

HOUSE BILL No. 2130

By Committee on Financial Institutions and Pensions

Requested by Representative Melton

1-28

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; authorizing
3 retirement and disability benefits to be paid on either a biweekly or
4 monthly basis at the election of a member or recipient; amending
5 K.S.A. 20-2609, 20-2610, 74-4915 and 74-4962 and repealing the
6 existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 20-2609 is hereby amended to read as follows: 20-
10 2609. (a) (1) Any judge who has become permanently physically or
11 mentally disabled and who is not entitled to retire under K.S.A. 20-2608,
12 and amendments thereto, may, upon being found so disabled by the
13 supreme court, retire under this section, and upon such retirement such
14 judge shall be entitled to receive an annuity, each monthly payment of
15 which shall be in an amount equal to 3.5% of the final average salary of
16 the judge, determined as provided in ~~subsection (b) of~~ K.S.A. 20-2610(b),
17 and amendments thereto, multiplied by the number of total years of
18 service, but for any judge who becomes disabled as provided in this
19 section on or after July 1, 1998, such monthly benefits shall be at least
20 50% but shall not exceed 70% of the final average salary of the judge,
21 determined as provided in ~~subsection (b) of~~ K.S.A. 20-2610(b), and
22 amendments thereto.

23 (2) *On and after July 1, 2026, a judge who currently receives a*
24 *monthly benefit under the provisions of this section on such date or who*
25 *first receives a benefit under the provisions of this section on or after July*
26 *1, 2026, shall have the option to elect to receive such benefit either*
27 *biweekly or monthly after receiving such judge's first month's benefit*
28 *payment. Such election for a biweekly or monthly benefit payment shall be*
29 *effective not later than 60 days from the date of election. Judges who make*
30 *no election shall continue to receive benefits on a monthly basis. The*
31 *election of benefit payment changes shall be made on a form and in a*
32 *manner as prescribed by the board.*

33 (b) Any judge, or the conservator of any judge, desiring to retire
34 under the provisions of this section shall file an application for such
35 retirement with the clerk of the supreme court, which application shall be

1 in such form and contain such information as the supreme court shall
2 require. The court may require such judge to be examined by a physician
3 appointed by the court and may require such other evidence and proof of
4 disability as it deems necessary to reach a determination as to whether
5 such judge is so permanently disabled. If the supreme court shall
6 determine that any such judge is so permanently disabled it shall promptly
7 notify the board and thereupon such judge shall be placed on retirement by
8 the board and monthly receive the retirement annuity as provided in this
9 section.

10 (c) Any judge receiving an annuity under the provisions of this
11 section shall be considered an active judge for the purposes of K.S.A. 20-
12 2608, and amendments thereto, and shall, upon reaching age 65 or upon
13 making application for retirement, have such judge's retirement under this
14 section terminated and such judge shall be placed on retirement under the
15 provisions of K.S.A. 20-2608, and amendments thereto.

16 (d) In the event that a judge eligible for a disability annuity
17 authorized by this section shall be disabled for a period of five years or
18 more immediately preceding retirement, such judge's final average salary
19 shall be adjusted upon retirement by the actuarial salary assumption rates
20 in existence during such period of disability. Effective July 1, 1993, such
21 judge's final average salary shall be adjusted upon retirement by 5% for
22 each year of disability after July 1, 1993, but before July 1, 1998. Effective
23 July 1, 1998, such judge's final average salary shall be adjusted upon
24 retirement by an amount equal to the lesser of: (1) The percentage increase
25 in the consumer price index for all urban consumers as published by the
26 bureau of labor statistics of the United States department of labor minus
27 1%; or (2) four percent per annum, measured from the month the disability
28 occurs to the month that is two months prior to the month of retirement,
29 for each year of disability after July 1, 1998.

30 (e) The provisions of law in effect on the retirement date of a judge
31 under the retirement system for judges shall govern the retirement benefit
32 payable to the judge, any joint annuitant and any beneficiary.

33 Sec. 2. K.S.A. 20-2610 is hereby amended to read as follows: 20-
34 2610. (a) (1) A judge who retires under K.S.A. 20-2608, and amendments
35 thereto, shall be entitled to receive an annual annuity payable in monthly
36 amounts subject to subsection (b), each such annual annuity of which shall
37 be in an amount equal to the total of 5% of the final average salary of the
38 judge, determined as provided in subsection (b), multiplied by the number
39 of the judge's years of service up to 10 years, and 3.5% of the final average
40 salary of the judge, determined as provided in subsection (b), multiplied by
41 the number of the judge's years of service in excess of 10 years, but such
42 annual annuity shall not exceed 70% of the final average salary of such
43 judge, determined as provided in subsection (b). A judge who retires under

1 K.S.A. 20-2608, and amendments thereto, and who became a member of
2 the system after June 30, 1987, shall be entitled to receive an annual
3 annuity payable in monthly amounts subject to subsection (b), each such
4 annual amount of which shall be in an amount equal to the total of 3.5% of
5 the final average salary of the judge, determined as provided in subsection
6 (b), multiplied by the number of the judge's years of service, but such
7 annual annuity shall not exceed 70% of the final average salary of the
8 judge, determined as provided in subsection (b).

9 (2) For purposes of this subsection, the date of membership for a
10 district magistrate judge who became a member of the system as provided
11 by K.S.A. 20-2620, and amendments thereto, and who purchased service
12 as provided in ~~subsection (e)~~ of K.S.A. 20-2620(c) and K.S.A. 74-49,123,
13 and amendments thereto, shall be the day such district magistrate judge
14 became a district magistrate judge and if such district magistrate judge's
15 membership date as determined in this subsection is earlier than July 1,
16 1987, such district magistrate judge shall be entitled to the 5% of final
17 average salary calculation for up to 10 years of service as provided in this
18 subsection. Any additional cost associated with the provisions of this
19 subsection shall be paid by such district magistrate judge by means of a
20 single lump-sum payment or equal annual payments for not to exceed five
21 years. The lump-sum or annual payments shall be determined by the
22 system's actuary by using the member's final average salary at the time of
23 application, actuarial assumptions and tables currently in use by the system
24 and the member's attained age.

25 (3) *On and after July 1, 2026, a judge who currently receives a*
26 *monthly benefit or who retires on or after July 1, 2026, shall have the*
27 *option to elect to receive retirement benefits either biweekly or monthly*
28 *after receiving such judge's first month's benefit payment. Such election*
29 *for a biweekly or monthly benefit payment shall be effective not later than*
30 *60 days from the date of election. Judges who make no election shall*
31 *continue to receive benefits on a monthly basis. The election of benefit*
32 *payment changes shall be made on a form and in a manner as prescribed*
33 *by the board.*

34 (b) (1) For any judge who retires under K.S.A. 20-2608 or 20-2609,
35 and amendments thereto, on or after July 1, 1975, the annuity shall be
36 based on the final average salary of such judge as provided in this
37 subsection. The final average salary of a judge who becomes permanently
38 physically or mentally disabled and who is retired under K.S.A. 20-2608
39 or 20-2609, and amendments thereto, shall be determined as if such judge
40 had retired on the date such judge became permanently physically or
41 mentally disabled. The final average salary of a former judge whose
42 service is terminated without retiring and who later retires under K.S.A.
43 20-2608, and amendments thereto, shall be determined as if such former

1 judge had retired at the time such service was terminated.

2 (2) In the case of judges who retire on or after July 1, 1993, the final
3 average salary shall mean the average highest annual salary paid to the
4 judge for any three years of the last 10 years of service as a judge
5 immediately preceding retirement or termination of employment, or if
6 service as a judge is less than three years, then the final average salary
7 shall be the average annual salary paid to the judge during the full period
8 of service as a judge, or if service as a judge is less than one year, then the
9 final average salary shall be computed by multiplying the amount of
10 monthly salary such judge was receiving at the time of retirement by 12.

11 (c) The provisions of law in effect on the retirement date of a judge
12 under the retirement system for judges shall govern the retirement benefit
13 payable to the judge, any joint annuitant and any beneficiary.

14 (d) A judge who retires under K.S.A. 20-2608, and amendments
15 thereto, and who, after such retirement, again is appointed or elected as a
16 judge, shall have the judge's retirement annuity suspended as provided in
17 this subsection. Such judge shall become an active member and make
18 employee contributions to the system and receive service credit for any
19 service after the date of commencement of service in such position. Upon
20 again retiring, any credited service such member subsequently accrues
21 shall be added to all previous service and the retirement annuity shall be
22 recalculated in accordance with the provisions of this section.

23 Sec. 3. K.S.A. 74-4915 is hereby amended to read as follows: 74-
24 4915. (1) Any member who retires on or after such member's normal
25 retirement date shall be entitled to receive an annual retirement benefit
26 equal to the sum obtained by adding an amount for participating service
27 and an amount for prior service determined as provided in this section. The
28 amount for prior service shall be equal to 1% of the member's prior service
29 annual salary multiplied by the number of years of prior service entitled to
30 credit as provided in K.S.A. 74-4913, and amendments thereto, except that
31 for members retiring on or after July 1, 1981, who were last employed by a
32 participating employer which had affiliated with the system under K.S.A.
33 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, and for
34 the period commencing January 1, 1986, for members retiring before July
35 1, 1981, who were last employed by a participating employer which had
36 affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-
37 4991, and amendments thereto, except that any increase in benefits under
38 this section shall be reduced by any postretirement benefit adjustments
39 received by such member prior to July 2, 1985, the amount for prior
40 service shall be calculated using final average salary in lieu of prior
41 service annual salary and, in the case of any such member who became a
42 member under ~~subsection (3) of~~ K.S.A. 74-4925(3), and amendments
43 thereto, and for whom a final average salary cannot be otherwise

1 determined, such member's final average salary shall be based on all
2 service for which such member received assistance in a plan under
3 ~~subsection (2) of K.S.A. 74-4925(2)~~, and amendments thereto, as certified
4 by such employer upon request of the board. For any member who retires
5 on or after July 1, 1993, the amount for participating service shall be equal
6 to the total of 1.75% of the member's final average salary multiplied by the
7 number of years of participating service earned prior to January 1, 2014,
8 and, subject to any election made pursuant to the provisions of K.S.A. 74-
9 49,135, and amendments thereto, 1.4% or 1.85% of the member's final
10 average salary multiplied by the number of years of participating service
11 earned on and after January 1, 2014. If the federal internal revenue service
12 fails to grant an approval or issues an adverse decision as described in
13 K.S.A. 74-49,135, and amendments thereto, the amount for participating
14 service earned on and after January 1, 2014, shall be 1.85% of the
15 member's final average salary multiplied by the number of years of
16 participating service earned on and after January 1, 2014. Notwithstanding
17 any provision of law to the contrary, service that is purchased under the
18 provisions of K.S.A. 74-4919a et seq., and amendments thereto, shall be
19 credited at a rate which equals 1.4% of the member's final average salary
20 for members that elect the 1.4% multiplier pursuant to ~~subsection (b)(2) of~~
21 K.S.A. 74-49,135(b)(2), and amendments thereto, and 1.75% of the
22 member's final average salary for members that elect the 1.85% multiplier
23 pursuant to ~~subsection (b)(1) of~~ K.S.A. 74-49,135(b)(1), and amendments
24 thereto.

25 (2) (A) Any member who retires on or after July 1, 1993, but before
26 the normal retirement date and has attained age 60 but has not attained age
27 62 with the completion of 10 years of credited service, shall receive an
28 annual retirement benefit equal to the annual retirement benefit payable
29 had the member retired on the normal retirement date but based upon the
30 member's final average salary and years of participating and prior service
31 credited to the date of actual retirement reduced by an amount equal to the
32 product of (i) such annual retirement benefit payable had the member
33 retired on the normal retirement date, multiplied by (ii) the product of .2%
34 multiplied by the number of months' difference, to the nearest whole
35 month, between the member's attained age at the time of retirement and
36 age 62.

37 (B) Any member who retires on or after July 1, 1993, but before the
38 normal retirement date and has attained age 55 but has not attained age 60
39 with the completion of 10 years of credited service, shall receive an annual
40 retirement benefit equal to the annual retirement benefit payable had the
41 member retired on the normal retirement date but based upon the member's
42 final average salary and years of participating and prior service credited to
43 the date of actual retirement reduced by an amount equal to the total of: (i)

1 (a) The product of such annual retirement benefit payable had the member
2 retired on the normal retirement date, multiplied by (b) the product of .6%
3 multiplied by the number of months' difference, to the nearest whole
4 month, between the member's attained age at the time of retirement and
5 age 60; and

6 (ii) on and after July 1, 1993, the product of such annual retirement
7 benefit payable had the member retired on the normal retirement date,
8 multiplied by 4.8%.

9 (3) Upon death of a retirant, there shall be paid to such retirant's
10 beneficiary an amount equal to the excess, if any, of such retirant's
11 accumulated contributions over the sum of all retirement benefit payments
12 made.

13 (4) Such annual retirement benefits shall be paid in equal monthly
14 installments, except that the board may provide for the payment of
15 retirement benefits which total less than \$240 a year on other than a
16 monthly basis. *On and after July 1, 2026, a retirant who currently receives*
17 *a monthly benefit or who retires on or after July 1, 2026, shall have the*
18 *option to elect to receive retirement benefits either biweekly or monthly*
19 *after receiving such retirant's first month's benefit payment. Such election*
20 *for a biweekly or monthly benefit payment shall be effective not later than*
21 *60 days from the date of election. Retirants who make no election shall*
22 *continue to receive benefits on a monthly basis. The election of benefit*
23 *payment changes shall be made on a form and in a manner as prescribed*
24 *by the board. Any reference in this act to a monthly benefit payment shall*
25 *also include the biweekly equivalent of such monthly benefit.*

26 (5) In the event that an application in such form as may be prescribed
27 by the board for any amount due under the provisions of this act, is not
28 filed with the office of the retirement system by the person entitled to same
29 within five years of the date such amount became due and payable, an
30 amount equal to same shall be transferred to the retirement benefit
31 accumulation reserve and such amount shall no longer be due and payable,
32 except that if any such person shall present evidence satisfactory to the
33 board that such person's failure to file such application within that time
34 period was due to lack of knowledge or incapacity on such person's part,
35 the amount equal to the amount originally due shall be transferred from the
36 retirement benefit accumulation reserve to the reserve or reserves from
37 which such transfer was initially made and the amount originally due shall
38 be paid to such person.

39 (6) The participating employer, when an employee files an
40 application for retirement, shall certify to the system all member
41 contributions of such employee which have not been reported previously.
42 In the event the amount certified results in an overpayment of retirement
43 benefits, the employer shall be held responsible for the contribution

1 amount previously certified from the time of commencement of the
2 overpayment of retirement benefits until the time that such overpayment is
3 discovered by the system. At the time that such overpayment of retirement
4 benefits is discovered by the system, the system shall adjust the amount of
5 retirement benefits paid to the employee to the correct amount based on
6 the participating employer's certification of member contributions which
7 had not been previously reported. The participating employer of the
8 employee who has had such member's retirement benefits adjusted as
9 provided in this subsection shall notify such employee of such
10 overpayment and such adjustment of retirement benefits. If the
11 contributions previously certified are lower than the actual amount
12 reported, the employer shall be responsible for remitting the correct
13 amount and the member's monthly benefit shall be recalculated based on
14 the amount reported by the employer. When an employee in school
15 employment files such an application, the participating employer
16 responsible for any such amounts as provided in this subsection shall be
17 the employee's eligible employer as specified in ~~subsection (1), (2) or (3)~~
18 ~~of K.S.A. 74-4931(1), (2) or (3)~~, and amendments thereto, and shall not be
19 the state of Kansas. The provisions of law in effect on the retirement date
20 of a member under the system shall govern the retirement benefit payable
21 to the retirant, any joint annuitant and any beneficiary.

22 Sec. 4. K.S.A. 74-4962 is hereby amended to read as follows: 74-
23 4962. (1) All benefits except lump-sum benefits as provided in this
24 subsection shall be payable in equal monthly installments, except that the
25 board may provide for payment of benefits to a member's family in a
26 single payment rather than separate payments to the member, to the widow
27 or to minor children. *On and after July 1, 2026, a member who currently*
28 *receives a monthly benefit or who retires on or after July 1, 2026, shall*
29 *have the option to elect to receive retirement benefits either biweekly or*
30 *monthly after receiving such member's first month's benefit payment. Such*
31 *election for a biweekly or monthly benefit payment shall be effective not*
32 *later than 60 days from the date of election. Members who make no*
33 *election shall continue to receive benefits on a monthly basis. The election*
34 *of benefit payment changes shall be made on a form and in a manner as*
35 *prescribed by the board. Any reference in this act to a monthly benefit*
36 *payment shall also include the biweekly equivalent of such monthly*
37 *benefit.*

38 (2) Whenever the amount of any benefit is to be determined on the
39 basis of actuarial assumptions, the assumptions shall be specified by the
40 board in a way that precludes employer discretion.

41 Sec. 5. K.S.A. 20-2609, 20-2610, 74-4915 and 74-4962 are hereby
42 repealed.

43 Sec. 6. This act shall take effect and be in force from and after its

- 1 publication in the statute book.