

LEGISLATIVE BILL 391

Approved by the Governor May 22, 1979

Introduced by Duis, 39

AN ACT relating to retirement; to change mandatory retirement age as prescribed; to extend certain benefits; to amend sections 23-2315, 79-1041, 79-1057, 79-1521, and 84-1317, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1627 and 79-1509, Revised Statutes Supplement, 1978; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 23-2315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2315. An employee may elect to retire at any time after attaining the age of sixty. An employee may retire as a result of disability at any age. An employee may be required to retire under rules adopted by the county board of the county by whom he or she is employed, except that such rules shall not require retirement before the end of the month in which an employee's ~~sixty-fifth~~ seventieth birthday occurs, which rules shall require retirement no later than the end of the month in which an employee's seventy-second birthday occurs, and such rules shall not apply to elected officials. The first day of the month immediately following the last day of work shall be the retirement date, except that disability retirement benefits shall be paid from the date of disability as determined by the board.

Sec. 2. That section 44-1627, Revised Statutes Supplement, 1978, be amended to read as follows:

44-1627. The coverages provided for by sections 44-1620 to 44-1632 shall be afforded to each permanent state employee who works one half or more of the regularly scheduled hours during each pay period, commencing after thirty days of such employment. Employees who are employed less than the regularly scheduled hours shall be entitled to state contributions on a proportionately reduced basis. No coverages provided for by sections 44-1620 to 44-1632 shall be afforded to any employee after attainment of age ~~sixty-five~~ seventy. The life and health insurance coverages provided by sections 44-1620 to 44-1632 shall be totally independent of one another and the loss

experience and the rates for the two coverages shall be maintained separate and apart from one another.

Sec. 3. That section 79-1041, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1041. (1) Any person, who becomes an employee on or after the date of establishment of the system, shall become a member of the retirement system upon employment: Provided, no person employed whose attained age at date of employment is ~~sixty~~ sixty-five or over shall become a member of the system. Contributions by such employee under sections 79-1032 to 79-1060 shall begin with the first payroll period after becoming a member and creditable service shall then begin to accrue.

(2) Any person who is an employee on the date of the establishment of the system shall become a member as of that date, unless during the period of sixty days prior to the establishment he or she shall have filed with the board, on a form prescribed by the system, a duly executed waiver of all present and prospective annuities or benefits which he or she would otherwise have as a member. Any employee who so elects not to become a member by filing such a waiver may nevertheless thereafter apply for and be admitted to membership but, except as hereinafter provided, without credit for service rendered on or after the date of establishment of the system and prior to the time he or she becomes a member. Any employee who shall elect not to become a member shall continue to make contributions upon the same basis as he or she had contributed in any preexisting plan and shall be entitled to all the rights, benefits, and privileges to which he or she might have been entitled under such preexisting plan had it been continued in full force and effect. Any person who was an employee on the date of the establishment of the system and who executed such election and waiver may file with the board a rescission of his or her waiver. Such employee shall become a member as of the date of the rescission of his or her waiver, and if such rescission is made within two years of the effective date of this system, he or she may elect to pay to the system an amount equal to the accumulated contributions which would have been made had he or she not so elected. Upon payment of this amount, the board shall forthwith pay to the system a like amount whereupon the member shall be entitled to past service credits in the same manner and in the same amount as would have been the case had no waiver been executed. If any member withdraws his or her accumulated contributions, he or she shall thereupon cease to be a member of the system.

Sec. 4. That section 79-1057, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1057. Members who would have been eligible to retire at an earlier date under a previously existing system may retire at the normal retirement date, the permissive retirement date, or such earlier date. All members shall be retired at normal the compulsory retirement date, ~~except upon written request of the member and the approval of the board, or at permissive retirement date at the option of the member.~~ The member may be continued in service from year to year but in no case beyond his compulsory retirement date. In event such continuation of service is granted, no contributions to the system shall be made by the member nor by the district for services rendered after normal retirement date. In event of retirement other than at normal retirement date, the member's annuity on account of membership service shall be calculated as of his or her age at retirement and shall be the actuarial equivalent of the annuity to which he or she would otherwise have been entitled on account of membership service at normal retirement date.

Sec. 5. That section 79-1509, Revised Statutes Supplement, 1978, be amended to read as follows:

79-1509. ~~{*}~~ The membership of the retirement system shall be composed as follows: ~~{*}~~ (1) All persons who become senior school employees after September 1, 1945, and who have not attained their sixty-fifth ~~sixty-sixth~~ birthday on or before July 1 last preceding the date of employment, except those specifically excluded under sections 79-1512 and 79-1513, shall become members as soon as they become senior school employees; ~~{*}~~ (2) senior school employees on July 1, 1945, except those specifically excluded in sections 79-1512 and 79-1513, shall be members of the retirement system as of July 1, 1945, unless prior to October 1, 1945, any such employee shall have filed with the retirement board and with his or her employer a notice of his or her election not to be included in the membership of the system and a duly executed waiver of all the present and prospective benefits which would otherwise inure to him or her on account of his or her membership in the retirement system; and ~~{*}~~ (3) emeritus members as defined in section 79-1501.

~~{2}~~ Any individual who, at the age of sixty years or older or within five years of his or her expected retirement age, whichever is earlier, becomes a senior school employee shall not be required to become a

~~member of a retirement system established pursuant to Chapter 79, article 15. Such individual may elect to come under the applicable retirement system and, upon such election, shall pay the contributions required by the system. Any contributions paid by such individual shall be credited to his or her account for the purpose of providing a savings account for such individual, and such account shall earn regular interest from the date of first contribution.~~

Sec. 6. That section 79-1521, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1521. Any member in service who attains or shall have attained the age of ~~sixty-five~~ seventy years shall be retired forthwith from active duty as a school employee; Provided, that, with the approval of his or her employer, given from year to year, he or she may remain in service ~~after he attains the age of sixty-five years~~ until the attainment of age seventy-two, ~~and provided further, that such member shall make no further~~ A member who remains in service past seventy years of age shall not make deposits in the School Employees' Savings Fund as provided in section 79-1531, nor shall he or she receive further credit toward any service annuity.

The provision for mandatory retirement at age seventy-two shall not apply to elected officials.

Sec. 7. That section 84-1317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1317. An employee may elect to retire on the attainment of age sixty-five or on the attainment of age sixty after thirty years of service. With the approval of the department concerned and the employee, an employee may retire on the attainment of age sixty regardless of the number of years of service. An employee may retire as a result of disability at any age.

Any employee shall be required to retire at the end of the month in which his ~~sixty-fifth~~ seventieth birthday occurs, except that with the annual approval of the department concerned and the employee, such employee may continue his or her employment until the attainment of age seventy-two; Provided, the Clerk and Reporter of the Supreme Court serving on July 12, 1974 may continue employment with approval of the Supreme Court and any employee of the Legislative Council serving on July 12, 1974 may continue employment with the approval of the Legislature.

The first of the month immediately following the last day of work shall be the retirement date, except that disability retirement benefits shall be paid from the date of disability as determined by the board. The provisions pertaining to mandatory retirement shall not apply to elected officials. First payments pertaining to retirements under prior service provisions of sections 84-1301 to 84-1331 shall be made at such time as the retirement board may determine.

Sec. 8. That original sections 23-2315, 79-1041, 79-1057, 79-1521, and 84-1317, Reissue Revised Statutes of Nebraska, 1943, and sections 44-1627 and 79-1509, Revised Statutes Supplement, 1973, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.