

SENATE BILL No. 509

AN ACT relating to state officers and employees; relating to compensation benefits and periods of reduced or suspended compensation; amending K.S.A. 74-49,115, 75-5521, 75-5523, 75-5524, as amended by section 10 of 2002 Senate Substitute for House Bill No. 2621, 75-5530 and 75-5531 and K.S.A. 2001 Supp. 75-5525 and repealing the existing sections.

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

Section 1. K.S.A. 74-49,115 is hereby amended to read as follows: 74-49,115. (a) When the ~~rate of~~ compensation for any officer or employee of the state, *who retires, becomes disabled or dies during the period commencing on the effective date of this act and ending June 30, 2007*, is reduced pursuant to law ~~or~~, when such officer or employee voluntarily agrees to reduce such officer or employee's ~~rate of~~ compensation ~~for the period commencing on January 1, 1987, and ending on June 30, 1987, or when any officer or employee of the state is placed on a furlough without pay~~, the amount of ~~salary which~~ compensation that would have been paid if the rate of compensation had not been reduced *or if the officer or employee had not been placed on the furlough* shall continue to be included as compensation for all purposes of computing retirement and pension benefits and death and disability benefits as provided in article 26 of chapter 20 and article 49 of chapter 74 of the Kansas Statutes Annotated earned by such ~~salary~~ officer or employee as provided by the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges. Subject to the approval of the secretary of administration, the director of accounts and reports shall prescribe procedures for the payment and remittance of employer and employee contributions by the state agency employing such employees. *The board shall administer the provisions of this section, with the cooperation of the director of personnel services.*

(b) The provisions of subsection (a) shall not be applicable to ~~salary~~ compensation reductions attributable to: (1) Voluntary demotions of employees in the classified service; (2) deferred compensation pursuant to the plan authorized by K.S.A. 75-5523 and amendments thereto; or (3) to ~~salary~~ compensation reductions attributable to the cafeteria plan authorized by K.S.A. 75-6512 and amendments thereto.

(c) For the purposes of this section, "officer" and "employee" means any officer or employee of the state, any member of the legislature or any employee of an institution under the supervision of the board of regents.

Sec. 2. K.S.A. 75-5521 is hereby amended to read as follows: 75-5521. As used in this act:

(a) "Beneficiary" means any person designated to receive benefits under a deferred compensation plan.

(b) "Deferred compensation plan" means a plan developed and approved as provided in this act and under which ~~an employee sets aside a specified amount of salary or compensation which may not be subject to state or federal taxation until receipt thereof by the employee under stated conditions in the future~~ a participant elects to defer, transfer or rollover amounts as permitted by the plan.

(c) "Director" means the director of accounts and reports.

(d) ~~"Employee" means any person who is an elected or appointed officer or any employee of the state in the classified service or unclassified service under the Kansas civil service act, other than persons who are employed on a seasonal or temporary basis.~~

~~(e) "Participant" means an eligible employee who has entered into an agreement with the director as provided in K.S.A. 75-5524, to defer an amount of the employee's salary or compensation under the Kansas public employees deferred compensation plan.~~

(f) "State" means the state of Kansas and any state agency as defined in subsection (3) of K.S.A. 75-3701, *and amendments thereto.*

Sec. 3. K.S.A. 75-5523 is hereby amended to read as follows: 75-5523. (a) The director is authorized to establish a deferred compensation plan in accordance with ~~the federal revenue act of 1978, Public Law No. 95-600 section 457 of the federal internal revenue code of 1986, and amendments thereto~~, subject to the approval of the secretary of administration. Such plan shall be the Kansas public employees deferred compensation plan. All powers and duties heretofore conferred by such plan upon the advisory committee on deferred compensation are hereby transferred to the director of personnel services or the director's designees.

(b) The director may enter into an agreement or agreements with

approved insurers or other contracting parties whereby benefits under the Kansas public employees deferred compensation plan would be made available to ~~those participants who contract with the director for deferred compensation under K.S.A. 75-5524, and amendments thereto.~~ In addition, the director may enter into an agreement with one or more qualified private firms for consolidated billing services, participant enrollment services, participant accounts and other services related to the administration of the Kansas public employees deferred compensation plan.

(c) No significant costs shall be incurred by the state as a result of the administration of this act unless such costs are recovered by charging and collecting a service charge from all participants and in addition thereto or in lieu thereof, where the director has entered into agreements with one or more qualified private firms under subsection (b), are recovered from such firms. The amount of any such significant costs incurred and to be recovered by the state shall be determined by the director.

(d) Subject to the approval of the secretary of administration, the director is authorized to negotiate and enter into contracts with qualified insurers and other contracting parties for the purposes of establishing a deferred compensation plan, including acquisition of actuarial and other services necessary therefor. The director shall advertise for deferred compensation proposals, shall negotiate with not less than three firms or other contracting parties submitting such proposals, and shall select from among those submitting such proposals the firm or firms or other contracting party or parties to contract with for purposes of establishing a deferred compensation plan. Contracts entered into under this act shall not be subject to K.S.A. 75-3739 and amendments thereto.

Sec. 4. K.S.A. 75-5524, as amended by section 10 of 2002 Senate Substitute for House Bill No. 2621, is hereby amended to read as follows: 75-5524. (a) The director is authorized to enter into a voluntary agreement with any employee whereby the director agrees to defer and deduct each payroll period a portion of the employee's salary or compensation from the state in accordance with the Kansas public employees deferred compensation plan. Such agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to subsection (c) of K.S.A. 75-5523, and amendments thereto, as a result of the administration of this act. Pursuant to this act and such agreements the director is authorized to deduct amounts authorized in such agreements from the salary or compensation of such employee each payroll period, as part of the system of regular payroll deduction. On and after July 1, 2002, pursuant to section 401(a) of the federal internal revenue code, the director may establish a qualified plan under which the state may contribute a specified amount, subject to appropriations, to the deferred compensation plan for state employees who have entered into a voluntary agreement with the director under this section.

(b) The minimum amount and the maximum amount which may be deferred in any one payroll period shall be established by rules and regulations adopted under K.S.A. 75-5529, and amendments thereto.

(c) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by ~~an employee~~ *a participant* under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(d) Any amount of the employee's salary or compensation that is deferred under such authorized agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, but any sum deferred or deducted shall not be subject to any state or local income taxes for the year in which such sum is earned but shall be subject to applicable state and local income taxes for the year in which such sum is received by the employee.

(e) The director is hereby authorized to establish a deferred compensation clearing fund in the state treasury in which shall be placed temporarily all compensation deferred, deducted or contributed in accordance with this act, as provided for in any agreement between ~~an employee~~ *a participant* and the director.

Sec. 5. K.S.A. 2001 Supp. 75-5525 is hereby amended to read as follows: 75-5525. (a) All moneys which are deferred ~~and, deducted by the director~~ *transferred or rolled-over* in accordance with the provisions of ~~an agreement entered into under K.S.A. 75-5524, and amendments thereto~~ *the deferred compensation plan*, and the provisions of this act, ~~shall remain assets of the state,~~ shall be held *in trust* in accordance with section 457 of the federal internal revenue code of 1986, and amendments thereto, for the exclusive benefit of participants and their beneficiaries, and shall be disposed of in accordance with the terms of the agreement ~~between the employee and the director~~ *with the participant*. ~~The obligation of the state to the employee and approved insurers or other contractors shall be a contractual obligation only and no preferred or special interest in the deferred moneys shall accrue to such employee or to such approved insurer or other contractor. No part of the assets of the plan may be used for, or diverted to, purposes other than for the exclusive benefit of participants and the participant's beneficiaries and for defraying reasonable expenses of the plan.~~

(b) ~~Contributions~~ *Amounts* payable to the deferred compensation plan pursuant to the plan shall not be subject to any premium tax or other charges arising under the insurance laws of this state. If any such tax or charge has been paid prior to the effective date of this act, the same shall be refunded.

Sec. 6. K.S.A. 75-5530 is hereby amended to read as follows: 75-5530. (a) Upon receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purposes of purchasing United States savings bonds ~~and~~. ~~The director of accounts and reports~~ shall make payments of such amounts in accordance with such authorization and the payroll deduction plan adopted pursuant to subsection (b). Any amounts deducted from the salary or wages of such state employee pursuant to such authorization shall be subject to the maximum and minimum amounts established by rules and regulations adopted pursuant to subsection (c). Any such written authorization may be withdrawn or modified by such state employee upon filing written notice of such withdrawal or modification in the manner and at the times prescribed in rules and regulations adopted pursuant to subsection (c).

(b) The director of accounts and reports shall establish a payroll deduction plan for the purchase of United States savings bonds by state employees. Such plan shall be administered by the director of accounts and reports in accordance with rules and regulations adopted pursuant to subsection (c) and such additional accounting procedures as may be prescribed by the director of accounts and reports.

(c) The secretary of administration, upon the recommendation of the director of accounts and reports, shall adopt rules and regulations as provided in K.S.A. 75-3706, ~~and amendments thereto~~, for the implementation and administration of this act. Such rules and regulations shall include maximum and minimum limitations on the amounts to be deducted from the salary or wages of any state employee and provisions for the modification or withdrawal of any authorization to make periodic deductions for the purchase of United States savings bonds under this act.

(d) As used in this act, the term “state employee” ~~or “employee”~~ means any appointed or elective officer or *any* employee of the state of Kansas ~~whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year.~~

Sec. 7. K.S.A. 75-5531 is hereby amended to read as follows: 75-5531. As used in K.S.A. 75-5531 to 75-5534, inclusive, ~~and amendments thereto:~~

(a) “State employee” ~~or “employee”~~ means any appointed or elective officer or any employee of the state of Kansas ~~whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year;~~ and

(b) “united way organization” means the organization conducting a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable ~~or~~, public health, welfare or service purposes, which commonly is known as the united way. Such term includes the united fund, the community chest or any other organization which serves

in communities or areas of the state where the united way is not organized.

New Sec. 8. (a) The governor is hereby authorized and directed to modify the pay plan for fiscal year 2003 in accordance with this section and to adopt such pay plan as so modified. The existing pay plan for fiscal year 2003 shall be modified to authorize and provide for a recruitment, hiring and retention incentive package by executive directive which may include salary bonus payments and which shall be targeted to critical and specific staffing needs for persons employed as physician assistants, advanced registered nurse practitioners, registered nurses, physical therapists and occupational therapists at department of social and rehabilitation services facilities and persons employed as registered nurses at a state veterans' home operated by the Kansas commission on veterans affairs as described in K.S.A. 76-1901 *et seq.*, and amendments thereto, or K.S.A. 76-1951 *et seq.*, and amendments thereto. The pay plan adopted by the governor under this section shall be the pay plan for the classified service under the Kansas civil service act and such pay plan shall be subject to modification and approval as provided under K.S.A. 75-2938 and amendments thereto.

(b) The provisions of subsection (q) of section 169 of 2002 Senate Bill No. 517 shall not apply to any salary bonus payments under the recruitment, hiring and retention incentive package prescribed by this section that are chargeable to biweekly payroll periods chargeable to the fiscal year ending June 30, 2003.

New Sec. 9. (a) The director of personnel services shall conduct a classification and job rate study of all health care professional and paraprofessional jobs and job classes under the Kansas civil service act to compare salaries among comparable jobs and job classes in both public and private sector entities within the state and within states adjacent to Kansas. The health care professional and paraprofessional jobs and job classes under the Kansas civil service act in such classification and job rate study shall include physician assistants, advanced registered nurse practitioners, registered nurses, physical therapists and occupational therapists. The director of personnel services shall present a report on the results of such classification and job rate study, including any estimates of costs required to implement any findings, to the legislative budget committee during the interim period prior to the 2003 regular session of the legislature and to the committee on appropriations of the house of representatives and the committee on ways and means of the senate at the beginning of the 2003 regular session of the legislature.

(b) Upon request of the director of personnel services, each public and private health care facility located in Kansas shall provide salary survey data for the purposes of the classification and job rate study of all health care professional and paraprofessional jobs and job classes prescribed by this section. Salary and survey data and other information collected pursuant to this section shall be confidential, shall be disseminated only for statistical purposes for the purposes of the classification and job rate study and shall not be disclosed or made public in any manner which would identify individuals.

Sec. 10. K.S.A. 74-49,115, 75-5521, 75-5523, 75-5524, as amended by section 10 of 2002 Senate Substitute for House Bill No. 2621, 75-5530 and 75-5531 and K.S.A. 2001 Supp. 75-5525 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.