



City of Grand Island

Tuesday, December 11, 2012

Study Session

Item -2

Pre-84 Public Safety Pension Plan Discussion

Staff Contact: Jaye Monter

Council Agenda Memo

From: Jaye Monter, Finance Director

Meeting: December 11, 2012

Subject: Pre-84 Public Safety Pension Plan Discussion

Item #'s: 2

Presenter(s): Jaye Monter, Finance Director

Background

The Nebraska State Legislature changed the public safety defined benefit retirement plan to a defined contribution retirement plan effective January 1, 1984. With that change, state statutes outline for the City how to fund public safety pension benefits for employees who retire today that were employed with the City of Grand Island prior to January 1, 1984. Of our current 166 full-time employees in the police and fire departments, there remain eight (7 police, 1 fire) employees that were employed prior to January 1, 1984. Our study session topic will focus on the funding requirements of state statutes and funding options of those eight employees in addition to discussing a potential change to the most recent claim.

Council members may find it helpful to bring their budget books to this study session.

Discussion

The City recently processed a pension retirement contribution payment to a retiring pre-84 police officer that brought concern to City Staff, and consequently, additional questions regarding the City's future financing needs for the remaining eight pre-84 employees. Council member Haase also raised questions on the calculation of the recently processed pension retirement payment.

History shows a change occurred in January 2005 with regard to calculating pre-84 retiree lump sum payments for police officers. Before 2005, annuity quotes obtained on the open market for police retirees were based upon a straight life annuity. Since January 2005, annuities quoted on the open market for the police retirees were based upon the joint life of the retiree and spouse.

Attending the study session to help Council understand today's funding needs; the timing of those needs and the funding requirements for the police and fire reserve funds is Gregg Rueschhoff, ASA Principal and Consulting Actuary with Milliman, Inc. Milliman performed the Actuarial Valuation of the City of Grand Island Police Officers and Firefighters Plans as of January 1, 2011. Terry Galloway, CPA, CGFM, CFA, CVA, PFS with Almquist Maltzahn Galloway & Luth, CPAs will also be attending the study session.

Conclusion

This item is presented to the City Council in a Study Session to allow for any questions to be answered and to create a greater understanding of the issue at hand.

It is the intent of City Administration to bring this issue to the December 18, 2012 Council meeting based upon Council direction.

CITY OF

Grand Island

NEBRASKA

FINANCE

Pre-84 Public Safety Pension Plan Discussion

Gregg Rueschhoff

ASA, Principal & Consulting Actuary
Milliman, Inc.

Terry Galloway


CPA, CGFM, CFE, CVA, PFS
**Almquist Maltzahn Galloway &
Luth, CPAs**

Goals of Study Session

- Council Understanding of Prior Retiree Payments
- Discussion of Straight Life and Joint Life Annuity calculations to determine lump sum payment option
- Budget Timeline / Funding Options
- Determine Financial Needs of Police Reserve Fund
- Determine Financial Needs of Fire Reserve Fund

Terms Defined


Annuity

-  Contract issued by a life insurance company in order to provide periodic retirement benefits

Straight / Single Life Annuity

-  Annuity paid to an individual over their lifetime

Joint / J&S (Joint & Survivor) Life Annuity

-  Annuity will transfer annuity income to a spouse in the event of the death of the annuity buyer

Prior Retiree Payments

- What brought us to tonight's study session?
- History of Processing pre-84 Retirement Claims

Police Lump Sum Payments

Name	Retirement Date	Quote Type	Average of Quotes Received	Participant Account Balance	Balance Paid by City
Retiree 1	10/2003	Straight	\$ 514,980	\$ 315,058	\$ 199,922
Retiree 2	11/2003	Straight	378,577	179,808	198,769
Retiree 3	12/2003	Straight	514,075	401,539	112,536
Retiree 4	01/2004	Straight	491,984	405,482	86,502
Retiree 5	10/2005	Joint	664,299	423,356	240,943
Retiree 6	02/2010	Joint	520,238	434,665	85,573
Retiree 7	06/2010	Joint	378,619	277,607	101,012
Retiree 8	08/2010	Joint	607,152	394,592	212,560
Retiree 9	08/2010	Joint	498,718	228,901	269,817
Retiree 10	11/2012	Joint	901,785	442,866	458,919

Fire Lump Sum Payments

Name	Retirement Date	Quote Type	Average of Quotes Received	Participant Account Balance	Balance Paid by City
Retiree 1 *	05/2004	Straight	\$ 295,737	\$ 297,752	\$ -
Retiree 2	10/2004	Joint	449,626	402,221	47,405
Retiree 3	11/2004	Joint	441,007	441,702	-
Retiree 4	10/2006	Joint	509,148	524,166	-
Retiree 5	09/2006	Joint	579,534	377,598	201,936
Retiree 6	01/2007	Joint	438,647	367,233	71,414
Retiree 7	12/2008	Joint	456,708	250,486	206,222
Retiree 8	10/2008	Joint	730,657	529,542	201,115
Retiree 9	04/2009	Joint	465,223	256,333	208,890
Retiree 10	11/2009	Joint	636,686	519,396	117,290
Retiree 11	12/2009	Joint	656,626	498,116	158,510
Retiree 12	12/2009	Joint	538,262	446,642	91,620
Retiree 13	03/2010	Joint	583,360	361,044	222,316
* single employee					

Pension Plans




Defined Benefit Plans

- ☞ Type of pension plan in which employer promises a specified monthly benefit on retirement based on the employee's earnings history, tenure of service and age.

Defined Contribution

- ☞ Type of pension plan in which an employee's benefits during retirement depend on the contributions made to and the investment performance of the assets in his or her account.

City Maintains Three Trust Funds

-  **800 Fund** - Police and Fire Pension Fund - accounts for direct pension payments to personnel who retired prior to 84 under a defined benefit plan
-  **805 Fund** - Police Reserve Fund - accounts for administration of the pre-84 police officers pension benefits under a defined benefit plan
-  **810 Fund** - Fire Reserve Fund - accounts for administration of the pre-84 firefighters pension benefits under a defined benefit plan

Summary of Actuarial Projections of Liability

Data used for projections as of November 20, 2012

SCENARIO 1	Present Value of City Liability		Expected Future City Liability by Fiscal Year (assuming retirement age of 60 for police, 55 for fire)									
	Straight	Joint	2012-2013		2013-2014		2014-2015		2015-2016		2016-2017	
			Straight	Joint	Straight	Joint	Straight	Joint	Straight	Joint	Straight	Joint
POLICE 7 employees	702,096	1,424,188	448,399	776,971	222,059	386,437	-	-	7,496	114,964	64,382	274,277
			2 employees		1 employee				1 employee		1 employee	
<i>Note: 2 police employees turn 60 after 2017 but have no expected liability to the city</i>												
FIRE 1 employee	-	35,322	-	-	-	-	-	42,546	-	-	-	-
							1 employee					
	702,096	1,459,510	448,399	776,971	222,059	386,437	-	42,546	7,496	114,964	64,382	274,277
Assumptions: 3.0% annual pay increase; 2.25% annuity interest rate												




Summary of Actuarial Projections of Liability

Data used for projections as of November 20, 2012

SCENARIO 3	Present Value of City Liability		Expected Future City Liability by Fiscal Year (assuming retirement age of 60 for police, 55 for fire)									
	Straight	Joint	2012-2013		2013-2014		2014-2015		2015-2016		2016-2017	
			Straight	Joint	Straight	Joint	Straight	Joint	Straight	Joint	Straight	Joint
POLICE	144,353	393,220	90,658	262,263	59,660	143,391	-	-	-	-	-	3,362
7 employees			2 employees		1 employee				1 employee		1 employee	
Note: 2 police employees turn 60 after 2017 but have no expected liability to the city												
Note: 1 fire employee has no expected liability to the city												
Assumptions: 4.0% annual pay increase; 5.5% annuity interest rate												

Future Council Action

Decisions Regarding:

-  Straight Life vs. Joint Life Annuities
-  Review of Most Recent Police Claim
-  Use of Public Safety Trust Funds

§ 16-1001. Applicability of sections

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.

Cite as Neb. Rev. Stat. § 16-1001

Source:

Laws 1983, LB 237, § 1.

History. Amended by Laws 2012, LB 1082, §1, eff. 4/17/2012.

§ 16-1002. Terms, defined

For purposes of the Police Officers Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent 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 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 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 means the rate of interest earned each calendar year equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings 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 means the average salary of the police officer for the period of five consecutive years preceding

elective retirement, death, or date of disability which produces the highest average;

(6) Salary 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 means the retirement committee created pursuant to section 16-1014;

(8) Retirement system means a retirement system established pursuant to the act;

(9) Retirement value means the accumulated value of the police officer's employee account and employer account. The retirement value 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 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 the act. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis; and

(11) Straight life annuity 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.

Cite as Neb. Rev. Stat. § 16-1002

Source:

Laws 1983, LB 237, § 2; Laws 1992, LB 672, § 7; Laws 1995, LB 574, § 17.

History. Amended by Laws 2012, LB 1082, §2, eff. 4/17/2012.

§ 16-1003. Police officer; prior service; how treated

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 the Police Officers Retirement Act.

Cite as Neb. Rev. Stat. § 16-1003

Source:

Laws 1983, LB 237, § 3.

History. Amended by Laws 2012, LB 1082, §3, eff. 4/17/2012.

§ 16-1004. Police Officers Retirement System Fund; administration; transfer of contributions; system funding; separate investment accounts

(1) 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. Regular interest shall accrue on any contributions transferred into the fund. 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 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.

Cite as Neb. Rev. Stat. § 16-1004

Source:

Laws 1983, LB 237, § 4; Laws 1992, LB 672, § 8; Laws 1995, LB 574, § 18.

History. Amended by Laws 2012, LB 1082, §4, eff. 4/17/2012.

§ 16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions

(1) Until October 1, 2013, each police officer 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 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 shall pick up the police officers' contributions required by subsection (1) of this section, 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 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.

Cite as Neb. Rev. Stat. § 16-1005

Source:

Laws 1983, LB 237, § 5; Laws 1992, LB 672, § 9; Laws 1995, LB 574, § 19.

History. Amended by Laws 2012, LB 1082, §5, eff. 4/17/2012.

§ 16-1006. Contributions by city; amount; how credited; interest; when

Each city of the first class shall contribute to the retirement system a sum equal to one hundred percent of the amounts deducted, in accordance with subsection (1) of section 16-1005, from each such 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 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.

Cite as Neb. Rev. Stat. § 16-1006

Source:

Laws 1983, LB 237, § 6; Laws 1992, LB 672, § 10.

History. Amended by Laws 2012, LB 1082, §6, eff. 4/17/2012.

§ 16-1007. Retiring officer; annuity options; how determined; lump-sum payment option

(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. The optional benefit forms for the retirement system shall include a single lump-sum payment of the police officer's retirement value. 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) (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:

(i) If retirement occurs following age sixty and with twenty-five years of service with the city, fifty percent of regular pay; or

(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 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.

Cite as Neb. Rev. Stat. § 16-1007

Source:

Laws 1983, LB 237, § 7; Laws 1992, LB 672, § 11.

History. Amended by Laws 2012, LB 1082, §7, eff. 4/17/2012.

§ 16-1008. Retirement options; retirement date

(1) A police officer of a city of the first class may:

(a) Elect to retire and receive the applicable pension benefit provided in section 16-1007 based on his or her full retirement value upon the attainment of age sixty;

(b) Elect to take early retirement and receive the applicable pension benefit provided in section 16-1007 if he or she has attained the age of fifty-five and has completed twenty-five years of service with the city; or

(c) Retire as a result of disability while in the line of duty, as determined under section 16-1011, at any age, and receive the applicable pension benefit provided in section 16-1011.

(2) A police officer who is eligible to retire pursuant to subsection (1) of this section but does not, shall continue to contribute to his or her employee account, and the city shall continue to contribute to his or her employee account and to his or her employer account.

(3) The first of the month immediately following the last day of work shall be the retirement date.

Cite as Neb. Rev. Stat. § 16-1008

Source:

Laws 1983, LB 237, § 8; Laws 1992, LB 672, § 12.

§ 16-1009. Police officer; death other than in the line of duty; pension benefit payable

(1) When prior to retirement any police officer 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 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.

Cite as Neb. Rev. Stat. § 16-1009

Source:

Laws 1983, LB 237, § 9; Laws 1992, LB 672, § 13.

History. Amended by Laws 2012, LB 1082, §8, eff. 4/17/2012.

§ 16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits

When prior to retirement any police officer dies in the line of duty or 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.

Cite as Neb. Rev. Stat. § 16-1010

Source:

Laws 1983, LB 237, § 10; Laws 1986, LB 811, § 3; Laws 1992, LB 672, § 14.

History. Amended by Laws 2012, LB 1082, §9, eff. 4/17/2012.

§ 16-1011. Police officer; disability in the line of duty; benefit; requirements

(1) If any police officer becomes disabled, such police officer shall be placed upon the roll of pensioned police officers at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the police officer, for reasons of accident or other cause while in the line of duty, to perform the duties of a police officer.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, such proof to consist of a medical examination conducted by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the police officer is unable to perform the duties of a police officer. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled police officer to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the police officer to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the police officer is fraudulently receiving disability payments. The city shall have the right to demand a physical examination of the police officer by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state, and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city council or other proper municipal authorities within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Such payments shall not commence until all credit for unused annual or sick leave and other similar credits have been fully utilized by the disabled police officer if there will be no impairment to his or her salary during the period of disability. Total payments to a disabled police officer, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the police officer's retirement value at the time of the first payment, the city shall contribute such additional

amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a police officer who was pensioned under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the police officer's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled police officer or former police officer.

(6) If a police officer who has pensioned under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid the police officer may return to duty with the police force under the following conditions:

(a) If a vacancy exists on the police force for which the police officer is qualified and the police officer wishes to return to the police force, the city shall hire the police officer to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists on the police force and the police officer wishes to return to the police force, the city may create a vacancy under the city's reduction in force policy adopted under the Civil Service Act and rehire the officer at a pay grade of not less than his or her previous pay grade.

The provisions of this subsection shall not apply to a police officer whose disability benefit payments are terminated because of fraud on the part of the police officer.

Cite as Neb. Rev. Stat. § 16-1011

Source:

Laws 1983, LB 237, § 11; Laws 1986, LB 811, § 4; Laws 1992, LB 672, § 15.

Cross References:

Civil Service Act, see section 19-1825.

Nebraska Workers' Compensation Act, see section 48-1,110.

§ 16-1012. Police officer; temporary disability; workers' compensation benefits; how treated

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 the Police Officers Retirement Act.

Cite as Neb. Rev. Stat. § 16-1012

Source:

Laws 1983, LB 237, § 12; Laws 1985, LB 3, § 1; Laws 1986, LB 811, § 5.

History. Amended by Laws 2012, LB 1082, §10, eff. 4/17/2012.

Cross References:

Nebraska Workers' Compensation Act, see section 48-1,110.

§ 16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule

(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.

(2) Until 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 four 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 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

(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.

(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.

(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 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 retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Cite as Neb. Rev. Stat. § 16-1013

Source:

Laws 1983, LB 237, § 13; Laws 1992, LB 672, § 16.

History. Amended by Laws 2012, LB 1082, §11, eff. 4/17/2012.

§ 16-1014. Retirement committee; established; governing body; responsibilities

A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to 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 the act or whenever 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.

Cite as Neb. Rev. Stat. § 16-1014

Source:

Laws 1983, LB 237, § 14; Laws 1992, LB 672, § 17.

History. Amended by Laws 2012, LB 1082, §12, eff. 4/17/2012.

§ 16-1015. Retirement committee; members; terms; vacancy

Each retirement committee established pursuant to section 16-1014 shall consist of members from both the police force and designees of the city council. The committee shall consist of six members of which four members shall be selected by the officers from the police force of the city. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall receive no salary and shall not be compensated for expenses.

Cite as Neb. Rev. Stat. § 16-1015

Source:

Laws 1983, LB 237, § 15.

§ 16-1016. Retirement system funds; contracts for investments

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 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.

Cite as Neb. Rev. Stat. § 16-1016

Source:

Laws 1983, LB 237, § 16; Laws 1991, LB 2, § 2; Laws 1992, LB 672, § 18.

History. Amended by Laws 2012, LB 1082, §13, eff. 4/17/2012.

§ 16-1017. Retirement committee; duties

(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 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 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 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.

Cite as Neb. Rev. Stat. § 16-1017

Source:

Laws 1983, LB 237, § 17; Laws 1998, LB 1191, § 18; Laws 1999, LB 795, § 7.

History. Amended by Laws 2012, LB 1082, §14, eff. 4/17/2012.

Amended by Laws 2011, LB 474, §7, eff. 8/27/2011.

§ 16-1018. Termination of employment; transfer of benefits; when

If a police officer terminates his or her employment for the purpose of becoming a police officer employed by

another city of the first class in Nebraska and such new employment commences within one hundred twenty days of such termination, such police officer shall be entitled to transfer to the Police Officers Retirement System Fund of the city by which he or she is newly employed, the full amount of his or her employee account and the vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be directly transferred to the police officer's employee account in the retirement system of the city to which transferred and administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system shall have no further obligation to such police officer or his or her beneficiary. Following the commencement of new employment, the transferring police officer shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Cite as Neb. Rev. Stat. § 16-1018

Source:

Laws 1983, LB 237, § 18; Laws 1992, LB 672, § 19.

§ 16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized

(1) Except as provided in subsection (6) of this section, 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. Any payment of benefits subject to such order shall take priority over any payment made pursuant to subsection (6) of this section. 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, 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 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 the act, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

(6) If a member of the retirement system is convicted of or pleads no contest to a felony that is defined as assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement and is found liable for civil damages as a result of such felony, following distribution of the member's benefits or the assets of any fund of the member from the retirement system, the court may order the payment of the member's benefits or the assets of any fund of the member under the retirement system for such civil damages, except that the benefits or assets to the extent reasonably necessary for the support of the member or any of his or her beneficiaries shall be exempt from such payment. Any order for payment of benefits or assets shall not be stayed on the filing of any appeal of the conviction. If the conviction is reversed on final judgment, all benefits or assets paid as civil damages shall be forfeited and returned to the member. The changes made to this section by this legislative bill shall apply to persons convicted of or who have pled no contest to such a felony and who have been found liable for civil damages as a result of

such felony prior to, on, or after the effective date of this act.

Cite as Neb. Rev. Stat. § 16-1019

Source:

**Laws 1983, LB 237, § 19; Laws 1992, LB 672, § 20;
Laws 1995, LB 574, § 20; Laws 1996, LB 1114, § 29.**

History. Amended by Laws 2012, LB 1082, §15, eff. 4/17/2012.

Amended by Laws 2012, LB 916, §2, eff. 4/7/2012.

§ 16-1020. Applicability of sections

Except as provided in section 16-1039, sections 16-1020 to 16-1038 shall apply to all firefighters of a city of the first class.

Cite as Neb. Rev. Stat. § 16-1020

Source:

Laws 1983, LB 531, § 1.

§ 16-1021. Terms, defined

For the purposes of sections 16-1020 to 16-1042, unless the context otherwise requires:

(1) Actuarial equivalent shall mean equality in value of the aggregate amount of benefit expected to be received under different forms 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. Such 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 equivalency of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by such contract. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Annuity contract shall mean the contract or contracts issued by one or more life insurance companies or designated trusts and purchased by the retirement system in order to provide any of the benefits described in such sections. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

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

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

(5) Regular interest shall mean 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 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. The retirement committee shall annually report the amount of regular interest earned for such year;

(6) Regular pay shall mean the salary of a firefighter at the date such firefighter elects to retire or terminate employment with the city;

(7) Retirement committee shall mean the retirement committee created pursuant to section 16-1034;

(8) Retirement system shall mean a retirement system established pursuant to sections 16-1020 to 16-1042;

(9) Retirement value shall mean the accumulated value of the firefighter's employee account and employer account. The retirement value at any time shall consist of the sum of the contributions made or transferred to such accounts by the firefighter and by the city on the firefighter's behalf and the regular interest credited to the accounts through such date, reduced by any realized losses which were not taken into account in determining regular interest in any year, and as further adjusted each year to reflect the accounts' pro rata share of the appreciation or depreciation of the assets of the retirement system as determined by the retirement committee at their fair market values, including any account under subsection (2) of section 16-1036. Such valuation shall be undertaken at least annually as of December 31 of each year and at such other times as may be directed by the retirement committee. The value of each account shall be reduced each year by the appropriate share of the investment costs as provided in section 16-1036.01. The retirement value shall be further reduced by the amount of all distributions made to or on the behalf of the firefighter from the retirement system;

(10) Salary shall mean the base rate of pay, excluding overtime, callback pay, clothing allowances, and other such benefits as reported on the participant's federal income tax withholding statement including the firefighters' contributions picked up by the city as provided in subsection (2) of section 16-1024 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; and

(11) 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.

Cite as Neb. Rev. Stat. § 16-1021

Source:

Laws 1983, LB 531, § 2; Laws 1993, LB 724, § 1; Laws 1995, LB 574, § 21.

§ 16-1022. Firefighter; prior service; how treated

A firefighter shall be credited with all years of his or her service after August 7, 1965, for the purpose of determining vested retirement benefits under sections 16-1020 to 16-1038.

Cite as Neb. Rev. Stat. § 16-1022

Source:

Laws 1983, LB 531, § 3.

§ 16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system

(1) Commencing on January 1, 1984, each city of the first class having a paid fire department shall keep and maintain a Firefighters 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 exclusively for the purposes of the retirement system and for the benefit of participating firefighters and their beneficiaries and so as to establish the fund as a trust under the law of this state for all purposes of section 401(a) of the Internal Revenue Code. Upon the passage of sections 16-1020 to 16-1038 all of the contributions made by a firefighter under section 35-203.01 as it formerly existed and interest accrued at five percent per annum on such contributions prior to January 1, 1984, shall be transferred to the firefighter's employee account. Regular interest shall begin to accrue on the contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16-1036.

(2) The city shall establish a medium for funding the retirement system which, with the approval of the retirement committee, 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 16-1036 and to provide the retirement, death, and disability benefits for firefighters granted by sections 16-1020 to 16-1042. The trustee or custodian of any trust fund shall be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, an appropriate city officer authorized to administer funds of the city, or a combination thereof.

Cite as Neb. Rev. Stat. § 16-1023

Source:

Laws 1983, LB 531, § 4; Laws 1993, LB 724, § 2; Laws 1995, LB 574, § 22.

§ 16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution

(1) Each firefighter participating in the retirement system shall contribute to the retirement system a sum equal to six and one-half percent of his or her salary. Such payment shall be made by regular payroll deductions from his or her 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 firefighters participating in a retirement system shall pick up the firefighters' 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 income tax treatment under the Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such 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 the employee contributions from the same source of funds which is used in paying compensation to the employee. The city shall pick up the employee 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. In no event shall a firefighter 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 firefighter 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 employee account and shall thereafter be credited with regular interest. A voluntary contribution shall become a part of the Firefighters Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Cite as Neb. Rev. Stat. § 16-1024

Source:

Laws 1983, LB 531, § 5; Laws 1993, LB 724, § 3; Laws 1995, LB 574, § 23.

§ 16-1025. Contributions by city; amount; how credited; interest

(1) Beginning January 1, 1984, each city of the first class with firefighters participating in a retirement system shall contribute to the retirement system a sum equal to thirteen percent of each such participating firefighter's periodic salary. Such payment shall be credited to his or her 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 firefighter employed by the city on January 1, 1984, an amount equal to the employee's contributions, without interest, that were made to the city prior to January 1, 1984, with such contribution to be made at the time the firefighter retires or terminates employment with the city. The city may contribute such amount before the firefighter's retirement or termination of employment or credit interest on such contribution.

(2) Each such city shall contribute any additional amounts necessary to fund retirement or other retirement plan benefits not provided by employee contributions or city contributions to the employer account required by subsection (1) of this section. Such additional contributions shall be accumulated in an unallocated employer account of the Firefighters Retirement System Fund and used to provide the benefits, if any, specified in sections 16-1027 and 16-1029 to 16-1031 which are not otherwise funded by the firefighter's retirement value. Funds needed to provide for a firefighter's benefits shall be transferred from the unallocated employer account when and as such funds are needed. All funds committed by the city to the funding of a firefighter pension system on January 1, 1984, that are not transferred to the firefighters employee accounts shall be transferred to the unallocated employer account.

Cite as Neb. Rev. Stat. § 16-1025

Source:

Laws 1983, LB 531, § 6; Laws 1993, LB 724, § 4.

§ 16-1026. Repealed

Cite as Neb. Rev. Stat. § 16-1026

History. Laws 1998, LB 1191, §85.

§ 16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment

(1) At any time before the retirement date, the retiring firefighter may elect to receive his or her pension benefit at retirement 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. Such 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 firefighter and, after the death of the retiree, monthly payments, as elected by the retiring firefighter, of one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring firefighter during his or her life, to the beneficiary selected by the retiring firefighter at the time of the original application for an annuity. For any firefighter whose retirement date is on or

after January 1, 1997, the optional benefit forms for the retirement system shall include a single lump-sum payment of the firefighter's retirement value. For firefighters 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 firefighter may further elect to defer the date of the first payment or lump-sum distribution to the first day of any specified month prior to age seventy. In the event the retiring firefighter elects to receive his or her pension benefit in the form of an annuity, the amount of such annuity benefit shall be the amount provided by the annuity contract purchased or otherwise provided by the firefighter's retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the retiring firefighter. Upon the payment of a lump sum or the distribution of a paid-up annuity contract, all obligations of the retirement system to pay retirement benefits to the firefighter and his or her beneficiaries shall terminate, without exception.

(2) For all firefighters employed on January 1, 1984, the amount of the pension benefit at the retirement date shall not be less than the following amounts:

(a) If retirement from the city occurs following age fifty-five with twenty-one years of service with the city, fifty percent of regular pay;

(b) If retirement from the city occurs following age fifty but before age fifty-five with at least twenty-one years of service with the city, such firefighter shall receive the actuarial equivalent of the benefit which would otherwise be provided at age fifty-five;

(c) If retirement from the city occurs on or after age fifty-five with less than twenty-one years of service with the city, such firefighter shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of retirement multiplied by the ratio of the years of service to twenty-one;

(d) For terminations of employment from the city on or after September 9, 1993, if such termination of employment as a firefighter occurs before age fifty-five but after completion of twenty-one years of service with the city, such firefighter shall receive upon the attainment of age fifty-five a pension benefit of fifty percent of regular pay;

(e) Unless an optional annuity benefit is selected by the retired firefighter, at the death of any such retired firefighter the same rate of pension as is provided for in this section shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse remains unmarried and, in case there is no surviving spouse, then the minor children, if any, of such deceased firefighter shall equally share such pension benefit during their minority, except that as soon as a

child of such deceased firefighter ceases to be a minor, such pension as to such child shall cease; or

(f) In the event a retired firefighter or his or her surviving beneficiaries die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account, at the time of the first benefit payment the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's estate.

A firefighter 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 firefighter retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for firefighters retiring before January 1, 1997, in the funding medium for the retirement system. If the minimum pension benefit is paid in the form of an optional annuity benefit or a single lump-sum payment, such benefit or payment shall be the actuarial equivalent of the annuity that would otherwise be paid to the firefighter pursuant to this subsection.

If the firefighter chooses the single lump-sum payment option, the firefighter may request that the actuarial equivalent be equal to the average of the cost of two annuity contracts purchased on the open market, if the difference between the cost of the two annuity contracts does not exceed five percent. Of the two annuity contracts used for comparison, one shall be chosen by the firefighter and one shall be chosen by the city. If the difference between the two annuity contracts exceeds five percent, the retirement committee shall review the costs of the two annuity contracts and make a recommendation to the city council as to the amount of the lump-sum payment to be made to the firefighter. The city council shall, after a hearing, determine the amount of the single lump-sum payment due the firefighter.

(3) If the retirement value of a firefighter 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 utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit.

(4) Any retiring firefighter 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 in lieu of annuity and shall not be entitled to elect to receive annuity benefits.

Cite as Neb. Rev. Stat. § 16-1027

Source:

Laws 1983, LB 531, § 8; Laws 1992, LB 672, § 22; Laws 1993, LB 724, § 5; Laws 1994, LB 1068, § 1.

§ 16-1028. Retirement options; retirement date

(1) A firefighter of a city of the first class may:

(a) Retire or be retired and receive the applicable retirement pension benefit upon the attainment of age fifty-five while employed by the city as a firefighter;

(b) Elect to retire after he or she has attained the age of fifty and has completed at least twenty-one years of service with the city and receive the actuarial equivalent of the pension benefit he or she would otherwise receive upon the attainment of age fifty-five;

(c) After twenty-one years of service with the city, terminate employment with the city and, upon the attainment of age fifty-five, receive the applicable retirement pension benefit; or

(d) Retire or be retired as a result of disability while in the line of duty, as determined under section 16-1031, at any age and receive the applicable pension benefit provided in such section.

(2) A firefighter who is eligible to retire pursuant to subdivision (1)(a) of this section but does not shall continue to contribute to his or her employee account and the city shall continue to contribute to its employer account.

(3) For purposes of subdivisions (1)(a), (b), and (d) of this section, the first of the month immediately following the last day of work shall be the retirement date. For purposes of subdivision (1)(c) of this section, the first of the month immediately following the attainment of age fifty-five shall be the retirement date.

Cite as Neb. Rev. Stat. § 16-1028

Source:

Laws 1983, LB 531, § 9; Laws 1993, LB 724, § 6; Laws 1994, LB 1068, § 2.

§ 16-1029. Firefighter; death other than in the line of duty; pension benefit payable

(1) When prior to the commencement of retirement benefits any firefighter 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 firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be received by the beneficiary in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's

funding medium. In the event benefits are paid in the form of an annuity, such annuity shall be the amount provided by the annuity contract purchased or otherwise provided by the amount of retirement value to be paid to the beneficiary as of the date of the first payment. Upon the payment of a lump-sum distribution or 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 firefighter employed by such city as a member of its paid fire department on January 1, 1984, and any firefighter reemployed thereafter who, while employed in such department entered military service and is still in military service, dies while employed by the city as a firefighter other than in the line of duty after becoming fifty years of age and before electing to retire, and after serving in the paid fire 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 as defined in section 16-1021, in the form of a straight life annuity, shall be paid to the surviving spouse or minor children of such deceased firefighter. If the deceased firefighter is not survived by a spouse or in the event such surviving spouse dies before the minor children of such firefighter attain the age of majority, such pension benefit shall be paid to the firefighter's minor children until they have attained the age of majority. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

In the event that 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 utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit. In the event a deceased firefighter described in this subsection is not survived by a spouse or minor children, his or her death benefits shall be provided under the provisions of subsection (1) of this section as if such firefighter were not employed by the city on January 1, 1984.

(3) In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between such total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's beneficiary, or in the absence of a surviving beneficiary, his or her estate.

(4) To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified pension under subsection (2) of this section, the excess shall be paid in the manner provided in subsection (1) of this section.

(5) Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

Cite as Neb. Rev. Stat. § 16-1029

Source:

Laws 1983, LB 531, § 10; Laws 1992, LB 672, § 23; Laws 1993, LB 724, § 7.

§ 16-1030. Firefighter; death in the line of duty; retirement benefits

When prior to commencement of retirement benefits any firefighter participating in the retirement system dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty and such firefighter is not survived by a spouse or minor children, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be paid in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's funding medium. For a firefighter 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 child or children during such child's or children's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1032. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between the total amount in the employee account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's

beneficiary or, in the absence of a surviving beneficiary, his or her estate.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1029.

Cite as Neb. Rev. Stat. § 16-1030

Source:

Laws 1983, LB 531, § 11; Laws 1986, LB 811, § 6; Laws 1992, LB 672, § 24; Laws 1993, LB 724, § 8.

§ 16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions

(1) Except as provided in subsection (3) of this section for temporary disability, if any firefighter becomes disabled, such firefighter shall be placed upon the roll of pensioned firefighters at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the firefighter, for reasons of accident or other cause while in the line of duty, to perform the duties of a firefighter as defined by fire department job descriptions or ordinance.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, consisting of a medical examination conducted by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the firefighter is unable to perform the duties of a firefighter. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled firefighter to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the firefighter to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the firefighter is fraudulently receiving disability payments. The city shall have the right to demand a physical examination of the firefighter by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a firefighter received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of

disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Total payments to a disabled firefighter, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the firefighter's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the firefighter's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled firefighter or former firefighter.

(6) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid, the firefighter may return to duty with the fire department under the following conditions:

(a) If a vacancy exists on the fire department for which the firefighter is qualified and the firefighter wishes to return to the fire department, the city shall hire the firefighter to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists in the fire department and the firefighter wishes to return to the fire department, the city shall place the firefighter on a waiting list and rehire the firefighter at a pay grade of not less than his or her previous pay grade when a vacancy occurs for which the firefighter is qualified.

The provisions of this subsection shall not apply to a firefighter whose disability benefit payments are terminated because of fraud on the part of the firefighter.

Cite as Neb. Rev. Stat. § 16-1031

Source:

Laws 1983, LB 531, § 12; Laws 1986, LB 811, § 7; Laws 1993, LB 724, § 9.

Cross References:

Nebraska Workers' Compensation Act, see section 48-1,110.

§ 16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated

No firefighter 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 firefighter 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 firefighter 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 16-1020 to 16-1038.

Cite as Neb. Rev. Stat. § 16-1032

Source:

Laws 1983, LB 531, § 13; Laws 1985, LB 3, § 2; Laws 1986, LB 811, § 8.

Cross References:

Nebraska Workers' Compensation Act, see section 48-1,110.

§ 16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule

In the event a firefighter quits or is discharged before his or her retirement date as defined in subsection (3) of section 16-1028, the firefighter may request and receive, as a lump-sum payment, an amount equal to the value of his or her employee account as determined at the valuation date preceding his or her termination of employment pursuant to subdivision (9) of section 16-1021. Such firefighter, if vested, may, in lieu thereof, receive a deferred pension benefit or lump-sum benefit in an amount purchased or provided by the vested retirement value at the date of retirement. The retirement value at such retirement date shall consist of the then accumulated value of the firefighter's employee account at the date of the retirement as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the firefighter's employer account at the date of retirement. The vesting schedule shall be as follows:

(1) If the terminating firefighter has been a member of the system for less than four years, the vesting percentage shall be zero; and

(2) If the terminating firefighter has been a member of the paid department of the city for at least four years, the vesting percentage shall be forty percent. The vesting percentage shall be sixty percent after five years, eighty percent after six years, and one hundred percent after seven years.

The deferred pension benefit shall be payable on the first of the month immediately following the terminating

firefighter's fifty-fifth birthday. At the option of the firefighter, such pension benefit may be paid as of the first of the month after he or she attains the age of fifty. Such election may be made by the firefighter any time prior to the payment of the pension benefits.

The deferred pension benefit shall be paid in the optional benefit forms specified at subsection (1) of section 16-1027 as elected by the firefighter. Notwithstanding anything in sections 16-1020 to 16-1042 to the contrary, if the firefighter's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, such firefighter shall, upon request within one year of such termination, be paid his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a firefighter 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 firefighter 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 firefighters in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating firefighter's retirement value under this section, such firefighter will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such firefighter or his or her beneficiaries any benefits under sections 16-1020 to 16-1042.

In the event that the terminating firefighter is not credited with one hundred percent of his or her employer account, the remaining nonvested portion of the account shall be forfeited and shall be deposited in the unallocated employer account. If the actuarial analysis required by section 16-1037 shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities, such forfeitures shall instead be used to meet the expenses incurred by the city in connection with administering the retirement system, and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Cite as Neb. Rev. Stat. § 16-1033

Source:

Laws 1983, LB 531, § 14; Laws 1993, LB 724, § 10; Laws 1994, LB 1068, § 3; Laws 1998, LB 1191, § 19.

§ 16-1034. Retirement committee; established; governing body; responsibilities; powers and duties; allocation

A retirement committee shall be established to supervise the general operation of the retirement system. The

governing body of the city shall 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. All costs incurred with regard to the administration of the retirement system shall be paid by the city from the unallocated employer account as provided in section 16-1036.01.

The city and retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system. Whenever sections 16-1020 to 16-1042 fail to address the allocation of duties or powers in the 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.

Cite as Neb. Rev. Stat. § 16-1034

Source:

Laws 1983, LB 531, § 15; Laws 1992, LB 672, § 25; Laws 1993, LB 724, § 11.

§ 16-1035. Retirement committee; members; terms; vacancy; expenses

Each retirement committee established pursuant to section 16-1034 shall consist of six members of which four members shall be selected by the active paid firefighters excluding firefighters identified in section 16-1039. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city, active members of the fire department, and members of the general public may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall, subject to approval by the city council, be reimbursed for their actual and necessary expenses incurred in carrying out their duties.

Cite as Neb. Rev. Stat. § 16-1035

Source:

Laws 1983, LB 531, § 16; Laws 1992, LB 672, § 26.

§ 16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties

(1) The funds in the Firefighters Retirement System Fund shall be invested by the retirement committee. The city, subject to the approval of the retirement committee, shall 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 16-1020 to 16-1042. The retirement committee, subject to the approval of the city, may also select an investment manager. The city, subject to approval of the retirement committee, may contract with investment managers registered under the 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 retirement committee.

(2) The retirement committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account to the various investment options or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account in any proportion, including full allocation, in any investment option offered by the plan. Upon the direction of the city, firefighters employed on January 1, 1984, may have the option to allocate their employer account to various investment options or combinations of investment options in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

(3) The funds in the Firefighters Retirement System Fund shall be invested pursuant to the policies established by the Nebraska Investment Council.

Cite as Neb. Rev. Stat. § 16-1036

Source:

Laws 1983, LB 531, § 17; Laws 1991, LB 2, § 3; Laws 1992, LB 672, § 27; Laws 1993, LB 724, § 12; Laws 2004, LB 1097, § 1.

§ 16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation

The city and the retirement committee shall develop a schedule of investment costs relating to the investment of the funds in each of the accounts in the Firefighters Retirement System Fund, which costs shall be paid out of the funds in such accounts or assessed to the firefighters as provided in such schedule. The schedule of investment costs shall provide for the allocation of the administrative or record-keeping costs of the various investment options available to the members of the retirement system and shall assess such costs so that each member pays a fair proportion of the costs based upon his or her choice of options and number of transfers among options. All other costs related to the general operation of the retirement

system established pursuant to sections 16-1020 to 16-1038 and not allocated or assessed pursuant to the schedule of investment costs shall be considered administrative costs and shall be paid by the city from the unallocated employer account.

Cite as Neb. Rev. Stat. § 16-1036.01

Source:

Laws 1992, LB 672, § 29.

§ 16-1037. Retirement committee; officers; duties

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

(a) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;

(b) Hold regular quarterly meetings and special meetings upon the call of the chairperson;

(c) Conduct meetings pursuant to the Open Meetings Act;

(d) Provide each employee a summary of plan eligibility requirements, benefit provisions, and investment options available to such employee;

(e) 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

(f) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the 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 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 16-1020 to 16-1042 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 system established pursuant to sections 16-1020 to 16-1042. 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.

Cite as Neb. Rev. Stat. § 16-1037

Source:

Laws 1983, LB 531, § 18; Laws 1992, LB 672, § 28; Laws 1998, LB 1191, § 20; Laws 1999, LB 795, § 8; Laws 2004, LB 821, § 8.

History. Amended by Laws 2011, LB 474, §8, eff. 8/27/2011.

Cross References:

Open Meetings Act, see section 84-1407.

§ 16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized

(1) Except as provided in subsection (6) of this section,

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. Any payment of benefits subject to such order shall take priority over any payment made pursuant to subsection (6) of this section. 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, section 401(a)(31) relating to direct rollover distribution from 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.

(6) If a member of the retirement system is convicted of or pleads no contest to a felony that is defined as assault, sexual assault, kidnapping, child abuse, false imprisonment, or theft by embezzlement and is found liable for civil damages as a result of such felony, following distribution of the member's benefits or the assets of any fund of the member from the retirement system, the court may order the payment of the member's benefits or the assets of any fund of the member under the retirement system for such civil damages, except that the benefits or assets to the extent reasonably necessary for the support of the member or any of his or her beneficiaries shall be exempt from such payment. Any order for payment of benefits or assets shall not be stayed on the filing of any appeal of the conviction. If the conviction is reversed on final judgment, all benefits or assets paid as civil damages shall be forfeited and returned to the member. The changes made to this section by this legislative bill shall apply to persons convicted of or who have pled no contest to such a felony and who have been found liable for civil damages as a result of such felony prior to, on, or after the effective date of this act.

Cite as Neb. Rev. Stat. § 16-1038

Source:

Laws 1983, LB 531, § 19; Laws 1993, LB 724, § 13; Laws 1995, LB 574, § 24; Laws 1996, LB 1114, § 30.

History. Amended by Laws 2012, LB 1082, §16, eff. 4/17/2012.

Amended by Laws 2012, LB 916, §3, eff. 4/7/2012.

§ 16-1039. Firefighter serving on August 7, 1965; pension benefits

(1) All cities of the first class having a paid fire department shall pension all firefighters of the paid fire department who were serving as such on August 7, 1965, and who did not elect coverage under the provisions of sections 35-204 to 35-215 as they existed prior to January 1, 1984, whenever such firefighters shall have first served in such fire department for the period of twenty-one years and shall elect to retire from active service and go upon the retired list.

(2) Such pension shall be paid by the city in the same manner as firefighters upon the active list are paid. Such pension shall be at least fifty percent of the amount of

salary such retiring firefighter is receiving at the time he or she goes upon such pension list.

(3) Any such firefighter who retires on or after age fifty-five with less than twenty-one years of service shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of his or her retirement multiplied by the ratio of the years of service to twenty-one.

(4) At the death of any such retired firefighter, the same rate of pension, as is herein provided for, shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse shall remain unmarried and, in case there be no surviving spouse, then the minor children, if any, of such deceased firefighter, shall be paid such pension during their minority to the age of eighteen years, except that as soon as a child of such deceased firefighter shall become eighteen years of age, such pension as to such child shall cease.

(5) Firefighters subject to subsection (1) of this section shall be subject to sections 16-1029 to 16-1032 but shall be exempt from sections 16-1024, 16-1025, 16-1027, 16-1028, and 16-1033.

Cite as Neb. Rev. Stat. § 16-1039

Source:

Laws 1983, LB 531, § 20.

§ 16-1040. Firefighter subject to prior law; contributions; reimbursement

After August 7, 1965, every firefighter subject to the provisions of sections 35-201 to 35-203 as they existed prior to January 1, 1984, shall contribute to the city an amount equal to five percent of his or her salary until he or she shall be entitled to retire or otherwise become eligible for a pension. No such firefighter continuing in the employment of the city as a member of such department after becoming eligible to retire shall be required to make any further contribution. Any such firefighter whose employment shall terminate, whether by discharge or otherwise, prior to the time he or she shall become entitled to a pension, and who shall have made contributions from his or her salary as provided in this section shall, upon demand, be reimbursed by the city for the amount of such contributions plus interest at five percent per annum.

Cite as Neb. Rev. Stat. § 16-1040

Source:

Laws 1983, LB 531, § 21.

§ 16-1041. Benefits under prior law, how construed

Nothing in sections 16-1020 to 16-1042 shall in any manner affect the right of any person now receiving or

entitled to receive, now or in the future, pension or other benefits provided for in sections 35-201 to 35-216, as they exist immediately prior to January 1, 1984, to receive such pension or other benefits in all respects the same as if such sections remained in full force and effect.

Cite as Neb. Rev. Stat. § 16-1041

Source:

Laws 1983, LB 531, § 22; Laws 1985, LB 6, § 1.

§ 16-1042. Termination of employment; transfer of benefits; when

In the event that after four or more years of employment a firefighter terminates his or her employment for the purpose of becoming a firefighter employed by another city of the first class in Nebraska and such new employment commences within ninety days of such termination, such firefighter shall be entitled to transfer to the Firefighters Retirement System Fund of the city by which he or she is newly employed the full amount of his or her contribution and his or her vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system from which the firefighter transferred shall have no further obligation to such firefighter or his or her beneficiary. Following the commencement of new employment, the transferring firefighter shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Beginning January 1, 1993, a firefighter who is to receive an eligible rollover distribution, within the meaning of section 401(a)(31) of the Internal Revenue Code, from the retirement system may choose to have such distribution made in the form of a direct transfer to the trustee or custodian of a retirement plan eligible to receive the transfer under the code if the election is made in the form and within the time period required by the retirement committee and the plan to which such transfer is to be made will accept such transfer.

Cite as Neb. Rev. Stat. § 16-1042

Source:

Laws 1983, LB 531, § 23; Laws 1993, LB 724, § 14; Laws 1995, LB 574, § 25.

From: Jaye Monter
To: [Electeds](#)
Subject: FW: Claim on Police Pension-Council Meeting 11/13/12
Date: Monday, November 26, 2012 5:37:00 PM

Good Afternoon,

After researching additional questions from Council member Haase on the calculation of our last pre-84 pension contribution, we have discovered in the fall of 2004 there was a change to the calculation of pre-84 retiree lump sum payouts. Before 2004, annuity quotes obtained by the retirement committee, the city and the retiree were based upon a straight life annuity. During 2004 there was a change that all annuities quoted on the open market were based upon the joint life of the retiree and spouse.

After this large payout, my concern was immediately directed to the funding of the remaining seven pre-84 police employees. Our actuarial valuation from January of 2011 showed the city as being fully funded, meaning the employee's retirement accounts along with the unallocated account balance would be sufficient to cover the remaining eight payments.

We have ordered a new actuarial calculation and are planning a December 11, 2012 study session to discuss with Council future financial needs. The police retirement committee will be meeting tomorrow morning at 10:00 a.m. at city hall to discuss this topic, understand the changes that occurred in 2004 and to be informed this topic will be brought to Council for discussion. Thank you.

Jaye Monter
City Treasurer/Finance Director
City of Grand Island
308-385-5444 ext. 169
308-385-5565 fax
jmonter@grand-island.com

From: Jaye Monter
Sent: Tuesday, November 13, 2012 2:34 PM
To: Council C Haase
Cc: Electeds
Subject: RE: Claim on Police Pension Inquiry

Hi Chuck,

Sorry, I took so long, eleven auditors arrived at our doorsteps this morning.

The claim to Wells Fargo Advisors on behalf of retiring pre-1984 officer Kerry Cole

represents an accounting transaction of pension contribution expense of \$458,919.35 and other revenue of \$359,000 to the Police Reserve fund for a cash payout of \$99,919.35 out of the Police Reserve 805 Fund. Mr. Cole was one of the eight remaining pre-1984 hired police officers that are referred to in the Police Reserve fund 805 on page 189 in the budget book under the Pension and Trust Fund tab.

The contribution of \$458K represents the difference between the amount in the retiring police officers Wells Fargo pension account and the cost to the City to provide the pre-1984 officer with the statutory minimum benefits described under Neb. Rev. Stat. Sections 16-1001 through 16-1019 known as the Police officers Retirement Act for retiring officers who were employed before 1984.

Pension contributions of Police officers who leave employment before fully vested are transferred to a separate Wells Fargo unallocated retirement account. The city may use these unallocated funds if they are transferred directly to the retiree's account which according to our Police Officers' Retirement Plan representative Greg Anderson avoids the legal issue of a prohibited reversion of plan assets to the employer.

In the 2013 budget we have a transfer budgeted from the General Fund to the Police Reserve Fund of \$100,000 to cover retiree contributions.

Hope that makes sense on the accounting transactions shown below in the schedule of bills. If you need additional details about our plan, I'll have to contact our Wells Fargo plan representative Greg Anderson. Thank you.

74795 OTHER REVENUE

10 2967 WELLS FARGO ADVISORS KERRY COLE-PRE 84 RETIREMENT POLICE PLAN NOV 2012 174891 (359,000.00)

85480 UNALLOCATED RESERVE CONTR

10 2967 WELLS FARGO ADVISORS KERRY COLE-PRE 84 RETIREMENT POLICE PLAN NOV 2012 174891 458,919.35

80551401 Org Total 99,919.35

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From: Council C Haase
Sent: Monday, November 12, 2012 8:08 PM

To: Jaye Monter
Cc: Electeds
Subject: Claim on Police Pension Inquiry

Jaye,

I see we have a claim for \$458,919.35 (see below) Would you please summarize this claim for me and perhaps other council members. It has the appearance of the city contribution of near a half a million for 1 police officer retirement. So wanted to ask to be sure my understanding is accurate or not.

Thanks for your help clarifying.

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85480 UNALLOCATED RESERVE CONTR
10 2967 WELLS FARGO ADVISORS KERRY COLE-PRE 84 RETIREMENT POLICE PLAN NOV 2012 174891 458,919.35

Council Haase

From: [Council C. Haase](#)
To: [Robert Sivick](#); [Jaye Monter](#)
Subject: Pension Reserve Claim - November 13, 2012 meeting - Remedy Requested
Date: Wednesday, November 14, 2012 9:28:58 PM

Bob & Jaye,

During last night's Council meeting, I voted not to approve claim # 85480 on page 143 of the Schedule of Bills to Wells Fargo for \$459,919.35 for the Kerry Cole Retirement from the Police Reserve Fund. The basis of the "No" vote was there was insufficient documentation to support the claim amount at the time.

Preceding the meeting, I had discussions with Jaye on the claim, which is a part of the lump sum police pension payout for retiring Police Sergeant Kerry Cole. I had a discussion with Dick Rabe, a member of the police pension committee, who did not recall any police officer retiring recently.

Several hours before the meeting, I had requested to Jaye that the claim be removed from Council consideration last night so we could work thru the appropriateness of the claim. Jaye assured me that the claim was correct and that the payment had already been made, and she did not pull the claim from Council consideration before or during the meeting.

Additional information was provided today, and a review of the additional information and statute references provided following last night's meeting, I contend the claim is not correct and request the claim to be remedied.

Please advise on the correct process to correct the claim and remedy the Council approved referenced claim from last night.

Council Haase
Ward 5 Representative