

HOUSE BILL No. 2558

By Committee on Appropriations

2-28

9 AN ACT concerning retirement and pensions; enacting the Kansas pub-
10 lic employees retirement system act of 2009; providing terms, condi-
11 tions and requirements related thereto for certain new members; ben-
12 efit enhancements for existing members; amending K.S.A. 74-4911
13 and 74-4917 and repealing the existing sections.
14

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

16 New Section 1. (a) The provisions of sections 1 through 13, and
17 amendments thereto, shall be known and may be cited as the Kansas
18 public employees retirement system act of 2009, and shall be effective
19 on and after July 1, 2009.

20 (b) The board of trustees of the Kansas public employees retirement
21 system shall administer the provisions of this act in the same manner as
22 the board administers the provisions of K.S.A. 74-4901 et seq., and
23 amendments thereto, except as specifically provided in this act.

24 (c) Unless specifically provided in this act, the provisions of K.S.A.
25 74-4901 et seq., and amendments thereto, shall be applicable to this act.
26 In an event that a conflict exists between the provisions of this act and
27 the provisions of K.S.A. 74-4901 et seq., and amendments thereto, the
28 provisions of this act shall control, and to that end, no legal or contractual
29 rights shall inure to the benefit of members or participating employers
30 under this act with regard to the provisions of K.S.A. 74-4901 et seq., and
31 amendments thereto, when the provisions of this act control.

32 (d) Each participating employer as provided in this act and each em-
33 ployee as defined by this act shall be subject to the provisions of this act
34 as specified in this act and subject to the provisions of K.S.A. 74-4901 et
35 seq., and amendments thereto, as appropriate as to terms, conditions and
36 requirements not specifically covered in this act. The provisions of this
37 act shall not apply to members of the Kansas public employees retirement
38 system as provided in K.S.A. 74-4901 et seq., and amendments thereto,
39 employed by a participating employer prior to July 1, 2009.

40 (e) The provisions of this act shall be part of and supplemental to the
41 provisions of K.S.A. 74-4901 et seq., and amendments thereto, subject to
42 the limitations contained in this act.

43 New Sec. 2. (a) As used in this act, unless otherwise provided or the

- 1 context otherwise requires: (1) “Act” means the Kansas public employees
2 retirement system act of 2009, sections 1 through 13, and amendments
3 thereto;
- 4 (2) “compensation” means the same as such term is defined in K.S.A.
5 74-4902, and amendments thereto, except that when the compensation
6 of a member who remains in substantially the same position during any
7 two consecutive years of participating service used in calculating final
8 average salary is increased by an amount which exceeds 7.5%, then the
9 amount of such increase which exceeds 7.5% shall not be included in
10 compensation, except that: (A) Any amount of compensation for accu-
11 mulated sick leave or vacation or annual leave paid to the member, (B)
12 any increase in compensation for any member due to the reclassification
13 or reallocation of such member’s position or a reassignment of such mem-
14 ber’s job classification to a higher range or level and, (C) any increase in
15 compensation as provided in any contract entered into prior to January
16 1, 1991, and still in force on July 1, 2009, pursuant to an early retirement
17 incentive program as provided in K.S.A. 72-5395 et seq., and amendments
18 thereto, shall be included in the amount of compensation of such member
19 used in determining such member’s final average salary and shall not be
20 subject to the 7.5% limitation provided in this subsection. Any contri-
21 butions by such member on the amount of such increase which exceeds
22 7.5% which is not included in compensation shall be returned to the
23 member;
- 24 (3) “employee” means the same as such term is defined in K.S.A. 74-
25 4902, and amendments thereto, except that only employees first em-
26 ployed by a participating employer on or after July 1, 2009, or employees
27 of a participating employer which affiliates on or after July 1, 2009, are
28 subject to the provisions of this act. The term employee shall include
29 employees as provided in K.S.A. 74-4931 et seq., and amendments
30 thereto, first employed by a participating employer on or after July 1,
31 2009, or such employees of a participating employer which affiliates on
32 or after July 1, 2009;
- 33 (4) “entry date” means the entry date as of which an eligible employer
34 joins the system. The first entry date is July 1, 2009. All employers which
35 are eligible employers under the provisions of K.S.A. 74-4901 et seq., and
36 amendments thereto, are eligible employers under this act. The entry
37 date for participating employers under the provisions of K.S.A. 74-4901
38 et seq., and amendments thereto, is July 1, 2009;
- 39 (5) “final average salary” means the average highest annual salary, as
40 defined in K.S.A. 74-4902, and amendments thereto, paid to such mem-
41 ber for any five years of participating service preceding retirement or
42 termination of employment;
- 43 (6) “first employed” means an employee has not been an employee

1 of any participating employer prior to July 1, 2009, and is employed by a
2 participating employer on or after July 1, 2009; an employee who is a
3 former member of the system who withdrew contribution accounts be-
4 fore July 1, 2009, and who is again employed by a participating employer
5 on or after July 1, 2009; or an employee who was an inactive non-vested
6 member and who is again employed by a participating employer on or
7 after July 1, 2009;

8 (7) “inactive, non-vested member” means a member who has ter-
9 minated employment with a participating employer and who does not
10 have a vested retirement benefit in the system on July 1, 2009;

11 (8) “normal retirement date” means the date on or after which a
12 member may retire with all retirement benefits pursuant to section 4, and
13 amendments thereto;

14 (9) “participating employer” means an eligible employer who has
15 agreed to make contributions to the system on behalf of its employees
16 first hired on or after July 1, 2009. All participating employers under the
17 provisions of K.S.A. 74-4901 et seq., and amendments thereto, shall be
18 participating employers under this act; and

19 (10) “salary” means the same as such term is defined in K.S.A. 74-
20 4902, and amendments thereto, except that when the salary of a member
21 who remains in substantially the same position during any two consecutive
22 years of participating service used in calculating final average salary is
23 increased by an amount which exceeds 7.5%, then the amount of such
24 increase which exceeds 7.5% shall not be included in salary. Any contri-
25 butions by such member on the amount of such increase which exceeds
26 7.5% which is not included in salary shall be returned to the member. All
27 other provisions in K.S.A. 74-4902, and amendments thereto, related to
28 compensation and salary of a member that are not in conflict with the
29 provisions of this act are hereby adopted for determining final average
30 salary under this act.

31 (b) Unless specifically provided in this section or in this act, words
32 and phrases used in this act shall have the meanings ascribed to them as
33 provided under the provisions of K.S.A. 74-4901 et seq., and amendments
34 thereto.

35 New Sec. 3. (a) Any employee other than an elected official of a
36 participating employer who is first employed by a participating employer
37 on or after July 1, 2009, shall be a member of the system under the
38 provisions of this act on the first day of employment of such employee
39 with such participating employer.

40 (b) Any employee other than an elected official of a participating
41 employer which affiliates with the system on or after July 1, 2009, shall
42 be a member of this system under the provisions of this act on the entry
43 date of such participating employer.

1 (c) Any employee who is an elected official and who first took office
2 on or after July 1, 2009, and is eligible to join the system shall file, within
3 90 days after taking the oath of office, an irrevocable election to become
4 or not to become a member of the system under the provisions of the
5 Kansas public employees retirement system act of 2009. Such election
6 shall become effective immediately upon making such election, if such
7 election is made within 14 days of taking the oath of office or, otherwise,
8 on the first day of the first payroll period of the first quarter following
9 receipt of the election in the office of the retirement system. In the event
10 that such elected official fails to file the election to become a member of
11 the retirement system, it shall be presumed that such person has elected
12 not to become a member.

13 New Sec. 4. The normal retirement date for a member of the system
14 first employed by a participating employer on or after July 1, 2009, shall
15 be the first day of the month coinciding with or following termination of
16 employment with any participating employer not followed by employ-
17 ment with any participating employer within 30 days and the attainment
18 of age 65 with the completion of five years of credited service, or age 60
19 with the completion of 30 years of credited service. The provisions of this
20 section shall apply to a member of the retirement system who is in school
21 employment and who is subject to K.S.A. 74-4940, and amendments
22 thereto.

23 New Sec. 5. For any member who is first employed by a participating
24 employer on or after July 1, 2009, and who retires on or after such mem-
25 ber's normal retirement date, the amount for participating service shall
26 be equal to the total of 1.75% of the member's final average salary mul-
27 tiplied by the number of years of participating service to be used in de-
28 termining such member's annual retirement benefit.

29 New Sec. 6. (a) Any member of the system first employed on or after
30 July 1, 2009, who retires before attaining age 65 and has attained age 55
31 with the completion of 10 years of credited service and less than 30 years
32 of credited service, shall receive an annual retirement benefit as calcu-
33 lated in section 5, and amendments thereto, actuarially reduced for early
34 retirement. The reduction for early retirement shall produce a benefit
35 which is actuarially equivalent to, and has the same present value of, the
36 annual retirement benefit determined in section 5, and amendments
37 thereto, payable to such member's normal retirement at age 65. The
38 actuarial basis for reduction of such annual retirement benefit for early
39 retirement shall be set by the board.

40 (b) Any member of the system first employed on or after July 1, 2009,
41 who retires before attaining age 65 and has attained age 55 but has not
42 yet attained age 60 with the completion of 30 years or more of credited
43 service, shall receive an annual retirement benefit equal to the average

1 of the normal retirement benefit at age 65 as determined in section 5,
2 and amendments thereto, and the early retirement benefit as determined
3 in subsection (a).

4 New Sec. 7. (a) Notwithstanding the provisions of section 4, and
5 amendments thereto, the normal retirement date for all security officers,
6 as defined by subsections (1)(a) or (1)(b) of K.S.A. 74-4914a, and amend-
7 ments thereto, with at least three consecutive years of service as such
8 security officer immediately preceding the date of retirement, shall be
9 the first day of the month coinciding with or following the attainment of
10 age 55 with completion of 10 years of service. Any such security officer
11 may retire before such normal retirement date on the first day of any
12 month coinciding with or following the attainment of age 50 or comple-
13 tion of 10 years of credited service, whichever occurs later.

14 (b) Notwithstanding the provisions of section 4, and amendments
15 thereto, the normal retirement date for all security officers, as defined by
16 subsections (1)(c), (d), (e) or (f) of K.S.A. 74-4914a, and amendments
17 thereto, with at least three consecutive years of service as such security
18 officer immediately preceding the date of retirement, shall be the first
19 day of the month coinciding with or following the attainment of age 60
20 with completion of 10 years of service. Any such security officer may retire
21 before such normal retirement date on the first day of any month coin-
22 ciding with or following the attainment of age 55 or completion of 10
23 years of credited service, whichever occurs later.

24 New Sec. 8. Any member who is first employed by a participating
25 employer on or after July 1, 2009, and who has completed five years of
26 credited service at the time of termination, shall be granted a vested
27 retirement benefit in the system, except that at any time prior to the
28 commencement of retirement benefit payments the member may with-
29 draw accumulated contributions, whereupon no other benefits shall be
30 payable for such member's prior and participating benefits.

31 New Sec. 9. Any member who is first employed by a participating
32 employer on or after July 1, 2009, may elect to have such member's
33 retirement benefit paid under one of the options provided in K.S.A. 74-
34 4918, and amendments thereto, in lieu of having it paid in the form stated
35 in section 5 and K.S.A. 74-4915, and amendments thereto, except that
36 any such member or such member's spouse that elects to be paid a lump
37 sum amount to be paid to the member upon retirement as provided
38 pursuant to K.S.A. 74-4918, and amendments thereto, shall be paid in
39 10% increments and shall not exceed 30% of the actuarial present value
40 of the benefit provided in section 5 and K.S.A. 74-4915, and amendments
41 thereto; and for any such member who elects any joint and survivor op-
42 tions provided in K.S.A. 74-4918, and amendments thereto, such member
43 shall have such member's annual retirement benefit determined and then

1 reduced by an amount recommended by the actuary employed by the
2 system and approved by the board.

3 New Sec. 10. (a) Each participating employer who was a participat-
4 ing employer under the provisions of K.S.A. 74-4901 et seq., and amend-
5 ments thereto, before July 1, 2009, beginning with the first payroll for
6 services performed by an employee first employed on or after July 1,
7 2009, shall deduct from the compensation of each member 6% of such
8 member's compensation as employee contributions.

9 (b) Each participating employer who affiliates for any purpose on or
10 after July 1, 2009, beginning with the first payroll for services performed
11 by an employee first employed on or after July 1, 2009, shall deduct from
12 the compensation of each member 6% of such member's compensation
13 as employee contributions.

14 New Sec. 11. The rate of contribution for participating employers
15 who were participating employers under the provisions of K.S.A. 74-4901
16 et seq., and amendments thereto, on July 1, 2009, and for participating
17 employers who affiliate for any purpose on or after July 1, 2009, shall be
18 as provided pursuant to K.S.A. 74-4920, and amendments thereto, except
19 that such rate of contribution for any such participating employers shall
20 not be less than the rate of contribution the employees of such partici-
21 pating employers as provided in section 9 and K.S.A. 74-4920, and
22 amendments thereto.

23 New Sec. 12. (a) For any year in which: (1) The rate of contribution
24 certified to the state of Kansas and to participating employers under
25 K.S.A. 74-4931, and amendments thereto, for the immediately preceding
26 fiscal year, as calculated in accordance with subsection (1)(a) of K.S.A.
27 74-4920 and subsection (5)(b)(ii) of 74-4920, and amendments thereto,
28 equals the actuarially-determined rate of contribution required from the
29 state of Kansas and from participating employers under K.S.A. 74-4931,
30 and amendments thereto; and (2) the board of trustees upon the basis of
31 the annual actuarial valuation as provided for in subsection (3)(a) of K.S.A.
32 74-4908, and amendments thereto, recommend an increase in the actu-
33 arially-determined estimate of the rate of the contribution which will be
34 required, together with all accumulated contributions and other assets of
35 the system, to pay the liabilities which shall exist or accrue under the
36 system, the legislature reserves the right to adjust the employee rate of
37 contribution prescribed in section 10, and amendments thereto, to allow
38 participating employers and employees to share equally any additional
39 contribution rate actuarially required to fund the system subject to the
40 provisions of section 11, and amendments thereto.

41 (b) For any year in which: (1) The rate of contribution certified to
42 participating employers other than the state of Kansas for the immediately
43 preceding fiscal year, as calculated in accordance with subsection (1)(a)

1 of K.S.A. 74-4920, subsection (1)(b)(ii) of 74-4920 and subsection
2 (5)(b)(iv) of 74-4920, and amendments thereto, equals the actuarially-
3 determined rate of contribution required from participating employers
4 other than the state of Kansas; and (2) the board of trustees upon the
5 basis of the annual actuarial valuation as provided for in subsection (3)(a)
6 of K.S.A. 74-4908, and amendments thereto, recommend an increase in
7 the actuarially-determined estimate of the rate of contribution which will
8 be required, together with all accumulated contributions and other assets
9 of the system, to pay the liabilities which shall exist or accrue under the
10 system, the legislature reserves the right to adjust the employee rate of
11 contribution prescribed in section 10, and amendments thereto, to allow
12 participating employers and employees to share equally any additional
13 contribution rate actuarially required to fund the system subject to the
14 provisions of section 11, and amendments thereto.

15 New Sec. 13. (a) Beginning on July 1, 2010, and on each July 1 there-
16 after, the retirement benefit, pension or annuity payments to each retirant
17 who retires under this act shall be increased by an annual cost-of-living
18 adjustment in an amount equal to 2.0% multiplied by the retirement
19 benefit, pension or annuity payment in effect on that date and shall be
20 paid by the system to the retirant during each such period. The first
21 increase for such a retirant shall be on the second July 1 following such
22 retirant's retirement date. Subsequent increases shall occur on each July
23 1 thereafter.

24 (b) As used in this section, "retirant" means: (A) Any person who is
25 a member of the Kansas public employees retirement system pursuant to
26 this act, who is retired under the provisions of this act, and who is at least
27 65 years of age; and (B) any person who is a joint annuitant or beneficiary
28 of any member described in clause (A).

29 Sec. 14. K.S.A. 74-4911 is hereby amended to read as follows: 74-
30 4911. (1) Any employee of a participating employer other than an elected
31 official on the entry date of such employer shall be a member of the
32 system on either the entry date or the first day of the payroll period
33 coinciding with or following the completion of one year of service, which-
34 ever is later, *except that an employee of a participating employer who*
35 *was first employed by a participating employer on or after July 1, 2008,*
36 *but before July 1, 2009, shall be a member on July 1, 2009, and except*
37 *that an employee who is first employed by a participating employer on*
38 *or after July 1, 2009, shall be a member of the system on the first day of*
39 *employment of such employee with such participating employer. For pur-*
40 *poses of this act occasional breaks in service which shall not exceed an*
41 *aggregate of 10 days in any such year shall not constitute a break in service*
42 *for purposes of determining the membership date of such employee.*

43 (2) Except as otherwise provided in this subsection, any employee

1 other than an elected official who is employed by a participating employer
2 after the entry date of such employer shall be a member of the system
3 on the first day of the payroll period coinciding with or following com-
4 pletion of one year of continuous service. For purposes of this act, oc-
5 casional breaks in service which shall not exceed an aggregate of 10 days
6 in any such year shall not constitute a break in continuous service for
7 purposes of determining the membership date of such employee. For
8 purposes of this subsection, any employee of a local governmental unit
9 which has its own pension plan who becomes an employee of a partici-
10 pating employer as a result of a merger or consolidation of services pro-
11 vided by local governmental units, which occurred on January 1, 1994,
12 may count service with such local governmental unit in determining
13 whether such employee has met the one year of continuous service re-
14 quirement contained in this subsection.

15 (3) Any employee who is an elected official and is eligible to join the
16 system shall file, within 90 days after taking the oath of office, an irrev-
17 ovable election to become or not to become a member of the system.
18 Such election shall become effective immediately upon making such elec-
19 tion, if such election is made within 14 days of taking the oath of office
20 or, otherwise, on the first day of the first payroll period of the first quarter
21 following receipt of the election in the office of the retirement system.
22 In the event that such elected official fails to file the election to become
23 a member of the retirement system, it shall be presumed that such person
24 has elected not to become a member.

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

34 (5) Any employee of the state of Kansas other than an elected official,
35 who is receiving or is eligible for assistance by the state board of regents
36 in the purchase of a retirement annuity under K.S.A. 74-4925, and
37 amendments thereto, and who becomes ineligible for such assistance be-
38 cause such employee's position is reclassified to a position in the classified
39 service under the Kansas civil service act, or who becomes ineligible for
40 such assistance because such person accepts and transfers to a position
41 in the classified service under the Kansas civil service act shall be a mem-
42 ber of the system on the first day of the payroll period coinciding with or
43 following the effective date of such reclassification or transfer. Any such

1 employee who became ineligible for such assistance prior to the effective
2 date of this act because of such a reclassification or such a transfer oc-
3 ccurring prior to the effective date of this act and who is not a member of
4 the system on the effective date of this act shall be a member of the
5 system on the first day of the payroll period coinciding with or following
6 the effective date of this act.

7 (6) Any employee of the state board of regents or of an educational
8 institution under its management, other than an elected official, who is a
9 member of the system and who becomes ineligible to be a member of
10 the system because such employee's position is reclassified to a position
11 under the Kansas civil service act which is eligible for assistance by the
12 state board of regents in the purchase of a retirement annuity under
13 K.S.A. 74-4925 and amendments thereto, or who becomes ineligible to
14 be a member of the system because such employee transfers to a position
15 under the Kansas civil service act which is eligible for such assistance,
16 shall become eligible for such assistance in accordance with the provisions
17 of K.S.A. 74-4925 and amendments thereto, unless such employee files
18 a written election in the office of the retirement system, in the form and
19 manner prescribed by the board of trustees thereof, to remain a member
20 of the system prior to the first day of the first complete payroll period
21 occurring after the effective date of such reclassification or transfer. Fail-
22 ure to file such written election shall be presumed to be an election not
23 to remain a member of the system and to become eligible for assistance
24 by the state board of regents in the purchase of a retirement annuity
25 under K.S.A. 74-4925 and amendments thereto. Such election, whether
26 to remain a member of the system or to become eligible for such assis-
27 tance, shall be effective as of the effective date of such reclassification or
28 transfer, and shall be irrevocable.

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

32 Sec. 15. On and after July 1, 2009, K.S.A. 74-4917 is hereby
33 amended to read as follows: 74-4917. (1) Upon termination of employ-
34 ment with a participating employer, not followed by employment with
35 such participating employer or another participating employer within 30
36 days of such termination, the member shall be paid an amount equal to
37 the member's accumulated contributions then on deposit with the system
38 after making application in such form as may be prescribed by the board,
39 except that the system shall have a reasonable time to process the appli-
40 cation for withdrawal. The participating employer shall, upon giving a
41 terminated employee a withdrawal application, certify to the system all
42 member contributions which have not been reported previously. In the
43 case of a death of an active member, the participating employer shall

1 certify to the system all member contributions which have not been re-
2 ported previously and remit such contributions if the participating em-
3 ployer has not submitted a monthly remittance for the terminating quar-
4 ter. The participating employer shall be responsible to the system for any
5 overpayment or underpayment of member contributions made by the
6 system relating to a withdrawal of accumulated contributions or a death
7 of an active member which is due to an inaccurate certification of all
8 member contributions which have not been reported to the system as
9 required by this section made by the participating employer. A leave of
10 absence, a period of total disability or military service shall not be con-
11 sidered a termination of employment unless the member withdraws ac-
12 cumulated contributions.

13 (2) Except as otherwise provided by this subsection, if such member
14 has completed 10 years of credited service at date of termination, *or*
15 *commencing July 1, 2009, if such member has completed five years of*
16 *credited service at the date of termination*, such member automatically
17 shall be granted a vested retirement benefit in the system, except that at
18 any time prior to the commencement of retirement benefit payments the
19 member may withdraw accumulated contributions, whereupon no other
20 benefits shall be payable for such member's prior and participating service
21 credit. For purposes of this subsection, any employee of a local govern-
22 mental unit which has its own pension plan who becomes an employee
23 of a participating employer as a result of a merger or consolidation of
24 services provided by local governmental units, which occurred on January
25 1, 1994, may count service with such local governmental unit in deter-
26 mining whether such employee has met the 10 years of credited service
27 for vesting requirement contained in this subsection. Eligibility of such
28 member for retirement benefits and procedures for making application
29 for retirement benefits shall be in accordance with K.S.A. 74-4914 and
30 amendments thereto. Such member shall make application for retirement
31 in such form as may be prescribed by the board and retirement benefits
32 shall accrue from the first day of the month following receipt of such
33 application. The amount of the retirement benefit shall be determined as
34 provided in K.S.A. 74-4915 and amendments thereto.

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

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

- 1 a member, who has a vested benefit again becomes an employee of a
2 participating employer, any credited service such member subsequently
3 accrues shall be added to that which had been vested by virtue of previous
4 service. Eligibility of such member for retirement benefits and proce-
5 dures for making application for retirement benefits shall be in accord-
6 ance with K.S.A. 74-4914 and amendments thereto.
- 7 Sec. 16. K.S.A. 74-4911 is hereby repealed.
- 8 Sec. 17. On and after July 1, 2009, K.S.A. 74-4917 is hereby
9 repealed.
- 10 Sec. 18. This act shall take effect and be in force from and after July
11 1, 2008, and its publication in the statute book.