

CHAPTER 191

SENATE Substitute for Substitute for HOUSE BILL No. 2457

AN ACT concerning the Kansas public employees retirement system and systems thereunder; investment standards, prohibited investments and divestment, conditions and procedures; purchase of participating service credit; exemption from taxation of benefits; disability benefits for certain members; amending K.S.A. 74-4923 and 74-4960 and repealing the existing sections.

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

New Section 1. (a) As used in sections 1 and 2, and amendments thereto:

(1) “Active business operations” means a company engaged in business operations that provide revenue to the government of Sudan or a company engaged in oil-related activities;

(2) “board” means the board of trustees of the Kansas public employees retirement system;

(3) “business operations” means maintaining, selling or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan;

(4) “company” means a sole proprietorship, organization, association, corporation, partnership, venture or other entity, its subsidiary or affiliate that exists for profitmaking purposes or to otherwise secure economic advantage. “Company” also means a company owned or controlled, either directly or indirectly, by the government of Sudan, that is established or organized under the laws of or has its principal place of business in the republic of the Sudan;

(5) “complicity” means the taking of actions which have directly supported or promoted the genocidal campaign in Darfur;

(6) “energy or power-related operations” means any business operation that involves a project commissioned by the national electricity corporation of Sudan or similar Sudanese entity whose purpose is to facilitate energy or power generation and delivery;

(7) “government of Sudan” means the government of Sudan or its instrumentalities;

(8) “invest” or “investment” means the purchase, ownership or control of stock of a company, association or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Sudan, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company;

(9) “KPERs fund” means the Kansas public employees retirement fund created pursuant to the provisions of K.S.A. 74-4921, and amendments thereto;

(10) “military equipment” means weapons, arms or military defense supplies;

(11) “mineral extraction activities” includes, but is not limited to, the exploring, extracting, processing, transporting or wholesale selling or trading of elemental minerals or associated metal alloys or oxides or ore;

(12) “oil-related activities” means, but is not limited to, the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure;

(13) “research firm” means a reputable, neutral third-party research firm;

(14) “substantial action” means a boycott of the government of Sudan, curtailing business in Sudan until that time described in subsection (m), selling company assets, equipment or real and personal property located in Sudan, or undertaking significant humanitarian efforts in the eastern, southern, or western regions of Sudan; and

(15) “Sudan” means the republic of the Sudan, a territory under the administration or control of the Sudan, including, but not limited to, the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the republic of the Sudan.

(b) The board shall not invest KPERs funds in a company with business operations in Sudan that meets all of the following criteria:

(1) The company is engaged in active business operations in Sudan. If that company is not engaged in oil-related activities, that company also

lacks significant business operations in the eastern, southern and western regions of Sudan; and

(2) either of the following apply:

(A) The company is engaged in oil-related activities, mineral extraction activities or energy or power-related operations, or contracts with another company with business operations in the oil, mineral extraction, energy and power sectors of Sudan, and the company failed to take substantial action related to the government of Sudan because of the Darfur genocide; or

(B) the company has demonstrated complicity in the Darfur genocide.

(c) Notwithstanding subsection (b), the board shall not invest KPERS funds in a company that supplies military equipment within the borders of Sudan. If a company provides equipment within the borders of Sudan that may be readily used for military purposes, including, but not limited to, radar systems and military-grade transport vehicles, there shall also be a strong presumption against investing in that company unless that company implements safeguards to prevent the use of that equipment for military purposes.

(d) (1) The board may contract with a research firm or firms to determine those companies that have business operations in Sudan. Such research firm or firms may obtain aggregate data on a majority of companies with business operations in Sudan. On or before September 30, 2007, such research firm or firms may report any findings to the board and may submit further findings to the board if there is a change of circumstances in Sudan.

(2) In addition to the reports described in subsection (d)(1), the board shall take all of the following actions no later than September 30, 2007:

(A) Review publicly available information regarding companies with business operations in Sudan;

(B) contact other institutional investors that invest in companies with business operations in Sudan; and

(C) send written notice to a company with business operations in Sudan that the company may be subject to this section.

(e) (1) The board shall determine, by the next applicable board meeting and based on the information and reports described in subsection (d), if a company meets the criteria described in subsection (b) or (c). If the board plans to invest or has investments in a company that meets the criteria described in subsection (b) or (c), that planned or existing investments shall be subject to subsections (g) and (h).

(2) Investments of the board in a company that does not meet the criteria described in subsection (b) or (c) or does not have active business operations in Sudan are not subject to subsection (h), provided that the company does not subsequently meet the criteria described in subsection (b) or (c) or engage in active business operations. The board shall identify the reasons why that company does not satisfy the criteria described in subsection (b) or (c) or does not engage in active business operations in the report to the joint committee on pensions, investments and benefits described in subsection (i).

(f) (1) The board shall not be required to divest passively managed commingled funds when the estimated annual costs of divestment exceed 5% of the total value of scrutinized companies with active business operations held in the fund and the ratio holds for at least six months time. Such an estimate should be submitted in a report to the joint committee on pensions, investments, and benefits before the exemption is exercised. The report should be updated semi-annually thereafter as applicable.

(2) Notwithstanding subsection (e), if the board's investment in a company described in subsection (b) or (c) is limited to investment via an externally and actively managed commingled fund, the board shall contact that fund manager in writing and request that the fund manager remove that company from the KPERS fund as described in subsection (h). If the KPERS fund or account manager creates a fund or account devoid of companies described in subsection (b) or (c), the transfer of board investments from the prior fund or account to the fund or account devoid of companies with business operations in Sudan shall be deemed to satisfy subsection (h).

(3) If the board's investment in a company described in subsection (b) or (c) is limited to an alternative fund or account, the alternative fund or account manager creates an actively managed commingled fund that

excludes companies described in subsection (b) or (c), and the new fund or account is deemed to be financially equivalent to the existing fund or account, the transfer of board investments from the existing fund or account to the new fund or account shall be deemed to satisfy subsection (h). If the board determines that the new fund or account is not financially equivalent to the existing fund, the board shall include the reasons for that determination in the report described in subsection (i).

(4) The board shall make a good faith effort to identify any private equity investments that involve companies described in subsection (b) or (c) or are linked to the government of Sudan. If the board determines that a private equity investment clearly involves a company described in subsection (b) or (c) or is linked to the government of Sudan, the board shall consider, at its discretion, if those private equity investments shall be subject to subsection (h). If the board determines that a private equity investment clearly involves a company described in subsection (b) or (c) or is linked to the government of Sudan and the board does not take action as described in subsection (h), the board shall include the reasons for its decision in the report described in subsection (i).

(g) Except as described in subsection (f) or subsection (e)(2), the board, in the board's capacity of shareholder or investor, shall notify any company described in subsection (e)(1) that the company is subject to subsection (h) and permit that company to respond to the information and reports described in subsection (d). The board shall request that the company take substantial action no later than 90 days from the date the board notified the company under this subsection. If the board determines that a company has taken substantial action or has made sufficient progress towards substantial action before the expiration of that 90-day period, that company shall not be subject to subsection (h). The board shall, at intervals not to exceed 90 days, continue to monitor and review the progress of the company until that company has taken substantial action in Sudan. A company that fails to complete substantial action or continue to make sufficient progress towards substantial action by the next time interval shall be subject to subsection (h).

(h) If a company described in subsection (e)(1) fails to complete substantial action by the time described in subsection (g), the board shall take the following actions:

(1) The board shall not make additional or new investments or renew existing investments in that company.

(2) The board shall liquidate the investments of the board in that company no later than 18 months after this subsection applies to that company. The board shall liquidate those investments in a manner to address the need for companies to take substantial action in Sudan and consistent with the board's fiduciary responsibilities as provided in K.S.A. 74-4921, and amendments thereto.

(i) On or before June 30, 2008, and every year thereafter, the board shall file a report with the joint committee on pensions, investments and benefits. The report shall describe the following:

(1) A list of investments the board has in companies with business operations in Sudan, including, but not limited to, the issuer, by name, of the stock, bonds, securities and other evidence of indebtedness;

(2) a detailed summary of the business operations a company described in subsection (i)(1) has in Sudan and whether that company satisfies all of the criteria in subsection (b) or (c);

(3) whether the board has reduced KPERS fund investments in a company that satisfies the criteria in subsection (b) or (c);

(4) if the board has not completely reduced KPERS fund investments in a company that satisfies the criteria in subsection (b) or (c), when the board anticipates that the board will reduce all investments in that company or the reasons why a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as provided in K.S.A. 74-4921, and amendments thereto;

(5) any information described in subsection (e); and

(6) a detailed summary of investments that were transferred to funds or accounts devoid of companies with business operations in Sudan as described in subsection (f).

(j) If the board voluntarily sells or transfers all KPERS fund investments in a company with business operations in Sudan, this section shall not apply except that the board shall file a report with the legislature related to that company as described in subsection (i).

(k) Nothing in this section shall require the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as provided in K.S.A. 74-4921, and amendments thereto.

(l) Subsection (h) shall not apply to any of the following:

(1) Investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Sudan, and the supplying of such goods and services is done in conjunction with an international organization, the government of Sudan, the regional government of Southern Sudan or a non-profit entity, and is evaluated and certified by an independent third party to be substantial in relationship to the business operations of the company in Sudan and of benefit to one or more marginalized populations of Sudan;

(2) investments in a company that promotes health, education, journalistic or religious activities in or welfare in the western, eastern or southern regions of Sudan; and

(3) investments in a United States company that is authorized by the federal government to have business operations in Sudan.

(m) This section shall remain in effect only until one of the following occurs, and as of the date of that action, is repealed:

(1) The government of Sudan halts the genocide in Darfur for 12 months as determined by both the department of state and the congress of the United States; or

(2) the United States revokes its current sanctions against Sudan.

New Sec. 2. Present, future and former board members jointly and individually, state officers and employees, research firms described in subsection (d) of section 1, and amendments thereto, and investment managers under contract with the Kansas public employees retirement system shall be indemnified from the state general fund and held harmless by the state from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatsoever that these present, future or former board members, officers, employees, research firms or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to section 1, and amendments thereto.

New Sec. 3. Any member of the Kansas public employees retirement system who was previously employed in service as law enforcement personnel in support of a mission administered by the united nations, may purchase participating service credit for periods of such service which commenced on or after January 1, 1962. Such purchase of participating service credit shall be made in accordance with the provisions of K.S.A. 74-49,123, and amendments thereto. The benefit for each such period of service purchased by the member shall be equal to 1.75% of the final average salary of any such member. Such member may purchase such participating service credit by submitting proof of such service acceptable to the board of trustees and by making application therefor prior to the date of retirement of such member for such purchase and to have such member's employee contributions deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, based upon the member's attained age at the time of purchase and using actuarial assumptions and tables in use by the retirement system at such time of purchase for such periods of service. Such additional rate of contribution shall commence at the beginning of the quarter following the date upon which such member made application for such purchase and shall remain in effect until all of the full quarters of such service have been purchased. In lieu of the deduction of employee contributions as provided in this section, any such member may purchase such participating service credit by means of a single lump-sum payment in an amount equal to the then present value of benefits being purchased as determined by the actuary using the member's attained age at the time of purchase, annual compensation at the time of purchase and the actuarial assumptions and tables currently in use by the system. The lump-sum payment shall be made immediately upon being notified of the amount due under this purchase method. The provisions of this section shall be part of and supplemental to the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 4. K.S.A. 74-4923 is hereby amended to read as follows: 74-4923. (a) No alteration, amendment or repeal of this act shall affect the then existing rights of members and beneficiaries but shall be effective only as to rights which would otherwise accrue under this act as a result of services rendered by an employee after the alteration, amendment or repeal. This subsection shall not apply to any alteration or amendment of this act which provides greater benefits to members or beneficiaries, but any increase of benefits shall only be applicable to benefits payable on the first day of the month coinciding with or following the effective date of the alteration or amendment.

(b) Any annuity, benefits, funds, property or rights created by, or accruing to any person under the provisions of K.S.A. 74-4901 et seq. or 74-4951 et seq., and amendments thereto, *including, but not limited to, for all taxable years beginning after December 31, 2000, amounts received as a lump-sum payment at retirement as provided by K.S.A. 74-4918, 74-4964 or 74-4964a, and amendments thereto, and all earnings thereof*, shall be exempt from any tax of the state of Kansas or any political subdivision or taxing body of the state, *and such lump-sum payment at retirement, and all earnings thereof, shall retain such tax exempt status even if a retirant elects to roll over such lump-sum payment at retirement, and earnings, into a qualified retirement account whether segregated from or commingled with other retirement funds*; shall not be subject to execution, garnishment or attachment, or, except as otherwise provided, any other process or claim whatsoever; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant's beneficiary pursuant to the provisions of K.S.A. 74-4989 and amendments thereto may be assignable to a funeral establishment providing funeral services to the retirant by the beneficiary of such retirant. Any annuity or benefit or accumulated contributions due and owing to any person under the provisions of K.S.A. 74-4901 et seq. or 74-4951 et seq. and amendments thereto are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the federal internal revenue code. The provisions of this act shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994. The Kansas public employees retirement system shall not be a party to any action under article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, but is subject to orders from such actions issued by the district court of the county where such action was filed and may also accept orders which it deems to be qualified under this subsection from courts having jurisdiction of such actions outside the state of Kansas. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

(c) In any case where a state agency is owed a debt or where a participating employer under the Kansas public employees retirement system or under the Kansas police and firemen's retirement system has been required to pay and has paid an arrearage obligation of the amount of contributions of a member which were not paid at the time required and where the employment of the member by the state agency or participating employer has been terminated and the member is eligible to withdraw accumulated contributions in accordance with K.S.A. 74-4917 and 74-4963, and amendments thereto, the state agency or participating employer shall be paid from the member's account in the fund an amount equal to the debt or the amount of contributions of the member paid by the participating employer pursuant to an arrearage obligation, upon application to the board therefor accompanied by certification of the amount to be paid to the state agency or participating employer. If any application and certification under this subsection are not received by the board prior to the withdrawal of accumulated contributions by the member, the board shall not be liable to pay and shall not pay any amount from the fund pursuant to any such application and certification.

Sec. 5. K.S.A. 74-4960 is hereby amended to read as follows: 74-4960. (1) If any active contributing member becomes totally and permanently disabled due to service-connected causes as defined in subsection (10) of K.S.A. 74-4952 and amendments thereto, such member shall be retired and the following benefits shall become payable and shall con-

tinue until the member's death or until the member recovers from the disability if: A report of the event in a form acceptable to the board is filed in the office of the executive director of the board within 220 days after the date of the event or act of duty causing such disability; and an application for such benefit, in such form and manner as the board prescribes, is filed by the member or the member's authorized representative in the office of the executive director of the board within two years of the date of disability, except the board may waive such two-year requirement if the board is presented with evidence that clearly warrants such a waiver:

(a) On and after July 1, 1993, the member shall receive a retirement benefit equal to 50% of the member's final average salary or, if the member has no dependents, as defined in subsection (1)(b), the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater. Such benefit shall accrue from the day upon which the member ceases to draw compensation.

(b) Except as otherwise provided by this subsection, each of the member's children under the age of 18 years or each of the member's children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto shall receive an annual benefit equal to 10% of the member's final average salary. Such benefit shall accrue from the day upon which the member ceases to draw compensation and shall end on the last day of the month in which each such child or children shall attain the age of 18 years or die, whichever occurs earlier or in which such children attain the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act. For a member who becomes totally and permanently disabled as provided in this section on and after July 1, 2001, only the member's children who were born, conceived or adopted prior to the commencement of the member's disability are entitled to the annual benefit as provided in this subsection.

(c) In no case shall the total of the benefits payable under paragraphs (a) and (b) of this subsection (1) be in excess of 75% of the member's final average salary. *In no case shall a member who qualifies for a benefit payable under paragraph (b) of this subsection receive a total retirement benefit that would be less than the total benefit that the member would be entitled to if the member qualified for a benefit payable under subsection (a) of this subsection. Any deficiency caused by the fact that the member has a child or children shall be compensated by the percentage difference in the member's total retirement benefit.*

(d) In the event a member who is retired under subsection (1) dies within two years after the date of such retirement and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto.

(e) In the event a member who is retired under subsection (1) dies more than two years after the date of such retirement, and the proximate cause of such death is the service-connected cause from which the disability resulted and no benefits are payable under subsection (3) of K.S.A. 74-4958 and amendments thereto, then benefits may be payable under subsection (1) of K.S.A. 74-4959 and amendments thereto. The provisions of this paragraph (e) of this subsection (1) shall apply in all cases of such members who die after June 30, 1978.

(f) In the event a member who is retired under subsection (1) dies after the date of such retirement, and no benefits are payable under paragraphs (d) and (e) of subsection (1), nor under subsection (3) of K.S.A. 74-4958 and amendments thereto, the following benefits shall be payable:

(i) To the member's spouse, if lawfully wedded to the member at the time of the member's death, a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at

the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto, the annual spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (f) of subsection (1) shall apply in all cases of such members who die after December 1, 1984.

(2) (a) If any active contributing member, prior to such member's normal retirement, becomes totally and permanently disabled for a period of 180 days from causes not service-connected, and not as the result of a willfully negligent or intentional act of the member, such member shall be retired and the following benefit shall become payable and shall continue until the member's death or until the member recovers from such disability, whichever occurs first, if a report of the disability in a form acceptable to the board is filed in the office of the executive director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within two years of the date of disability, except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.

A retirement benefit equal to 2.5% of the member's final average salary multiplied by the number of years of credited service or the retirement benefit the member would have been entitled to as provided under K.S.A. 74-4958 and amendments thereto had the member retired, whichever is greater, multiplied by the number of years of credited service except that such retirement benefit shall be at least equal to 25% of the member's final average salary but shall not exceed the amount of the retirement benefit provided in paragraph (a) of subsection (1). Such benefit shall not become payable until satisfactory evidence shall be presented to the board that the member is and has been totally and permanently disabled for a period of 180 days, but benefits shall accrue from the day upon which the member ceases to draw compensation.

(b) In the event a member who is retired under subsection (2) dies after the date of such retirement, the following benefits shall be payable:

(i) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, to the member's spouse, if lawfully wedded to the member at the time of the member's death and if no benefits are payable under subsection (3) of K.S.A. 74-4958, and amendments thereto, a lump-sum benefit equal to 50% of the member's final average salary at the time of the member's retirement.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's retirement benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Com-

mencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who are full-time students as provided in K.S.A. 74-49,117 and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123 and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

The provisions of paragraph (b) of subsection (2) shall apply in all cases of such members who die after July 1, 1989.

(3) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (2).

(4) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1) or (2), the sum of the member's accumulated contributions shall be paid to the member.

(5) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by Kansas state board of healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the retirant is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A retirant who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952 and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(6) Any retirant who has been receiving benefits under the provisions of this section for a period of five years shall be deemed finally retired and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the retirant remains totally and permanently disabled, a further medical examination or examinations may be required.

(7) Refusal or neglect to submit to examination as provided in subsection (5) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(8) Any retirement benefits payable under the provisions of this section shall be in lieu of normal retirement benefits as provided in subsections (1) and (2) of K.S.A. 74-4958 and amendments thereto.

(9) Each member shall report to such member's participating employer any event or act of duty causing disability within 200 days after such event or act of duty. The member's participating employer shall file in the office of the executive director of the board, in a form acceptable to the board, a report of the event or act of duty causing disability within 220 days after the event or act of duty.

(10) In any case of any event occurring prior to July 1, 1979, and after June 30, 1998, for which a report of the event was made by the participating employer to the director of workers compensation in accordance

with K.S.A. 44-557 and amendments thereto, such report to the director of workers compensation shall satisfy the requirement under subsection (1) of this section to file a report of such event, in a form acceptable to the board within 220 days. No such report to the director of workers' compensation shall be deemed to satisfy such requirement with respect to events occurring on or after July 1, 1979, and prior to July 1, 1998.

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

(12) The provisions of this section shall apply only to members who were appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a and amendments thereto.

(13) Any retirant who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall be deemed no longer retired.

(14) Upon the death of a member after retirement, if no benefits are payable under the provisions of this section, the excess, if any, of the retirant's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

Sec. 6. K.S.A. 74-4923 and 74-4960 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 11, 2007.

Published in the *Kansas Register* May 24, 2007.
