Retirement Roundup

"Providing Information to Judges, State Patrol and School Employees"

Nebraska Retirement Systems — Vol. 19, No. 2, Winter 2004

PUBLIC EMPLOYEES' RETIREMENT BOARD

Charles Peters
Chairperson
Member-at-large

Julia Moeller
Vice Chairperson
County Employee

Denis Blank
State employee

William Hastings
Retired Member

Position Vacant
Member-at-large

Position Vacant
School Employee

Roger U. Rea
Member-at-large

Carol Kontor
Ex-officio member

In this issue...

Compensation Clarification

Last fall NPERS met with a group of school business managers and superintendents to discuss how compensation for retirement purposes is determined in the **School Plan**. The definition of compensation in Nebraska Statutes is clear; however, in practice the issue can be confusing. Many schools misunderstand how to treat fringe benefits and Section 125 payroll deductions when calculating retirement contributions. NPERS has addressed this with employers each year in educational workshops and will continue to do so.

> *"Compensation... means gross wages or salaries payable to the member for personal services performed during the plan year."*

"Compensation" as defined in the School Employees Retirement Act (§79-902 (35)) "means gross wages or salaries payable to the member for personal services performed during the plan year."

Compensation *includes*:
- Overtime pay
- Member retirement contributions
- Wages ordered paid in legal proceedings
- Amounts contributed to:
  - §125 – Cafeteria Plans
  - §403(b) – Tax Sheltered Annuities
  - §457 – Deferred Compensation Plans

Compensation *excludes*:
- Amounts fraudulently obtained
- Unused leave converted to cash
- Insurance premiums converted to cash
- Expense reimbursements
- Fringe benefits
- Bonuses (service not rendered)
  - early retirement inducements
  - cash awards
  - severance pay

Also, some school districts have a Section 125 plan to make tax-free payroll deductions for employees, such as medical reimbursement accounts, dependent care accounts and health insurance premiums. Many schools give employees an agreed upon fringe dollar amount that can be used at the discretion of the employee within a Section 125 plan or in other tax deferred vehicles such as Section 403(b) annuity programs as well as a cash option.

"Fringe benefits" not covered by a Section 125 plan, including personal travel allowance, an expense reimbursement allowance, payment of association dues, etc., are **not** included in the definition of "compensation" for retirement purposes and therefore cannot be reported as compensation.

Regrettably, NPERS has uncovered attempts by individual members using employment contracts to convert benefits traditionally paid by a school district into compensation immediately prior to retirement in order to "enhance" his/her retirement benefit. This, in effect, passes the cost of those enhanced benefits on to the rest of the School Plan membership since the member himself has not fully paid for those benefits prior to retirement.

NPERS recently adopted a policy and issued instructions to all school officials outlining the importance of *consistency* within school districts in the treatment of compensation and deductions, and preventing individual employees from attempting to "spike" compensation, i.e. unlawful enhancements to their retirement benefit.

- The School employer must be *consistent* in the reporting of compensation for **all** employees. If the majority of employees have

(Cont. on page 4)

Behind the Scenes

Project Team

Over the past few years, NPERS has been designing and implementing a new technology plan. The PIONEER project is advancing on schedule, primarily due to the employees that make up our Project Team.

The Project Team was established in 2000 to oversee the process and changes necessary to implement such a detailed project, as well as be a liason between NPERS and Covansys, the company hired to develop the system. The Team is made up of a Project Manager and four long-time NPERS employees that were selected for the project by our director.

Pat, the Project Manager, was hired for his expertise in computer technology as well as his experience in project management. After being with our agency just one year, Pat was awarded the 2003 Manager of the Year. His sense of humor and leadership abilities have made him a great asset to our agency.

Tammy has been with NPERS since 1986, when she began working with the School Plan. She later became a Refund Specialist and then in 1998 accepted a position working with the Judge, Patrol, State, County and Deferred Compensation Plans. Tammy's primary responsibilities for the project include overseeing refund, employee reporting and benefits procedures. Her knowledge and sense of responsibility make her an indispensable part of the Team.

Back Row, L to R; Pat, Dean. Front Row, L to R; Jayme, Tammy and Norene

Dean also began working for NPERS in 1986 as the agency Information Technician. He continues to be the primary "problem solver" when it comes to the computers in the office. Dean is responsible for procedures regarding estimates and purchases of service as well as various technical issues on the project. His computer expertise and willingness to help his coworkers make Dean essential to the Project Team.

Jayme came to NPERS from another state agency in 1987. She began in our Microfilm/Records department where she worked with the design and implementation of new technology projects. She then accepted a position as a School Retirement Specialist. Jayme is currently managing procedures for the project regarding qualified domestic relations orders and enrollments as well as monitoring the interface between PIONEER and State and County record-keepers. She brings a vast array of knowledge to the Team and is a prime team player.

Norene recently joined the Project Team. She started with NPERS in 1997 in our Accounting department and after completing special IT training in 2000, worked in our Data Services department assisting with computer technology. She continues to use her training to aid the Project Team in implementing the web portion of the project. Norene has been a welcome addition to the Team.

The PIONEER project is no small task and would not be possible without the work of these special people. Each member of our Project Team has risen to the occasion and truly live up to the title of Team!

PIONEER Progress

Progress continues on NPERS' technology plan. PIONEER, our new automated member account management system, reached another milestone last month. On January 12, "Benefits Processing," the second major phase of PIONEER, began its initial implementation. Testing and fine tuning will continue through the following months as our staff strive to realize the full potential of PIONEER. With this installment, NPERS has moved one step closer to our goal of a "paperless" environment.

Starting with this stage of development, NPERS is now using PIONEER to process incoming retirement applications, requests to purchase Optional Service Credit and creating payments for alternate payees. Outgoing correspondence is generated using established templates and automatically printed for mailing. If additional information is needed, applications can be pended or stored electronically until the information is received. In short, this phase of PIONEER, when completed, will improve how NPERS receives, assigns, and processes all of our benefits processing workload.

Future goals for PIONEER include continued modifications to NPERS' web site, most notably the secure log-on sections available to plan participants. Currently members are able to create secure accounts but these sections of the web site have not been modified to fully meet the needs of our members. In addition, NPERS will be adding new benefit estimators for **School**, **Judges'** and **State Patrol Plan** members. These estimators will allow members to calculate estimated monthly benefit amounts under each of the annuity options available to them at retirement.

As NPERS continues to implement PIONEER, we anticipate further reductions in processing time and greater efficiency. Our goal is to streamline the retirement processs for all our plan participants. ❑

Legislative Update

The ten days of bill introduction came to an end Wednesday, January 21, 2004, and a number of legislative bills with implications for Nebraska's Retirement Systems are now before the Legislature. At the time this is being written, committees are still hearing new bills. The session is scheduled to end April 15, 2004, and ***NPERS will update the progress of this legislation in the next Retirement Roundup***. The new legislation includes the following:

LB 960 and **LB 1115**: Change the makeup of the Public Employees Retirement Board (the board which oversees NPERS). LB 960 would change one of the public members of the seven-member board to that of a member from a retirement system administered by the PERB. LB 1115 would increase the number of Board members to nine and specify one member be retired, one a Judge, one a State Patrol, one a County, one a State, three members from the School Plan, and one a public member.

LB 961: Eliminates the certified mailing of **School Plan** member statements to first class mail, saving about $166,000 each biennium. The bill was advanced to General File January 21.

LB 1080: Clarifies that the annuity provision in §79-514 of state law does not permit **school districts** to individually institute 401(a) retirement plans.

LB 1081: Provides for forfeiture of contributions and clarifies that salary spiking in the **School Plan** is a misdemeanor under the fraud provision of §79-949.

LB 1097: Cleans up various provisions of retirement statutes (NPERS' agency technical bill). This bill was selected by the Retirement Committee as its priority bill.

LB 1098: Adds provisions for **State Patrol** death benefits to cover two situations not addressed previously.

(Cont. on page 4)

LEGAL CORNER

by NPERS Legal Counsel,
Joe Schaefer

Minimum Distribution Rules

The federal government grants favorable tax treatment to employers and employees to provide pension benefits for employees. While supporting the provision of retirement plans, Congress has made clear that it only wishes to support genuine pension plans—not estate planning tools to defer or escape taxation. (The money in pensions is contributed on a pre-tax basis, and earnings on the accounts are also tax-deferred.) Because of those concerns, Congress has enacted rules requiring distributions from retirement accounts. These are commonly referred to as the Minimum Distribution Rules or Required Minimum Distributions (RMD).

When you reach age 70½, you are required to begin taking payments from your tax qualified retirement plans (retirement plans under IRC sections 401(a), 403(b), 457, and IRAs, including SEP and SIMPLE plans). Payments can be deferred no later than April 1 of the year after you reach 70½. The IRS has created three tables based on life expectancies to govern how quickly funds must be distributed: one for retirement plan beneficiaries, one for members who are married to a spouse who is more than ten years younger (distributions are spread out over more years so the RMD amount is lower), and one for members who are single or whose spouse is within ten years of their age (Uniform Lifetime Tables).

There are some exceptions to the RMD rules: if you are still working, you can wait until you actually retire to begin distributions; if you have already withdrawn the minimum required amount in the year you turned 70½ or earlier than April 1, you don't have to make another withdrawal until year end (all withdrawals thereafter must meet the IRS mandated amounts); and Roth IRAs aren't covered (taxes have already been paid on Roth contributions).

The penalty for failing to meet the RMD requirements is 50% of the amount required to be distributed, so it is very important to follow the rules. (Note: the RMD rules allow you to take out more than the required amount, but not less.) The RMD rules control distributions, and penalties for failing to heed are severe, so your retirement planning must take the rules into consideration.

Further information on RMD is available in *IRS Publication 575, Pension & Annuity Income*, and *IRS Publication 590, Individual Retirement Arrangements* for those wishing to learn more.

Spring 2004 Seminar Calendar

Omaha	-	February 11	Omaha	-	March 31
Lincoln	-	February 12	Columbus	-	April 1
Lincoln	-	February 18	Kearney	-	April 6
Omaha	-	February 19	Grand Island	-	April 7
S. Sioux City	-	March 3	Valentine	-	April 21
Norfolk	-	March 4	Norfolk	-	April 22
Lincoln	-	March 10	Scottsbluff	-	April 27
Omaha	-	March 11	Scottsbluff	-	April 28
Kearney	-	March 17	North Platte	-	May 12
Grand Island	-	March 18	McCook	-	May 13
Lincoln	-	March 24	Omaha	-	May 19
Omaha	-	March 25	Lincoln	-	May 20

Legislative Update *(Continued)*

LB 1132: Changes the procedure for claims made on the service annuity benefit for members of the **Class V** (**Omaha**) School Retirement System.

LB 1208: Provides two benefit enhancements for the **Judges' Plan**, a 100% joint and survivor death benefit and a subsidized early retirement benefit, for new members and for current members who opt to increase their contribution rate.

Carryover Legislation:

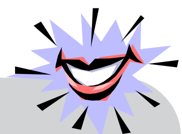
In addition to the new bills, several bills have carried over from the first session of the Legislature and may see some activity this session. Those bills include:

LB 514: Provides for an increased contribution rate for the **State Patrol Plan.**

LB 544: Provides for an increase in the **School Plan** contribution rate. The bill is unlikely to come out of committee as an additional contribution is not needed this year.

LB 679: Provides for benefit enhancements (survivor benefit and subsidized early retirement) for **Judges' Plan** members.

LR 21CA: Proposes a constitutional amendment to allow special classes of persons for retirement purposes. The resolution was introduced on behalf of some *retired* **School Plan** members. The idea was the subject of an interim study this past summer, and activity in exploring possible solutions continues. The resolution was indefinitely postponed by the Legislature on January 26. ❑

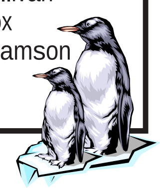


"If you're not using your smile, you're like a man with a million dollars in the bank and no checkbook."

- Les Giblin

RETIREMENT ROUNDUP

Published by
Nebraska Retirement Systems
1221 N Street, Suite 325
P.O. Box 94816
Lincoln, NE 68509-4816
402-471-2053 or **800-245-5712**
www.npers.ne.gov
Director: Anna J. Sullivan
Editor: Jan E. Fox
Asst. Editor: Pam Williamson



Compensation *(Continued)*

negotiated a contract that includes a Section 125 plan where fringe benefits pass through the employee's payroll and thus salary reported to NPERS *includes* these fringe benefits, then all other employees who either negotiate individual contracts or are not covered by a contract are to have compensation reported in the same manner.

- If a majority of the employees within a district **are not** covered by a Section 125 plan and fringe benefits do not pass through payroll, then the salary reported to NPERS is **not** to include these fringe benefits. To be consistent, any individual employee, who has either an individual contract or is not covered by a contract, must have compensation reported in the same manner as the majority of the employees.

- If a school district has consistently paid "other fringe benefits" for certain employees, but later negotiates a contract to *include* the value of those benefits as "salary," this clearly violates the prohibition of "fringe benefits converted to cash." This is disallowed in the definition of "compensation" in the School Retirement Act and therefore the value of other fringe benefits cannot be reported as compensation.

If you have questions, call NPERS at **800-245-5712** or **402-471-2053**. ❑

Nebraska Public Employees Retirement Systems
P.O. Box 94816
Lincoln, NE 68509-4816
85-28-51

PRSRT STD
U.S. POSTAGE
PAID
LINCOLN NE
PERMIT 212