

HOUSE BILL No. 2533

By Committee on Appropriations

2-20

AN ACT concerning retirement; relating to defined benefit and defined contribution plans; amending K.S.A. 2000 Supp. 74-4911 and 74-4917 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 74-4911 is hereby amended to read as follows: 74-4911. (1) *Except as otherwise provided*, any employee of a participating employer other than an elected official on the entry date of such employer shall be a member of the system on either the entry date or the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later. For purposes of this act occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(2) Except as otherwise provided in this subsection *and subsection (8)*, any employee other than an elected official who is employed by a participating employer after the entry date of such employer shall be a member of the system on the first day of the payroll period coinciding with or following completion of one year of continuous service. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in continuous service for purposes of determining the membership date of such employee. For purposes of this subsection, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the one year of continuous service requirement contained in this subsection.

(3) Any employee who is an elected official and is eligible to join the system shall file, within 90 days after taking the oath of office, an irrevocable election to become or not to become a member of the system. Such election shall become effective immediately upon making such election, if such election is made within 14 days of taking the oath of office or, otherwise, on the first day of the first payroll period of the first quarter

1 following receipt of the election in the office of the retirement system.
2 In the event that such elected official fails to file the election to become
3 a member of the retirement system, it shall be presumed that such person
4 has elected not to become a member.

5 (4) Except as otherwise required by USERRA, any employee other
6 than an elected official who is in military service or on leave of absence
7 on the entry date of such employee's employer shall become a member
8 of the system upon returning to active employment or on the first day of
9 the payroll period coinciding with or following the completion of one year
10 of service, whichever is later. For purposes of this act, occasional breaks
11 in service which shall not exceed an aggregate of 10 days in any such year
12 shall not constitute a break in service for purposes of determining the
13 membership date of such employee.

14 (5) Any employee of the state of Kansas other than an elected official,
15 who is receiving or is eligible for assistance by the state board of regents
16 in the purchase of a retirement annuity under K.S.A. 74-4925, and
17 amendments thereto, and who becomes ineligible for such assistance be-
18 cause such employee's position is reclassified to a position in the classified
19 service under the Kansas civil service act, or who becomes ineligible for
20 such assistance because such person accepts and transfers to a position
21 in the classified service under the Kansas civil service act shall be a mem-
22 ber of the system on the first day of the payroll period coinciding with or
23 following the effective date of such reclassification or transfer. Any such
24 employee who became ineligible for such assistance prior to the effective
25 date of this act because of such a reclassification or such a transfer oc-
26 ccurring prior to the effective date of this act and who is not a member of
27 the system on the effective date of this act shall be a member of the
28 system on the first day of the payroll period coinciding with or following
29 the effective date of this act.

30 (6) Any employee of the state board of regents or of an educational
31 institution under its management, other than an elected official, who is a
32 member of the system and who becomes ineligible to be a member of
33 the system because such employee's position is reclassified to a position
34 under the Kansas civil service act which is eligible for assistance by the
35 state board of regents in the purchase of a retirement annuity under
36 K.S.A. 74-4925 and amendments thereto, or who becomes ineligible to
37 be a member of the system because such employee transfers to a position
38 under the Kansas civil service act which is eligible for such assistance,
39 shall become eligible for such assistance in accordance with the provisions
40 of K.S.A. 74-4925 and amendments thereto, unless such employee files
41 a written election in the office of the retirement system, in the form and
42 manner prescribed by the board of trustees thereof, to remain a member
43 of the system prior to the first day of the first complete payroll period

1 occurring after the effective date of such reclassification or transfer. Fail-
2 ure to file such written election shall be presumed to be an election not
3 to remain a member of the system and to become eligible for assistance
4 by the state board of regents in the purchase of a retirement annuity
5 under K.S.A. 74-4925 and amendments thereto. Such election, whether
6 to remain a member of the system or to become eligible for such assis-
7 tance, shall be effective as of the effective date of such reclassification or
8 transfer, and shall be irrevocable.

9 (7) Any elected official who at the time of becoming an elected official
10 is already a member of the system by being or having been an employee
11 of a participating employer shall continue as a member of the system.

12 (8) *Any employee of a participating employer who first becomes an*
13 *employee of a participating employer on and after July 1, 2002, shall file,*
14 *within 90 days after first being an employee, an irrevocable election to*
15 *participate in the retirement plan provided in K.S.A. 74-4901 et seq., and*
16 *amendments thereto, or to participate in a retirement plan as provided*
17 *in section 3, and amendments thereto. In the event that such employee*
18 *fails to file the election provided in this subsection, it shall be presumed*
19 *that such employee has elected to participate in the retirement plan pro-*
20 *vided in K.S.A. 74-4901 et seq., and amendments thereto.*

21 Sec. 2. K.S.A. 2000 Supp. 74-4917 is hereby amended to read as
22 follows: 74-4917. (1) Upon termination of employment with a participat-
23 ing employer, not followed by employment with such participating em-
24 ployer or another participating employer within 30 days of such termi-
25 nation, the member shall be paid an amount equal to the member's
26 accumulated contributions then on deposit with the system after making
27 application in such form as may be prescribed by the board, except that
28 the system shall have a reasonable time to process the application for
29 withdrawal. The participating employer shall, upon giving a terminated
30 employee a withdrawal application, certify to the system all member con-
31 tributions which have not been reported previously. In the case of a death
32 of an active member, the participating employer shall certify to the system
33 all member contributions which have not been reported previously and
34 remit such contributions if the participating employer has not submitted
35 a monthly remittance for the terminating quarter. The participating em-
36 ployer shall be responsible to the system for any overpayment or under-
37 payment of member contributions made by the system relating to a with-
38 drawal of accumulated contributions or a death of an active member
39 which is due to an inaccurate certification of all member contributions
40 which have not been reported to the system as required by this section
41 made by the participating employer. A leave of absence, a period of total
42 disability or military service shall not be considered a termination of em-
43 ployment unless the member withdraws accumulated contributions.

1 (2) Except as otherwise provided by this subsection *and section 3,*
2 *and amendments thereto, on and after July 1, 2002, if a member has*
3 *completed seven years of credited service such member's retirement ben-*
4 *efit shall be 50% vested and if such member has completed 10 years of*
5 *credited service at date of termination, such member automatically shall*
6 *be granted a fully vested retirement benefit in the system, except that at*
7 *any time prior to the commencement of retirement benefit payments the*
8 *member may withdraw accumulated contributions, whereupon no other*
9 *benefits shall be payable for such member's prior and participating service*
10 *credit. For purposes of this subsection, any employee of a local govern-*
11 *mental unit which has its own pension plan who becomes an employee*
12 *of a participating employer as a result of a merger or consolidation of*
13 *services provided by local governmental units, which occurred on January*
14 *1, 1994, may count service with such local governmental unit in deter-*
15 *mining whether such employee has met the 10 years of credited service*
16 *for vesting requirement contained in this subsection. Eligibility of such*
17 *member for retirement benefits and procedures for making application*
18 *for retirement benefits shall be in accordance with K.S.A. 74-4914 and*
19 *amendments thereto. Such member shall make application for retirement*
20 *in such form as may be prescribed by the board and retirement benefits*
21 *shall accrue from the first day of the month following receipt of such*
22 *application. The amount of the retirement benefit shall be determined as*
23 *provided in K.S.A. 74-4915 and amendments thereto. For any member*
24 *who first become an employee of a participating employer on and after*
25 *July 1, 2002, and any member who elects to participate in the defined*
26 *benefit-defined contribution plan as provided by law and in section 3, and*
27 *amendments thereto, such member shall be granted a vested retirement*
28 *benefit as follows: (a) Upon completion of three years of credited service,*
29 *such member's retirement benefit shall be 20% vested; (b) upon comple-*
30 *tion of four years of credited service , such member's retirement benefit*
31 *shall be 40% vested; (c) upon five years of credited service, such member's*
32 *retirement benefit shall be 60% vested; (d) upon six years of credited*
33 *service, such member's retirement benefit shall be 80% vested; and (e)*
34 *upon seven years of credited service, such member's retirement benefit*
35 *shall be fully vested.*

36 (3) Termination of employment of a member, followed by employ-
37 ment with a participating employer within five years after such termina-
38 tion, does not constitute a break in continuous employment if such mem-
39 ber has not withdrawn accumulated contributions. Such period while not
40 employed shall not be credited.

41 (4) If, after the expiration of five years following the termination of
42 employment, a former member becomes an employee of such former
43 member's former participating employer, or another participating em-

1 ployer, such former member shall be deemed to be a new employee. If
2 a member, who has a vested benefit again becomes an employee of a
3 participating employer, any credited service such member subsequently
4 accrues shall be added to that which had been vested by virtue of previous
5 service. Eligibility of such member for retirement benefits and proce-
6 dures for making application for retirement benefits shall be in accord-
7 ance with K.S.A. 74-4914 and amendments thereto.

8 New Sec. 3. (a) Except as otherwise provided, the board of trustees
9 of the Kansas public employees retirement system shall provide and ad-
10 minister a defined contribution retirement plan and a defined benefit-
11 defined contribution plan for officers and employees first employed on
12 and after July 1, 2002, by an eligible employer of the system. The defined
13 contribution retirement plan and the defined contribution part of the
14 defined benefit-defined contribution retirement plan shall qualify as de-
15 fined contribution plans under section 401(a) of the federal internal rev-
16 enue code of 1986, as amended. The defined contribution retirement plan
17 and the defined contribution part of the defined benefit-defined contri-
18 bution retirement plan shall provide retirement and death benefits for
19 participants through the purchase of financial retirement products for
20 their individual accounts, including fixed or variable annuities and mutual
21 funds, and shall be implemented upon the effective date of this act. Ex-
22 cept for the defined benefit part of the defined benefit-defined contri-
23 bution retirement plan participation in the retirement plans offered pur-
24 suant to this section shall be in lieu of the Kansas public employees
25 retirement system as in effect prior to the effective date of this act.

26 (b) Each such officer or employee covered by the provisions of this
27 act shall elect to be a member of the Kansas public employees retirement
28 system as provided in K.S.A. 74-4901, *et seq.*, and amendments thereto
29 or to participate in the defined contribution retirement plan or the de-
30 fined benefit-defined contribution retirement plan offered pursuant to
31 this section. If such election is not filed by the member, such member
32 shall be a member of the Kansas public employees retirement system as
33 in effect prior to the effective date of this act. Coverage in the defined
34 contribution retirement plan and the defined benefit-defined contribu-
35 tion plan is effective immediately upon the officer or employee making
36 such an election to participate.

37 (c) Officers and employees covered by the provisions of this section
38 shall contribute an amount for each payroll period equal to 4% of such
39 officer's or employee's compensation. The state of Kansas and each other
40 participating employer shall contribute to each officer's or employee's
41 account for each payroll period the amount that would have been con-
42 tributed to the Kansas public employees retirement system on behalf of
43 such officer or employee as provided pursuant to K.S.A. 74-4920, and

1 amendments thereto, or any other applicable provision of law related to
2 employer contributions made pursuant to the Kansas public employees
3 retirement system and systems thereunder. Contributions to the defined
4 contribution retirement plan or the defined benefit-defined contribution
5 retirement plan shall be made through payroll deductions on a pre-tax
6 basis and shall not be subject to taxation until distribution is actually made
7 to or on behalf of the officer or employee. If an officer or employee has
8 the opportunity, through such person's employer, to participate in a tax
9 sheltered annuity plan authorized under section 403(b), a deferred com-
10 pensation plan authorized under section 457, or a cash or deferred ar-
11 rangement available pursuant to section 401(k) of the federal internal
12 revenue code, as amended, such person, through salary reduction or de-
13 duction, may make additional contributions on a pre-tax basis to such
14 other plan, subject to federal limitations.

15 (d) Officers or employees who elect to participate in the defined con-
16 tribution retirement plan shall be granted an immediate fully vested re-
17 tirement benefit in such defined contribution retirement plan. Officers
18 or employees who elect to be covered under the defined benefit-defined
19 contribution plan, shall be granted a vested retirement plan as follows:
20 (1) Upon completion of three years of credited service, such member's
21 retirement benefit shall be 20% vested; (2) upon completion of four years
22 of credited service, such member's retirement benefit shall be 40%
23 vested; (3) upon five years of credited service, such member's retirement
24 benefit shall be 60% vested; (4) upon six years of credited service, such
25 member's retirement benefit shall be 80% vested; and (5) upon seven
26 years of credited service, such member's retirement benefit shall be fully
27 vested.

28 (e) Any officer or employee covered by the provisions of this section
29 shall be eligible for the death and disability benefit provided in K.S.A.
30 74-4916, and amendments thereto, and the death benefit, optional death
31 benefit and long-term disability benefit as provided in K.S.A. 74-4927,
32 and amendments thereto. The cost of such officer's or employee's partic-
33 ipation shall be paid by such officer's or employee's participating em-
34 ployer as provided in K.S.A. 74-4927, and amendments thereto.

35 (f) The board shall administer the defined contribution retirement
36 plan and the defined benefit-defined contribution retirement plan offered
37 pursuant to this section and shall establish rules and regulations for the
38 administration of the plans. The board shall provide a range of retirement
39 products and investment opportunities for the employee's contributions
40 under the defined benefit-defined contribution retirement plan and for
41 the defined contribution retirement plan.

42 (g) (1) For those members who elect to participate in the defined
43 benefit-defined contribution retirement plan pursuant to subsection (b),

1 the defined benefit part of such plan of the member shall be administered
2 by and be subject to the provisions of K.S.A. 74-4901 *et seq.*, and amend-
3 ments thereto, and the board shall direct all investment of the employer's
4 contributions made on such member's behalf as provided by law. For the
5 defined contribution part of the plan, the member shall direct the in-
6 vestment of the member's contributions from the retirement products
7 and services offered by the system as provided pursuant to subsection (f).

8 (2) For those members who elect to participate in the defined con-
9 tribution plan pursuant to subsection (b), the member shall direct the
10 investment of both the member's contributions and the employer's con-
11 tributions from the retirement products and services offered by the sys-
12 tem as provided pursuant to subsection (f).

13 (h) Notwithstanding any provision of law to the contrary, the board
14 shall compile a list of names and addresses and maintain direct personal
15 contact and communication with each member of the Kansas public em-
16 ployees retirement system and each officer or employee who elects to
17 participate in the defined contribution retirement plan and the defined
18 benefit-defined contribution retirement plan as provided by this act.

19 (i) The joint committee on pensions, investments and benefits shall
20 periodically review the companies selected to offer retirement products
21 under the defined contribution retirement plan and the defined benefit-
22 defined contribution retirement plan and the services provided and re-
23 sults achieved by them to assure that the purposes of the plan are being
24 met.

25 (j) Except as provided in section 4, and amendments thereto, the
26 provisions of this section shall not apply to members of the Kansas public
27 employees retirement system employed prior to July 1, 2002, and mem-
28 bers of the Kansas police and firemen's retirement system and the re-
29 tirement system for judges.

30 (k) The provision of this section shall be part of and supplemental to
31 the provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto.

32 New Sec. 4. Any member who was a member of the system prior to
33 July 1, 2002, and who has 10 years of credited service, shall file, an irrev-
34 ocable election to participate in the defined contribution retirement plan
35 as provided in section 3, and amendments thereto for the member's con-
36 tributions made on and after July 1, 2002. In the event that the member
37 fails to file the election provided in this section, it shall be presumed that
38 such member has elected to not participate in such defined contribution
39 plan. The provisions of this section shall not apply to any contributions
40 made by the member's employer nor to any contributions made by the
41 member prior to attaining 10 years of credited service which shall con-
42 tinue to be subject to the provisions of K.S.A. 74-4901 *et seq.*, and amend-
43 ments thereto.

1 Sec. 5. K.S.A. 2000 Supp. 74-4911 and 74-4917 are hereby repealed.

2 Sec. 6. This act shall take effect and be in force from and after July
3 1, 2002, and its publication in the statute book.

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