

## LEGISLATIVE BILL 751

Approved by the Governor April 10, 1984

Introduced by Nebraska Retirement Systems Committee,  
Wesely, 26, Chairperson; Schmit, 23;  
Vickers, 38; DeCamp, 40

AN ACT relating to the State Employees Retirement System; to amend sections 84-1305, 84-1308, 84-1309, 84-1320, 84-1323, and 84-1331, Reissue Revised Statutes of Nebraska, 1943, and sections 84-1301, 84-1310, 84-1311, 84-1319, 84-1321, and 84-1503, Revised Statutes Supplement, 1983; to define and redefine terms; to change provisions relating to the investment of funds and the general administration of the retirement system; to authorize investment options as prescribed; to provide duties for the Public Employees Retirement Board; to harmonize provisions; and to repeal the original sections and also sections 84-1314 and 84-1329, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 84-1301, Revised Statutes Supplement, 1983, be amended to read as follows:  
84-1301. As used in sections 84-1301 to 84-1331 and section 11 of this act, unless the context otherwise requires:

(1) Employee shall mean any employee of the State Board of Agriculture who is a member of the state retirement plan on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities; but shall not include judges, except associate county judges appointed after August 26, 1983, members of the Nebraska State Patrol, employees of the University of Nebraska, employees of the state colleges, employees of technical community colleges, employees of the Division of Employment of the Department of Labor, the Commissioner of Labor, employees of the State Board of Agriculture who are not members of the state retirement plan on July 1, 1982, the Nebraska National Guard air and army technicians, or persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the system pursuant to subsection (1) of section 79-1565 or been made members of

the system pursuant to subsection (3) of section 79-1565, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System shall continue as members of such system. Any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee who works less than one half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and accepting a retirement allowance granted under the provisions of sections 84-1301 to 84-1331 and section 11 of this act;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees, as provided in ~~sections 84-1301 to 84-1331~~ section 84-1308;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board, but shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean 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;

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the retirement system board in order to provide the benefits described in sections ~~84-1301 to 84-1331~~ 84-1319, 84-1320, 84-1321, 84-1323, 84-1323.01, and 84-1323.02;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission, or other division of state government, not otherwise specifically defined or exempted in sections 84-1301 to 84-1331 and section 11 of this act, whose employees and officers are not already covered by a retirement plan;

(13) Disability shall mean an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board; and

(15) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments;

(16) Fund shall mean the State Employees Retirement Fund created by section 84-1309;

(17) Guaranteed investment contract shall mean an investment contract which guarantees that the account maintained for any participant will not decrease in value, but will increase each year by the contribution allocated to the account and by investment earnings and will decrease by the amount of expenses reasonably determined to be allocated to the account; and

(18) Investment manager shall mean one or more insurance companies, bank trust departments, or independent investment advisors designated to invest any portion of the fund.

Sec. 2. That section 84-1305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1305. The general administration of the retirement system shall be vested in the Public Employees Retirement Board. The board shall adopt and promulgate rules and regulations, shall maintain records, and may employ any assistance as may be necessary to carry out the State Employees Retirement Act. it shall be the duty of the board-

{1} To determine the prior service annuity, if any; for each person who shall be an employee on January 1, 1964;

{2} To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of dispute between an individual and a department;

{3} To adopt rules and regulations for the management of the board;

{4} To keep a complete record of all proceedings taken at any meeting of the board;

{5} To employ such medical and other assistance as may be necessary to determine the qualifications for disability retirement benefits under the provisions of section 84-1317; and

{6} To employ such actuarial and other assistance as may be necessary in the performance of its duties-

Sec. 3. That section 84-1308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1308. Each employee who is a member of the retirement system shall pay a sum equal to three and six-tenths per cent of his or her monthly salary until such time as he or she has paid during any calendar year a total

of eight hundred sixty-four dollars, after which time he or she shall pay a sum equal to four and eight-tenths per cent of his or her monthly salary for the remainder of such calendar year. Such amounts shall be deducted monthly by the Director of Administrative Services, who shall draw a warrant monthly in the amount of the total deductions from salaries of employees who are members of the retirement system and the State Treasurer shall cause the amount of such warrant to be paid to the state investment officer. The director shall cause a detailed report of all monthly contributions to be submitted each month to the state investment officer and to the retirement board. All money received shall be set aside by the State Treasurer and credited to the State Employees Retirement Fund.

Sec. 4. That section 84-1309, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1309. (1) There is hereby established in the state treasury a special fund to be known as the State Employees Retirement Fund to consist of such funds as the Legislature shall from time to time appropriate. The Director of Administrative Services shall draw a warrant credit an amount each month ~~on~~ to the State Employees Retirement Fund equal to one hundred fifty-six per cent of the amounts deducted, in accordance with the provisions of section 84-1308, from salaries of employees who are paid from funds appropriated from the General Fund.

(2) The Director of Administrative Services shall draw a warrant credit an amount each month ~~on~~ to the State Employees Retirement Fund from the funds of each department with at least one employee who is a member of the retirement system for a sum equal to one hundred fifty-six per cent of the amounts deducted, in accordance with the provisions of section 84-1308, from salaries of employees who are paid from any funds other than funds appropriated from the General Fund.

(3) The Director of Administrative Services shall draw a warrant credit an amount each month ~~on~~ to the State Employees Retirement Fund in the amount of fifteen thousand dollars until December 31, 1971, and the State Treasurer shall cause the amounts of such warrants to be paid to the state investment officer as the premium for prior service benefits. After receiving the annual report required by section 84-1315, the Legislature may make such adjustments in the funding of prior service benefits as necessary to keep the plan sound. The contribution for prior service purposes shall cease when the prior service obligation is properly funded.

(4) The State Treasurer shall cause the amount of the warrants provided for in subsections (1), (2), and (3) of this section to be paid to the state investment officer. transmit monthly to the board a detailed statement showing all credits to and disbursements from the fund. He or she shall disburse money from the fund only

on warrants issued by the Director of Administrative Services upon vouchers signed by a person authorized by the board.

Sec. 5. That section 84-1310, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1310. A member's share of the fund arising from the salary deductions made in accordance with the provisions of section 84-1308 shall be known as his or her employee account. Each year commencing January 1, 1975, and ending December 31, 1984, regular interest shall be credited to the employee account. As of January 1 of each such year, a member's employee account shall be equal to one hundred per cent of his or her employee account as of the next preceding January 1 increased by any regular interest earned and any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 84-1308. On and after January 1, 1985, the employee account shall be equal to the sum of the guaranteed investment account, the equities account, and any assets of additional accounts created by the board pursuant to section 11 of this act.

Sec. 6. That section 84-1311, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1311. A member's share of the fund arising from the state contributions made in accordance with the provisions of section 84-1309 shall be known as his or her employer account. Prior to January 1, 1981, as of any January 1 a member's employer account shall be equal to his or her account as of the next preceding January 1, increased by one hundred four per cent of any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 84-1308. As of January 1, 1982, a member's employer account shall be equal to the account as of January 1, 1981, increased by one hundred four per cent of the amounts deducted from the member's salary for the first nine months of the year and one hundred fifty-six per cent of the amount so deducted for the final three months of the year in accordance with the provisions of section 84-1308. As of January 1, 1983, and each year thereafter, the member's employer account shall be equal to the account as of the next preceding January 1 increased by one hundred fifty-six per cent of any amounts deducted from the member's salary since the next preceding January 1 in accordance with the provisions of section 84-1308. The member's employer account shall be increased by any interest allocated under the provisions of the group annuity guaranteed investment contract, and reduced by any expense charges made under the provisions of the group annuity guaranteed investment contract and by any expense charges incurred by the Public Employees Retirement Board in connection with administering the system in excess of those provided for in section 84-1321, except 7 PROVIDED;

that a member who ceased being an employee since the next preceding January 1 may have his or her employer account reduced in accordance with the provisions of section 84-1321.

Sec. 7. That section 84-1319, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1319. (1) The future service retirement benefit shall be an annuity, payable monthly with the first payment made as of the retirement date, which shall be the actuarial equivalent, as determined by the group annuity contract, of the retirement value based on factors determined by the board, except that gender shall not be a factor when determining the amount of such payments pursuant to subsection (2) of this section.

At any time before the retirement date, the retiring employee may choose to receive his or her annuity either in the form of a straight life annuity or any optional form that is determined acceptable by the board. specified in the group annuity contract.

In any case, the amount of the monthly payment shall be such that the annuity chosen shall be the actuarial equivalent of the retirement value, except as provided in this section.

(2) The monthly income payable to a member retiring on or after January 1, 1984, shall be as follows:

He or she shall receive at retirement the amount which may be purchased by the accumulated contributions based on annuity rates in effect on the date of purchase which do not utilize gender as a factor, except that such amounts shall not be less than the retirement income which can be provided by the sum of the amounts derived pursuant to subdivisions (a) and (b) of this subsection as follows:

(a) The income provided by the accumulated contributions made prior to January 1, 1984, based on male annuity purchase rates in effect on January 1, 1984, or male annuity purchase rates on the date of purchase, if greater than those in effect on January 1, 1984; and

(b) The income provided by the accumulated contributions made on and after January 1, 1984, based on the annuity purchase rates in effect on the date of purchase which do not use gender as a factor.

(3) Any amounts, in excess of contributions, which may be required in order to purchase the retirement income specified in subsection (2) of this section shall be withdrawn from the State Equal Retirement Benefit Fund.

(4) Retirement benefits for persons who retire prior to January 1, 1984, shall not be affected by changes to this section which become operative on or after January 1, 1984.

Sec. 8. That section 84-1320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1320. The prior service retirement benefit shall be a straight life annuity, payable monthly with the

first payment made as of the retirement date, in an amount determined in accordance with the provisions of section 84-1312, except ; Provided, that the group annuity contract may specify payments to may be made less often than monthly if the monthly payment would be less than fifteen dollars. In ; and provided further, that in the event of retirement before age sixty-five under the provisions of section 84-1317, the amount of the prior service annuity shall be reduced in accordance with the principles of actuarial equivalence as determined by the group annuity contract based on factors designated by the board. Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under the provisions of section 84-1317 who has accrued a prior service retirement benefit as defined in section 84-1312, and who has been continuously employed by the state for ten or more years immediately prior to termination, shall receive the prior service retirement benefit determined in accordance with section 84-1312 upon attaining age sixty-five. At the option of the terminating member, such annuity may commence as of the first of the month at any time after such member attains the age of sixty and before his or her sixty-fifth birthday. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Any terminating employee who forfeits a vested future service retirement benefit by withdrawing his or her employee account shall also forfeit any vested prior service retirement benefit to which he or she would otherwise be entitled.

Sec. 9. That section 84-1321, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1321. (1) Any member of the retirement system who ceases to be an employee before becoming eligible for retirement under the provisions of section 84-1317 may, upon application to the board, receive ~~from the primary carrier~~ (a) a termination benefit equal to the amount in his or her employee account payable in a lump sum plus a paid-up deferred annuity provided by the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday or (b) a paid-up deferred annuity provided by the employee account and the vested portion of the employer account under which the first annuity payment shall be made as of the first of the month immediately following the sixty-fifth birthday. If the terminating member does not make application he or she shall receive the benefits provided under subdivision (1)(b) of this section, except that any person who has been a member of the retirement system and has terminated his or her employment prior to July 1, 1983, and has not withdrawn the amount in his or her employee account shall have the option upon application prior to January 1, 1984, to

receive the benefit provided in subdivision (1)(a) of this section.

(2) At the option of the terminating member, any paid-up deferred annuity provided under subsection (1) of this section may commence as of the first of the month at any time after such member attains the age of sixty and before his or her sixty-fifth birthday. Such election by the terminating member may be made at any time prior to the commencement of the annuity payments. Such paid-up deferred annuity shall be the actuarial equivalent, as determined by the group annuity contract based on factors designated by the board, of the employee account and together with the vested percentage portion of the employer account.

(3) The vesting percentage shall be one hundred after five years of participation in the retirement plan. The vesting percentage shall equal one hundred for any disability retirement under the provisions of section 84-1317.

(4) In the event that the terminating member shall not be credited with one hundred per cent of his or her employer account, the remainder shall be credited to the State Employees Retirement Fund and shall be applied to reduction of the liability for prior service benefits until such time as such liability is completely funded, and thereafter the remainder shall first be used to meet the expense charges incurred by the Public Employees Retirement Board in connection with administering the system and the remainder shall then be used to reduce the state contribution which would otherwise be required to fund future service retirement benefits.

Sec. 10. That section 84-1323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1323. In the event of the death before his or her retirement date of any employee who is a member of the system, a death benefit shall be paid to the member's beneficiary, as provided in the group annuity contract. The death benefit shall be equal to the total of the employee account and the employer account.

Sec. 11. (1) On or after January 1, 1985, on such date as is established by the retirement board, each member of the retirement system shall be allowed to allocate all contributions to his or her employee account after such date to various investment options. Such investment options shall include, but not be limited to, the following:

(a) A fund which shall be known as a guaranteed investment account and which shall be invested in a guaranteed investment contract offered by one or more life insurance companies operating under contract with the board; and

(b) An account which shall be known as an equities account and which shall be invested in common



stocks.

If a member fails to select an option or combination of options, all of his or her funds shall be placed in the option described in subdivision (a) of this subsection. Each member shall be given a detailed current description of each investment option prior to making or revising his or her allocation.

(2) Members of the retirement system may allocate their contributions to the investment options in increments of twenty-five per cent in any proportion, including full allocation to any one option. A member may transfer any portion of his or her funds among the options, except that a member's investment in a guaranteed investment account shall not be transferred. The board shall establish provisions for changes of a member's allocation of contributions to his or her accounts after his or her most recent allocation and for transfers from one investment account to another.

If the board directs withdrawal of funds from an investment manager, the member shall also direct the investment of those funds.

(3) The board shall develop a schedule for the allocation of administrative costs of the various investment options and shall assess such costs so that each member pays a fair proportion based upon his or her choice of options and number of transfers among options.

(4) In order to carry out the provisions of this section, the board may enter into administrative services agreements for accounting or recordkeeping services. No such agreement shall be entered into unless the board determines that it will result in administrative economy and will be in the best interests of the state and its participating employees.

Sec. 12. That section 84-1331, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1331. Sections 84-1301 to 84-1331 and section 11 of this act may be cited as the State Employees Retirement Act.

Sec. 13. That section 84-1503, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1503. (1) It shall be the duty of ~~such board~~ the Public Employees Retirement Board:

(a) To administer the retirement systems provided for in sections 24-701 to 24-714, 79-1501 to 79-1557, 81-2014 to 81-2034, and 84-1301 to 84-1331, and the authority of the board to administer such systems shall commence thirty days after August 27, 1971; and to administer the retirement system provided for in sections 23-2301 to 23-2331, and the authority of the board to administer such system shall commence thirty days after September 2, 1973;

(b) To hire a director to administer the systems under direction of the board. The director shall not be a

member of the board. Salaries of the director and his or her employees shall be set by the board; and

(c) To provide for an equitable allocation of expenses among the retirement systems administered by the board, and all expenses shall be provided from the investment income earned by the various retirement funds unless alternative sources of funds to pay expenses shall be specified by law.

(2) In administering the retirement system provided for in sections 23-2301 to 23-2331, it shall be the duty of the board:

(a) To select, on the basis of the most sound proposal or proposals received, after written notice of such proposition to all domestic companies, one or more life insurance companies, banks, or trust companies authorized to do business in Nebraska to underwrite or serve as trustee for the retirement system, and to enter into a contract or contracts with such company or companies in the name of the retirement system, except ; PROVIDED, that if a bank or trust company is chosen as the primary carrier the funds shall be invested or reinvested in such securities and investments as are authorized for trustees, guardians, conservators, executors, or administrators under the laws of Nebraska;

(b) To change underwriters or trustees if, in the judgment of the board, such action would be desirable, except ; PROVIDED, that the board shall give thirty days' notice in writing to the company whose contract is proposed to be canceled and, if such company makes demand therefor before such time has expired, a public hearing shall be held to determine the reasonableness of the proposed cancellation;

(c) To determine the prior service annuity, if any, for each person who shall be an employee of the county on the date of adoption of the retirement system;

(d) To determine the eligibility of an individual to be a member of the retirement system and other questions of fact in the event of a dispute between an individual and the county board in his or her county;

(e) To adopt rules and regulations for the management of the board;

(f) To keep a complete record of all proceedings taken at any meeting of the board;

(g) To employ such actuarial and other assistance as may be necessary in the performance of its duties; and

(h) To determine, annually in January, the amount to be contributed by each county to the board in order to enable the board to meet its expected expenses for the coming year, which amount shall be a part of the employee contribution for the county but not more than three per cent.

(3) It shall be the duty of such board to have an

analysis made of the investment return that has been achieved on the assets of each retirement system administered by the board. Such analysis shall be prepared as of January 1, 1984, and each four years thereafter. The analysis shall be prepared by an independent private organization which has demonstrated expertise to perform this type of analysis and which is unrelated to any organization offering investment advice or which provides investment management services to the retirement system. The analysis may be waived by the board for any retirement system with assets of less than ten million dollars.

(4) In administering the retirement system provided for in sections 84-1301 to 84-1331 and section 11 of this act, it shall be the duty of the board:

(a) To select, on the basis of the most sound proposal or proposals received, after written notice of such proposition, one or more investment managers authorized to do business in Nebraska to underwrite or serve as trustee for the retirement system, and to enter into a contract or contracts with such company or companies in the name of the state employees' retirement system. If a bank or trust company is chosen as the investment manager, the funds shall be invested or reinvested in such securities and investments as are authorized for trustees, guardians, conservators, executors, or administrators under the laws of Nebraska. As an alternative method of providing funding for benefits paid under sections 84-1301 to 84-1331 and section 11 of this act, the board may commit all or any part of the retirement funds to the state investment officer for investment pursuant to the authority granted in sections 72-1237 to 72-1269. The state investment officer shall be trustee of the funds so committed and shall administer the funds for the benefit of the retirement system; and

(b) To change underwriters or trustees if, in the judgment of the board, such action would be desirable. The board shall give thirty days' notice in writing to the entity whose contract or trusteeship is proposed to be canceled and, if such entity makes demand therefor before such time has expired, a public hearing shall be held to determine the reasonableness of the proposed change.

Sec. 14. That original sections 84-1305, 84-1308, 84-1309, 84-1320, 84-1323, and 84-1331, Reissue Revised Statutes of Nebraska, 1943, and sections 84-1301, 84-1310, 84-1311, 84-1319, 84-1321, and 84-1503, Revised Statutes Supplement, 1983, and also sections 84-1314 and 84-1329, Reissue Revised Statutes of Nebraska, 1943, are repealed.