determination, affected plan members shall be considered fully vested. The board shall notify such entity within ten days after making a determination. Within ninety days after the board's notice to
such entity, affected plan members shall become inactive. The entity shall be liable for (A) funding any obligation of the retirement system to provide benefits for the affected plan members, (B) the cost of any actuarial study necessary to aid the board in determining the amount of such obligation, and (C) any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system; and The board may adopt and promulgate rules and regulations to carry out this subsection.

(ii)(A) To aid governmental entities in their business decisionmaking process, any governmental entity contemplating a business transaction that may result in such entity no longer qualifying, in whole or in part, under section 414(d) of the Internal Revenue Code shall notify the board in writing as soon as reasonably practicable, but no later than one hundred eighty days before the transaction is to occur;

(B) The board when timely notified shall, as soon as is reasonably practicable, determine (I) whether the entity's contemplated business transaction will cause the entity to no longer qualify under section 414(d) of the Internal Revenue Code, (II) whether the contemplated business transaction constitutes a plan termination by the entity, (III) the potential funding obligation of the retirement system to provide benefits for the affected plan members, (IV) the cost of any actuarial study necessary to determine the amount of such obligation, and (V) the administrative costs that will be incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system. The entity shall be responsible for the cost of any actuarial study necessary to determine the obligation of the retirement system to provide benefits for the affected plan members. If the entity engages in the contemplated business transaction, the entity shall also be liable for funding any obligation of the retirement system to provide benefits for the affected plan members, and any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system; and The board may adopt and promulgate rules and regulations to carry out this subsection.
Employees Retirement Systems in connection with the entity's removal from
the retirement system; and

(C) Failure to timely notify the board may result in the entity
being liable for (I) funding the obligation of the retirement system to
provide benefits for the affected plan members, (II) the cost of any
actuarial study necessary to aid the board in determining the amount of
such obligation, and (III) any administrative costs incurred by the board
or the Nebraska Public Employees Retirement Systems in connection with
the entity's removal from the retirement system as prescribed under
subdivision (4)(a)(i) of this section.

(b)(i) Prior to January 1, 2019, any governmental entity with
specific statutory authority to elect or discontinue participation in the
retirement system shall make an election regarding whether to participate
in the retirement system. On or after January 1, 2019, no governmental
entity may elect or discontinue participation in the retirement system,
and the board shall determine whether a governmental entity qualifies for
participation in the retirement system; and

(ii) Prior to January 1, 2019, if a governmental entity with
specific statutory authority elects to withdraw from the retirement
system, the affected plan members shall be considered fully vested.
Within ninety days after the entity's withdrawal from the retirement
system, affected plan members shall become inactive. The entity shall be
liable for (A) funding any obligation of the retirement system to provide
benefits for the affected plan members, (B) the cost of any actuarial
study necessary to determine the amount of such obligation, and (C) any
administrative costs incurred by the board or the Nebraska Public
Employees Retirement Systems in connection with the entity's removal from
the retirement system.

(c) For purposes of this subsection:

(i) Business transaction means a merger; consolidation; sale of
assets, equipment, or facilities; termination of a division, department,
section, or subgroup of the entity; or any other business transaction
that results in termination of some or all of the entity's workforce; and

(ii) Obligation of the retirement system to provide benefits for the
affected plan members means the financial liability incurred by the
retirement system due to the entity's business decision calculated using
the methodology and assumptions recommended by the actuary and approved
by the board. The methodology and assumptions used must be structured in
a way that ensures the entity is financially liable for all the costs of
the entity's business transaction, and the retirement system is not
financially liable for any of the cost of the entity's business
transaction.

(d) The board may adopt and promulgate rules and regulations to
carry out this subsection including, but not limited to, the methods of
notifying the board of pending business transactions, the acceptable
methods of payment, and the timing of such payment.

(5) Within the first one hundred eighty days of employment, a full-
time employee may apply to the board for vesting credit for years of
participation in another Nebraska governmental plan, as defined by
section 414(d) of the Internal Revenue Code. During the years of
participation in the other Nebraska governmental plan, the employee must
have been a full-time employee, as defined in the Nebraska governmental
plan in which the credit was earned. The board may adopt and promulgate
rules and regulations governing the assessment and granting of vesting
credit.

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

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

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

(9) A full-time or part-time employee of the state who becomes a county employee pursuant to transfer of assessment function to a county shall not be deemed to have experienced a termination of employment and shall receive vesting credit for his or her years of participation in the State Employees Retirement System of the State of Nebraska.

(10) Counties shall ensure that employees authorized to participate in the retirement system pursuant to this section shall enroll and make required contributions to the retirement system immediately upon becoming an employee. Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 2. Section 23-3527, Reissue Revised Statutes of Nebraska, is amended to read:

23-3527 (1) Prior to January 1, 2019, a facility established under the provisions of section 23-3501, in a county which is presently participating in a retirement system under the County Employees Retirement Act pursuant to Chapter 23, article 23, shall be given the option to continue participation under such act or to discontinue such participation.

(2) Prior to January 1, 2019, a facility established under the provisions of section 23-3501, in a county which in the future shall
elect to participate in a retirement system under the County Employees Retirement Act shall be given the option to participate in a retirement system pursuant to such act or to decline such participation.

(3) On or after January 1, 2019, no facility established under section 23-3501 may elect or discontinue participation in the retirement system.

Sec. 3. Section 79-915, Reissue Revised Statutes of Nebraska, is amended to read:

79-915 (1) Persons residing outside of the United States and engaged temporarily as school employees in the State of Nebraska shall not become members of the retirement system.

(2) On and after July 1, 2010, no school employee shall be authorized to participate in the retirement system provided for in the School Employees Retirement Act unless the employee (a) is a United States citizen or (b) is a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and is lawfully present in the United States.

(3)(a)(i) The board may determine that a governmental entity currently participating in the retirement system no longer qualifies, in whole or in part, under section 414(d) of the Internal Revenue Code as a participating employer in a governmental plan. Upon such determination, affected plan members shall be considered fully vested. The board shall notify such entity within ten days after making a determination. Within ninety days after the board's notice to such entity, affected plan members shall become inactive. The entity shall be liable for (A) funding any obligation of the retirement system to provide benefits for the affected plan members, (B) the cost of any actuarial study necessary to aid the board in determining the amount of such obligation, and (C) any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system; and
(ii)(A) To aid governmental entities in their business decisionmaking process, any governmental entity contemplating a business transaction that may result in such entity no longer qualifying, in whole or in part, under section 414(d) of the Internal Revenue Code shall notify the board in writing as soon as reasonably practicable, but no later than one hundred eighty days before the transaction is to occur;

(B) The board when timely notified shall, as soon as is reasonably practicable, determine (I) whether the entity's contemplated business transaction will cause the entity to no longer qualify under section 414(d) of the Internal Revenue Code, (II) whether the contemplated business transaction constitutes a plan termination by the entity, (III) the potential funding obligation of the retirement system to provide benefits for the affected plan members, (IV) the cost of any actuarial study necessary to determine the amount of such obligation, and (V) the administrative costs that will be incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system. The entity shall be responsible for the cost of any actuarial study necessary to determine the obligation of the retirement system to provide benefits for the affected plan members. If the entity engages in the contemplated business transaction, the entity shall also be liable for funding any obligation of the retirement system to provide benefits for the affected plan members, and any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system; and

(C) Failure to timely notify the board may result in the entity being liable for (I) funding the obligation of the retirement system to provide benefits for the affected plan members, (II) the cost of any actuarial study necessary to aid the board in determining the amount of such obligation, and (III) any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with
the entity's removal from the retirement system as prescribed under subdivision (3)(a)(i) of this section.

(b)(i) Prior to January 1, 2019, any governmental entity with specific statutory authority to elect or discontinue participation in the retirement system shall make an election regarding whether to participate in the retirement system. On or after January 1, 2019, no governmental entity may elect or discontinue participation in the retirement system, and the board shall determine whether a governmental entity qualifies for participation in the retirement system; and

(ii) Prior to January 1, 2019, if a governmental entity with specific statutory authority elects to withdraw from the retirement system, the affected plan members shall be considered fully vested. Within ninety days after the entity's withdrawal from the retirement system, affected plan members shall become inactive. The entity shall be liable for (A) funding any obligation of the retirement system to provide benefits for the affected plan members, (B) the cost of any actuarial study necessary to determine the amount of such obligation, and (C) any administrative costs incurred by the board or the Nebraska Public Employees Retirement Systems in connection with the entity's removal from the retirement system.

(c) For purposes of this subsection:

(i) Business transaction means a merger; consolidation; sale of assets, equipment, or facilities; termination of a division, department, section, or subgroup of the entity; or any other business transaction that results in termination of some or all of the entity's workforce; and

(ii) Obligation of the retirement system to provide benefits for the affected plan members means the financial liability incurred by the retirement system due to the entity's business transaction calculated using the methodology and assumptions recommended by the actuary and approved by the board. The methodology and assumptions used must be structured in a way that ensures the entity is financially liable for all
the costs of the entity's business transaction, and the retirement system
is not financially liable for any of the cost of the entity's business
transaction.

(d) The board may adopt and promulgate rules and regulations to
carry out this subsection including, but not limited to, the methods of
notifying the board of pending business transactions, the acceptable
methods of payment, and the timing of such payment.

Sec. 4. Original sections 23-3527 and 79-915, Reissue Revised
Statutes of Nebraska, and section 23-2306, Revised Statutes Cumulative
Supplement, 2016, are repealed.