

SENATE BILL No. 22

By Joint Committee on Pensions, Investments and Benefits

1-10

9 AN ACT concerning the Kansas public employees retirement system;
10 relating to death and disability benefits; affiliation date of certain em-
11 ployers; amending K.S.A. 2004 Supp. 74-4927 and repealing the ex-
12 isting section.
13

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

15 Section 1. K.S.A. 2004 Supp. 74-4927 is hereby amended to read as
16 follows: 74-4927. (1) The board may establish a plan of death and long-
17 term disability benefits to be paid to the members of the retirement
18 system as provided by this section. The long-term disability benefit shall
19 not be payable until the member has been prevented from carrying out
20 each and every duty pertaining to the member's employment as a result
21 of sickness or injury for a period of 180 days and the annual benefit shall
22 not exceed an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of
23 compensation on the date such disability commenced and shall be payable
24 in equal monthly installments. In the event that a member's compensation
25 is not fixed at an annual rate but on an hourly, weekly, biweekly, monthly
26 or any other basis than annual, the board shall prescribe by rule and
27 regulation a formula for establishing a reasonable rate of annual compen-
28 sation to be used in determining the amount of the death or long-term
29 disability benefit for such member. Such plan shall provide that:

30 (A) For deaths occurring prior to January 1, 1987, the right to receive
31 such death benefit shall cease upon the member's attainment of age 70
32 or date of retirement whichever first occurs. The right to receive such
33 long-term disability benefit shall cease (i) for a member who becomes
34 eligible for such benefit before attaining age 60, upon the date that such
35 member attains age 65 or the date of such member's retirement, which-
36 ever first occurs, (ii) for a member who becomes eligible for such benefit
37 at or after attaining age 60, the date that such member has received such
38 benefit for a period of five years, upon the date that such member attains
39 age 70, or upon the date of such member's retirement, whichever first
40 occurs, (iii) for all disabilities incurred on or after January 1, 1987, for a
41 member who becomes eligible for such benefit at or after attaining age
42 70, the date that such member has received such benefit for a period of
43 12 months or upon the date of such member's retirement, whichever first

1 occurs, and (iv) for all disabilities incurred on or after January 1, 1987,
2 for a member who becomes eligible for such benefit at or after attaining
3 age 75, the date that such member has received such benefit for a period
4 of six months or upon the date of such member's retirement, whichever
5 first occurs.

6 (B) Long-term disability benefit payments shall be in lieu of any ac-
7 cidental total disability benefit that a member may be eligible to receive
8 under subsection (3) of K.S.A. 74-4916 and amendments thereto. The
9 member must make an initial application for social security disability ben-
10 efits and, if denied such benefits, the member must pursue and exhaust
11 all administrative remedies of the social security administration which
12 include, but are not limited to, reconsideration and hearings. Such plan
13 may provide that any amount which a member receives as a social security
14 benefit or a disability benefit or compensation from any source by reason
15 of any employment including, but not limited to, workers compensation
16 benefits may be deducted from the amount of long-term disability benefit
17 payments under such plan. During the period in which such member is
18 pursuing such administrative remedies prior to a final decision of the
19 social security administration, social security disability benefits may be
20 estimated and may be deducted from the amount of long-term disability
21 benefit payments under such plan. Such long-term disability payments
22 shall accrue from the later of the 181st day of total disability or the first
23 day upon which the member ceases to draw compensation from the em-
24 ployer. If the social security benefit, workers compensation benefit, other
25 income or wages or other disability benefit by reason of employment, or
26 any part thereof, is paid in a lump-sum, the amount of the reduction shall
27 be calculated on a monthly basis over the period of time for which the
28 lump-sum is given. In no case shall a member who is entitled to receive
29 long-term disability benefits receive less than \$50 per month. As used in
30 this section, "workers compensation benefits" means the total award of
31 disability benefit payments under the workers compensation act notwith-
32 standing any payment of attorney fees from such benefits as provided in
33 the workers compensation act.

34 (C) The plan may include other provisions relating to qualifications
35 for benefits; schedules and graduation of benefits; limitations of eligibility
36 for benefits by reason of termination of employment or membership;
37 conversion privileges; limitations of eligibility for benefits by reason of
38 leaves of absence, military service or other interruptions in service; lim-
39 itations on the condition of long-term disability benefit payment by reason
40 of improved health; requirements for medical examinations or reports; or
41 any other reasonable provisions as established by rule and regulation of
42 uniform application adopted by the board.

43 (D) On and after April 30, 1981, the board may provide under the

1 plan for the continuation of long-term disability benefit payments to any
2 former member who forfeits the entitlement to continued service credit
3 under the retirement system or continued assistance in the purchase of
4 retirement annuities under K.S.A. 74-4925 and amendments thereto and
5 to continued long-term disability benefit payments and continued death
6 benefit coverage, by reason of the member's withdrawal of contributions
7 from the retirement system or the repurchase of retirement annuities
8 which were purchased with assistance received under K.S.A. 74-4925 and
9 amendments thereto. Such long-term disability benefit payments may be
10 continued until such individual dies, attains age 65 or is no longer dis-
11 abled, whichever occurs first.

12 (E) Any visually impaired person who is in training at and employed
13 by a sheltered workshop for the blind operated by the secretary of social
14 and rehabilitation services and who would otherwise be eligible for the
15 long-term disability benefit as described in this section shall not be eli-
16 gible to receive such benefit due to visual impairment as such impairment
17 shall be determined to be a preexisting condition.

18 (2) (A) In the event that a member becomes eligible for a long-term
19 disability benefit under the plan authorized by this section such member
20 shall be given participating service credit for the entire period of such
21 disability. Such member's final average salary shall be computed in ac-
22 cordance with subsection (17) of K.S.A. 74-4902 and amendments thereto
23 except that the years of participating service used in such computation
24 shall be the years of salaried participating service.

25 (B) In the event that a member eligible for a long-term disability
26 benefit under the plan authorized by this section shall be disabled for a
27 period of five years or more immediately preceding retirement, such
28 member's final average salary shall be adjusted upon retirement by the
29 actuarial salary assumption rates in existence during such period of dis-
30 ability. Effective July 1, 1993, such member's final average salary shall be
31 adjusted upon retirement by 5% for each year of disability after July 1,
32 1993, but before July 1, 1998. Effective July 1, 1998, such member's final
33 average salary shall be adjusted upon retirement by an amount equal to
34 the lesser of: (i) The percentage increase in the consumer price index for
35 all urban consumers as published by the bureau of labor statistics of the
36 United States department of labor minus 1%; or (ii) four percent per
37 annum, measured from the member's last day on the payroll to the month
38 that is two months prior to the month of retirement, for each year of
39 disability after July 1, 1998.

40 (C) In the event that a member eligible for a long-term disability
41 benefit under the plan authorized by this section shall be disabled for a
42 period of five years or more immediately preceding death, such member's
43 current annual rate shall be adjusted by the actuarial salary assumption

1 rates in existence during such period of disability. Effective July 1, 1993,
2 such member's current annual rate shall be adjusted upon death by 5%
3 for each year of disability after July 1, 1993, but before July 1, 1998.
4 Effective July 1, 1998, such member's current annual rate shall be ad-
5 justed upon death by an amount equal to the lesser of: (i) The percentage
6 increase in the consumer price index for all urban consumers published
7 by the bureau of labor statistics of the United States department of labor
8 minus 1%; or (ii) four percent per annum, measured from the member's
9 last day on the payroll to the month that is two months prior to the month
10 of death, for each year of disability after July 1, 1998.

11 (3) (A) To carry out the legislative intent to provide, within the funds
12 made available therefor, the broadest possible coverage for members who
13 are in active employment or involuntarily absent from such active em-
14 ployment, the plan of death and long-term disability benefits shall be
15 subject to adjustment from time to time by the board within the limita-
16 tions of this section. The plan may include terms and provisions which
17 are consistent with the terms and provisions of group life and long-term
18 disability policies usually issued to those employers who employ a large
19 number of employees. The board shall have the authority to establish and
20 adjust from time to time the procedures for financing and administering
21 the plan of death and long-term disability benefits authorized by this
22 section. Either the insured death benefit or the insured disability benefit
23 or both such benefits may be financed directly by the system or by one
24 or more insurance companies authorized and licensed to transact group
25 life and group accident and health insurance in this state.

26 (B) The board may contract with one or more insurance companies,
27 which are authorized and licensed to transact group life and group acci-
28 dent and health insurance in Kansas, to underwrite or to administer or
29 to both underwrite and administer either the insured death benefit or the
30 long-term disability benefit or both such benefits. Each such contract with
31 an insurance company under this subsection shall be entered into on the
32 basis of competitive bids solicited and administered by the board. Such
33 competitive bids shall be based on specifications prepared by the board.

34 (i) In the event the board purchases one or more policies of group
35 insurance from such company or companies to provide either the insured
36 death benefit or the long-term disability benefit or both such benefits,
37 the board shall have the authority to subsequently cancel one or more of
38 such policies and, notwithstanding any other provision of law, to release
39 each company which issued any such canceled policy from any liability
40 for future benefits under any such policy and to have the reserves estab-
41 lished by such company under any such canceled policy returned to the
42 system for deposit in the group insurance reserve of the fund.

43 (ii) In addition, the board shall have the authority to cancel any policy

1 or policies of group life and long-term disability insurance in existence
2 on the effective date of this act and, notwithstanding any other provision
3 of law, to release each company which issued any such canceled policy
4 from any liability for future benefits under any such policy and to have
5 the reserves established by such company under any such canceled policy
6 returned to the system for deposit in the group insurance reserve of the
7 fund. Notwithstanding any other provision of law, no premium tax shall
8 be due or payable by any such company or companies on any such policy
9 or policies purchased by the board nor shall any brokerage fees or com-
10 missions be paid thereon.

11 (4) (A) There is hereby created in the state treasury the group insur-
12 ance reserve fund. Investment income of the fund shall be added or
13 credited to the fund as provided by law. The cost of the plan of death
14 and long-term disability benefits shall be paid from the group insurance
15 reserve fund, which shall be administered by the board. Except as oth-
16 erwise provided by this subsection, each participating employer shall ap-
17 propriate and pay to the system in such manner as the board shall pre-
18 scribe in addition to the employee and employer retirement contributions
19 an amount equal to .6% of the amount of compensation on which the
20 members' contributions to the Kansas public employees retirement sys-
21 tem are based for deposit in the group insurance reserve fund. Notwith-
22 standing the provisions of this subsection, no participating employer shall
23 appropriate and pay to the system any amount provided for by this sub-
24 section for deposit in the group insurance reserve fund for the period
25 commencing on April 1, 2000, and ending on December 31, 2001, for
26 the period commencing July 1, 2002, and ending December 31, 2002, or
27 for the period commencing April 1, 2003, and ending on June 30, 2004.

28 (B) The director of the budget and the governor shall include in the
29 budget and in the budget request for appropriations for personal services
30 a sum to pay the state's contribution to the group insurance reserve fund
31 as provided by this section and shall present the same to the legislature
32 for allowances and appropriation.

33 (C) The provisions of subsection (4) of K.S.A. 74-4920 and amend-
34 ments thereto shall apply for the purpose of providing the funds to make
35 the contributions to be deposited to the group insurance reserve fund.

36 (D) Any dividend or retrospective rate credit allowed by an insurance
37 company or companies shall be credited to the group insurance reserve
38 fund and the board may take such amounts into consideration in deter-
39 mining the amounts of the benefits under the plan authorized by this
40 section.

41 (5) The death benefit provided under the plan of death and long-
42 term disability benefits authorized by this section shall be known and
43 referred to as insured death benefit. The long-term disability benefit pro-

1 vided under the plan of death and long-term disability benefits authorized
2 by this section shall be known and referred to as long-term disability
3 benefit.

4 (6) The board is hereby authorized to establish an optional death
5 benefit plan. Except as provided in subsection (7), such optional death
6 benefit plan shall be made available to all employees who are covered or
7 may hereafter become covered by the plan of death and long-term disa-
8 bility benefits authorized by this section. The cost of the optional death
9 benefit plan shall be paid by the applicant either by means of a system
10 of payroll deductions or direct payment to the board. The board shall
11 have the authority and discretion to establish such terms, conditions, spec-
12 ifications and coverages as it may deem to be in the best interest of the
13 state of Kansas and its employees which should include term death ben-
14 efits for the person's period of active state employment regardless of age,
15 but in no case, shall the maximum allowable coverage be less than
16 \$200,000. The cost of the optional death benefit plan shall not be estab-
17 lished on such a basis as to unreasonably discriminate against any partic-
18 ular age group. The board shall have full administrative responsibility,
19 discretion and authority to establish and continue such optional death
20 benefit plan and the director of accounts and reports of the department
21 of administration shall when requested by the board and from funds ap-
22 propriated or available for such purpose establish a system to make pe-
23 riodic deductions from state payrolls to cover the cost of the optional
24 death benefit plan coverage under the provisions of this subsection (6)
25 and shall remit all deductions together with appropriate accounting re-
26 ports to the system. There is hereby created in the state treasury the
27 optional death benefit plan reserve fund. Investment income of the fund
28 shall be added or credited to the fund as provided by law. All funds
29 received by the board, whether in the form of direct payments, payroll
30 deductions or otherwise, shall be accounted for separately from all other
31 funds of the retirement system and shall be paid into the optional death
32 benefit plan reserve fund, from which the board is authorized to make
33 the appropriate payments and to pay the ongoing costs of administration
34 of such optional death benefit plan as may be incurred in carrying out
35 the provisions of this subsection (6).

36 (7) Any employer other than the state of Kansas which is currently a
37 participating employer of the Kansas public employees retirement system
38 or is in the process of affiliating with the Kansas public employees retire-
39 ment system may also elect to affiliate for the purposes of subsection (6).
40 All such employers shall make application for affiliation with such system,
41 to be effective on January 1 or *July 1* next following application.

42 (8) For purposes of the death benefit provided under the plan of
43 death and long-term disability benefits authorized by this section and the

1 optional death benefit plan authorized by subsection (6), commencing on
2 the effective date of this act, in the case of medical or financial hardship
3 of the member as determined by the executive director, or otherwise
4 commencing January 1, 2005, the member may name a beneficiary or
5 beneficiaries other than the beneficiary or beneficiaries named by the
6 member to receive other benefits as provided by the provisions of K.S.A.
7 74-4901 *et seq.*, and amendments thereto.
8 Sec. 2. K.S.A. 2004 Supp. 74-4927 is hereby repealed.
9 Sec. 3. This act shall take effect and be in force from and after its
10 publication in the statute book.