

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2077

By Joint Committee on Pensions, Investments and Benefits

1-17

10 AN ACT concerning retirement and pensions; relating to the Kansas  
11 public employees retirement system and certain systems thereunder;  
12 withdrawal of contributions; service credit between systems; **earnings**  
13 **limitation for certain members receiving disability benefits; fed-**  
14 **eral nontaxable distributions to certain retirants;** amending  
15 K.S.A. 74-4924 and 74-4988 **and K.S.A. 2006 Supp. 74-4960a** and  
16 repealing the existing sections.  
17

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

19 Section 1. K.S.A. 74-4924 is hereby amended to read as follows: 74-  
20 4924. (1) Any person who shall knowingly make any false statement, or  
21 who shall falsify or permit to be falsified any record necessary for carrying  
22 out the intent of this act for the purpose of committing fraud, shall be  
23 subject to the provisions of K.S.A. 21-3904 and amendments thereto.

24 (2) Should any error in any records or in any calculation of the Kansas  
25 public employees retirement system result in any member or beneficiary  
26 receiving more or less than he would have been entitled to receive had  
27 the records or calculations been correct, the board shall correct such  
28 error, and, as far as practicable, make future payments in such a manner  
29 that the actuarial equivalent of the benefit to which such member or  
30 beneficiary was entitled shall be paid and may recover any overpayments.  
31 In the event a member has withdrawn, all or part of, such member's  
32 accumulated contributions in a manner not in compliance with the pro-  
33 visions of this act or the regulations of the system, the ~~amount of such~~  
34 ~~withdrawal, plus interest at a rate specified by the board, shall be de-~~  
35 ~~ducted from any amounts, including group insurance benefits, which shall~~  
36 ~~become due the member or such member's beneficiaries under the pro-~~  
37 ~~visions of this act~~ *member shall forfeit all service credit related to such*  
38 *withdrawn accumulated contributions.*

39 (3) (a) Notwithstanding the provisions of subsection (2) and except  
40 as provided in subsection (3)(d), the board is not required to collect any  
41 benefit overpayment that is of more than 60 months' standing when dis-  
42 covered, if any errors in the records or calculations of the system that  
43 resulted in such overpayment are attributable solely to incorrect proce-

1 dures or calculations by the system and there is no evidence of fraud or  
2 misconduct on the part of the member or other person receiving the  
3 benefit.

4 (b) The board shall make reasonable efforts to recover all benefit  
5 overpayment of 60 months' standing or less, including the imposition of  
6 an actuarially calculated reduction in an ongoing monthly benefit payment  
7 or the deduction of the total overpaid amount from any refund of con-  
8 tributions or group life insurance benefits that become due and payable  
9 to the member or member's beneficiary.

10 (c) No monthly benefit reduction imposed under this section for the  
11 purpose of collecting an overpayment shall result in a monthly benefit  
12 payment that is more than 10% lower than the monthly benefit payment  
13 would have been without such collection-related reduction, except that  
14 the monthly benefit payment in all cases must first be reduced to the  
15 correct amount as provided by the terms of this section before the 10%  
16 cap on collection-related reductions is imposed.

17 (d) Notwithstanding the provisions of this section, on and after the  
18 effective date of this act, the board shall not collect any benefit overpay-  
19 ment, attributable to errors in the calculation of benefits by the system  
20 that resulted in such overpayments to any person that first occurred after  
21 and as a result of a statutory increase in benefits passed by the legislature  
22 in 1993, and there is no evidence of fraud or other misconduct on the  
23 part of the person receiving the benefit.

24 **Sec. 2. K.S.A. 2006 Supp. 74-4960a is hereby amended to read**  
25 **as follows: 74-4960a. (1) If any active contributing member who is**  
26 **appointed or employed on or after July 1, 1989, or who makes an**  
27 **election pursuant to K.S.A. 74-4955a and amendments thereto to**  
28 **be covered by the provisions of this act becomes disabled as de-**  
29 **defined in subsection (2), such member shall receive a monthly ben-**  
30 **efit equal to 50% of the member's final average salary at the time**  
31 **such member was disabled payable in monthly installments, accru-**  
32 **ing from the first day upon which the member ceases to draw com-**  
33 **ensation, if a report of the disability in such form and manner as**  
34 **the board shall prescribe is filed in the office of the executive di-**  
35 **rector of the board within 220 days after the date of the com-**  
36 **mencement of such disability and if an application for such benefit**  
37 **in such form and manner as the board shall prescribe is filed in**  
38 **the office of the executive director of the board within two years**  
39 **of the date of the commencement of such disability, except that**  
40 **the board may waive such two-year requirement, if the board is**  
41 **presented with evidence that clearly warrants such a waiver.**

42 (2) For the purposes of this section, "disabled" means total in-  
43 ability to perform permanently the duties of the position of po-

1 **liceman or fireman.**

2 **(3) In the event a member who is disabled and entitled to such**  
3 **benefits as provided in subsection (1) dies after the date of such**  
4 **disability, the following benefits shall be payable:**

5 **(i) Pursuant to the provisions of K.S.A. 74-49,128, and amend-**  
6 **ments thereto, to the member's spouse, if lawfully wedded to the**  
7 **member at the time of the member's death, and if no benefits are**  
8 **payable under subsection (3) of K.S.A. 74-4958a, and amendments**  
9 **thereto, a lump-sum benefit equal to 50% of the member's final**  
10 **average salary at the time such member was disabled.**

11 **(ii) To the member's spouse, if lawfully wedded to the member**  
12 **at the time of the member's death, an annual benefit equal to 50%**  
13 **of the member's benefit payable in monthly installments, to accrue**  
14 **from the first day of the month following the member's date of**  
15 **death and ending on the last day of the month in which the spouse**  
16 **dies. Commencing on the effective date of this act, any surviving**  
17 **spouse, who was receiving benefits pursuant to this section and**  
18 **who had such benefits terminated by reason of such spouse's re-**  
19 **marriage, shall be entitled to once again receive benefits pursuant**  
20 **to this section, except that such surviving spouse shall not be en-**  
21 **titled to recover any benefits not received after the termination of**  
22 **benefits by reason of such surviving spouse's remarriage but be-**  
23 **fore the effective date of this act. If there is no surviving spouse,**  
24 **or if after the death of the spouse there remain one or more chil-**  
25 **dren under the age of 18 years or one or more children under the**  
26 **age of 23 years who is a full-time student as provided in K.S.A. 74-**  
27 **49,117 and amendments thereto, the spouse's benefit shall be pay-**  
28 **able, subject to the provisions of K.S.A. 74-49,123 and amendments**  
29 **thereto, in equal shares to such children and each child's share**  
30 **shall end on the last day of the month in which such child attains**  
31 **the age of 18 years or dies, whichever occurs earlier or in which**  
32 **such child attains the age of 23 years, if such child is a full-time**  
33 **student as provided in K.S.A. 74-49,117 and amendments thereto.**  
34 **Commencing on the effective date of this act, any child who was**  
35 **receiving benefits pursuant to this section and who had such ben-**  
36 **efits terminated by reason of such child's marriage, shall be enti-**  
37 **tled to once again receive benefits pursuant to this section subject**  
38 **to the limitations contained in this section, except that such child**  
39 **shall not be entitled to recover any benefits not received after the**  
40 **termination of benefits by reason of such child's marriage but be-**  
41 **fore the effective date of this act.**

42 **(4) Any member who was employed for compensation by an**  
43 **employer other than the member's participating employer and**

1 whose disability was incurred in the course of such other employ-  
2 ment shall not be eligible for any of the benefits provided in sub-  
3 section (1) or (3).

4 (5) If a member becomes totally and permanently disabled and  
5 no benefits are payable under subsection (1), the sum of the mem-  
6 ber's accumulated contributions shall be paid to the member.

7 (6) Any member receiving benefits under this section shall sub-  
8 mit to medical examination, not more frequent than annually, by  
9 one or more physicians or any other practitioners of the healing  
10 arts holding a valid license issued by the state board of healing arts  
11 to practice a branch of the healing arts, as the board of trustees  
12 may direct. If upon such medical examination, the examiner's re-  
13 port to the board states that the member is physically able and  
14 capable of resuming employment with the same or a different par-  
15 ticipating employer, the disability benefits shall terminate. A mem-  
16 ber who has been receiving benefits under the provisions of this  
17 section and who returns to employment, as defined in subsection  
18 (4) of K.S.A. 74-4952 and amendments thereto, of a participating  
19 employer shall immediately commence accruing service credit  
20 which shall be added to that which has been accrued by virtue of  
21 previous service.

22 (7) Any member who has been receiving benefits under the  
23 provisions of this section for a period of five years shall be deemed  
24 permanent and shall not be subject to further medical examina-  
25 tions, except that if the board of trustees shall have reasonable  
26 grounds to question whether the member remains totally and per-  
27 manently disabled, a further medical examination or examinations  
28 may be required.

29 (8) Refusal or neglect to submit to examination as provided in  
30 subsection (6) shall be sufficient cause for suspending or discon-  
31 tinuing benefit payments under this section and if such refusal or  
32 neglect shall continue for a period of one year, the member's rights  
33 in and to all benefits under this system may be revoked by the  
34 board.

35 (9) In the event that a member becomes disabled and is eligible  
36 for benefits provided in this section, such member shall be given  
37 participating service credit for the entire period of such disability.

38 (10) Any member who is receiving benefits pursuant to this  
39 section shall file annually a statement of earnings for the previous  
40 year in such form and manner as the board shall prescribe. Any  
41 disability benefit paid to a member entitled to such benefit pur-  
42 suant to this section shall be reduced by the board in an amount  
43 equal to a \$1 reduction in such benefit for every \$2 of earnings of

1 such member which were earned during the previous year while  
2 such member was disabled. Such reduction shall apply only to a  
3 member's earnings which exceed \$10,000, or commencing in calen-  
4 dar year 2007, and all calendar years thereafter, a member's earnings  
5 which exceed \$20,000.

6 (11) Any benefits provided pursuant to this section and any  
7 participating service credit given pursuant to subsection (9) shall  
8 terminate upon the earliest date such member is eligible for re-  
9 tirement upon attainment of the normal retirement date as pro-  
10 vided in K.S.A. 74-4964a and amendments thereto.

11 (12) Any member who has received benefits under the provi-  
12 sions of this section for a period of five years or more immediately  
13 preceding retirement shall have such member's final average sal-  
14 ary adjusted upon retirement by the actuarial salary assumption  
15 rates in existence during such period. Effective July 1, 1993, each  
16 member's current annual rate shall be adjusted upon retirement  
17 by 5% for each year of disability after July 1, 1993, but before July  
18 1, 1998. Effective July 1, 1998, such member's current annual rate  
19 shall be adjusted upon retirement by an amount equal to the lesser  
20 of: (1) The percentage increase in the consumer price index for all  
21 urban consumers as published by the bureau of labor statistics of  
22 the United States department of labor minus one percent; or (2)  
23 four percent per annum, measured from the member's last day on  
24 the payroll to the month that is two months prior to the month of  
25 retirement, for each year of disability after July 1, 1998.

26 (13) All payments due under this section to a minor shall be  
27 made to a legally appointed conservator of such minor.

28 (14) The provisions of this section shall be effective on and af-  
29 ter July 1, 1989 and shall apply only to members who were ap-  
30 pointed or employed prior to July 1, 1989, and who made an elec-  
31 tion pursuant to K.S.A. 74-4955a and amendments thereto; and  
32 persons appointed or employed on or after July 1, 1989.

33 (15) Any member who has been receiving benefits under the  
34 provisions of this section and who returns to employment with the  
35 same or different participating employer in the system shall no  
36 longer be deemed disabled under the provisions of this section.

37 (16) Upon the death of a member who has been receiving ben-  
38 efits under the provisions of this section, if no further benefits are  
39 payable, the excess, if any, of the member's accumulated contri-  
40 butions over the sum of all benefits paid shall be paid to the mem-  
41 ber's beneficiary.

42 Sec. ~~2~~ 3. K.S.A. 74-4988 is hereby amended to read as follows: 74-  
43 4988. (1) (a) Each person who is a member of a retirement system and

1 who becomes a member of another retirement system shall receive credit  
2 under each such retirement system for credited service under the other  
3 retirement system for the purpose of satisfying any requirement for such  
4 person to complete certain periods of service to become eligible to receive  
5 a retirement benefit or disability benefit or for such person's beneficiaries  
6 to receive a death benefit. The retirement benefit which a person be-  
7 comes eligible to receive under a retirement system shall be based only  
8 on credited service under such retirement system, except that the deter-  
9 mination of final average salary under such retirement system shall in-  
10 clude the compensation received as a member of each other retirement  
11 system if such compensation is higher. Except as provided in subsection  
12 (1)(b), such retirement benefit shall become payable upon the member  
13 submitting an application to retire under each system, except that a mem-  
14 ber who is not eligible to retire under the retirement system to which  
15 such member is not currently making contributions because such mem-  
16 ber does not meet the age requirements of the earliest retirement date  
17 of such system may retire, upon meeting the requirements for retirement,  
18 under the provisions of the retirement system which the member had  
19 been most recently making contributions. No further rights and benefits  
20 will accrue under the retirement system to which the member is not  
21 currently making contributions after the date the member retires from  
22 the system from which the member had been most recently making con-  
23 tributions and the member will be retired and benefits shall commence  
24 on the date that the member would first have attained retirement age  
25 from the system to which the member is not currently making contri-  
26 butions. *If the member does not meet the age requirements of the earliest*  
27 *retirement date under the retirement system to which such member is not*  
28 *currently making contributions but used credited service under such sys-*  
29 *tem for the purpose of satisfying any requirement for such person to*  
30 *complete certain periods of service to become eligible to receive a retire-*  
31 *ment benefit from the member's current system, the member's account*  
32 *under the system to which such member is not currently making contri-*  
33 *butions shall be withdrawn the month immediately following the mem-*  
34 *ber's retirement in a form and manner as determined by the board.*

35 (b) The requirement that a member shall submit an application to  
36 retire under each system before becoming eligible to receive any retire-  
37 ment system benefits shall not apply to any member who was active and  
38 contributing to one retirement system and who was inactive in another  
39 retirement system on July 1, 1995.

40 (2) Any member who is not otherwise eligible for service credit as  
41 provided for in subsection (1)(a) of K.S.A. 74-4913 or subsection (1)(a)  
42 of K.S.A. 74-4936 and amendments thereto, may be granted credit for  
43 the service upon the attainment of 38 quarters of participating service in

1 any retirement system as defined in subsection (3)(b) or upon retirement.

2 (3) As used in this section:

3 (a) “Member” means a person who has attained membership in a  
4 retirement system, who has not retired under such retirement system and  
5 who has not withdrawn such person’s accumulated contributions for such  
6 retirement system; and

7 (b) “retirement system” means the Kansas public employees retire-  
8 ment system, the Kansas police and firemen’s retirement system and the  
9 retirement system for judges.

10 **New Sec. 4. (a) This section applies to the Kansas public em-**  
11 **ployees retirement system and to all other public retirement plans**  
12 **administered by the board of trustees.**

13 (b) As used in this section:

14 (1) “Eligible retired public safety officer” means the same as  
15 provided in section 402(l) of the federal internal revenue code;

16 (2) “federal internal revenue code” means the federal internal  
17 revenue code of 1986, as in effect on January 1, 2008.

18 (3) “public safety officer” means the same as provided in sec-  
19 tion 402(l) of the federal internal revenue code; and

20 (4) “qualified health insurance premiums” means the same as  
21 provided in section 402(l) of the federal internal revenue code.

22 (c) The purpose of this section is to authorize the board of trus-  
23 tees of the Kansas public employees retirement system to imple-  
24 ment the provisions of section 402(l) of the federal internal reve-  
25 nue code. This section shall be interpreted in accordance with that  
26 purpose.

27 (d) Notwithstanding any other law to the contrary, the board  
28 of trustees of the Kansas public employees retirement system may  
29 adopt rules and procedures effective on and after January 1, 2008,  
30 to:

31 (1) Permit certain retired members of the system, as identified  
32 by the board, who are eligible retired public safety officers to elect  
33 to have a direct deduction of qualified health insurance premiums  
34 made from their monthly retirement or disability benefits; and

35 (2) implement the provisions of section 402(l) of the federal  
36 internal revenue code so that these direct deductions of qualified  
37 health insurance premiums shall be excludable from gross income  
38 to the extent permitted by federal law.

39 (e) The provisions of this section shall be part of and supple-  
40 mental to the provisions of K.S.A. 74-4901 et seq., and amend-  
41 ments thereto.

42 ~~Sec. 5.~~ K.S.A. 74-4924 and 74-4988 and K.S.A. 2006 Supp. 74-  
43 ~~4960a~~ are hereby repealed.

1     Sec. ~~4~~ **6**. This act shall take effect and be in force from and after its  
2     publication in the statute book.