

HOUSE BILL No. 2194

By Representatives Howerton and Howell

1-31

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; providing an exemption from the
3 working after retirement employer contribution rate for retirants
4 employed as teachers by a school district in a position for which a
5 certificate to teach is required; amending K.S.A. 2024 Supp. 74-4914
6 and repealing the existing section.

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

9 Section 1. K.S.A. 2024 Supp. 74-4914 is hereby amended to read as
10 follows: 74-4914. (1) The normal retirement date for a member of the
11 system shall be the first day of the month coinciding with or following
12 termination of employment with any participating employer not followed
13 by employment with any participating employer within 60 days, or 180
14 days as provided in subsection (9), and without any prearranged agreement
15 for employment with any participating employer, and the attainment of age
16 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of
17 credited service or the first day of the month coinciding with or following
18 the date that the total of the number of years of credited service and the
19 number of years of attained age of the member is equal to or more than 85.
20 In no event shall a normal retirement date for a member be before six
21 months after the entry date of the participating employer by whom such
22 member is employed. A member may retire on the normal retirement date
23 or on the first day of any month thereafter upon the filing with the office of
24 the retirement system of an application in such form and manner as the
25 board shall prescribe. Such application shall contain a certification by the
26 member that the member will not be employed with any participating
27 employer within 60 days, or 180 days as provided in subsection (9), of
28 retirement and the member has not entered into a prearranged agreement
29 for employment with any participating employer. Nothing herein shall
30 prevent any person, member or retirant from being employed, appointed or
31 elected as an employee, appointee, officer or member of the legislature.
32 Elected officers may retire from the system on any date on or after the
33 attainment of the normal retirement date, but no retirement benefits
34 payable under this act shall be paid until the member has terminated such
35 member's office.

36 (2) No retirant shall make contributions to the system or receive

1 service credit for any service after the date of retirement.

2 (3) Any member who is an employee of an affiliating employer
3 pursuant to K.S.A. 74-4954b, and amendments thereto, and has not
4 withdrawn such member's accumulated contributions from the Kansas
5 police and firemen's retirement system may retire before such member's
6 normal retirement date on the first day of any month coinciding with or
7 following the attainment of age 55.

8 (4) Any member may retire before such member's normal retirement
9 date on the first day of any month coinciding with or following
10 termination of employment with any participating employer not followed
11 by employment with any participating employer within 60 days, or 180
12 days as provided in subsection (9), and the attainment of age 55 with the
13 completion of 10 years of credited service, but in no event before six
14 months after the entry date, upon the filing with the office of the retirement
15 system of an application for retirement in such form and manner as the
16 board shall prescribe. The member's application for retirement shall
17 contain a certification by the member that the member will not be
18 employed with any participating employer within 60 days, or 180 days as
19 provided in subsection (9), of retirement and the member has not entered
20 into a prearranged agreement for employment with any participating
21 employer.

22 (5) For purposes of this section, any employee of a local
23 governmental unit that has its own pension plan who becomes an
24 employee of a participating employer as a result of a merger or
25 consolidation of services provided by local governmental units, that
26 occurred on January 1, 1994, may count service with such local
27 governmental unit in determining whether such employee has met the
28 years of credited service requirements contained in this section.

29 (6) (a) Commencing January 1, 2018, for all retirements that occurred
30 prior to such date, any retirant who is employed or appointed in or to any
31 position by a participating employer, an independent contractor or a third-
32 party entity who contracts services with a participating employer to fill a
33 position, without any prearranged agreement with such participating
34 employer and not prior to 60 days after such retirant's retirement date, shall
35 not be subject to an earnings limitation that when met or exceeded requires
36 that the retirant not receive a retirement benefit for any month for which
37 such retirant serves in such position. If a retirant is employed in a covered
38 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
39 participating employer of such retirant shall pay to the system the
40 statutorily prescribed employer contribution rate on the first \$40,000 of
41 such retirant's compensation in a calendar year and a 30% employer
42 contribution on any compensation in excess of \$40,000 in a calendar year
43 during any such period of employment. If a retirant is employed by more

1 than one participating employer or performing duties in more than one
2 position, contributions shall be made on compensation from all such
3 employment for that calendar year. If a retirant is employed in a non-
4 covered position, no employer contribution shall be paid to the system.

5 (b) The provisions of this subsection shall not apply, except as
6 specifically provided in this subsection, to retirants who are:

7 (i) Licensed professional nurses or licensed practical nurses
8 employed by the state of Kansas in an institution as defined in K.S.A. 76-
9 12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers'
10 home or the Kansas veterans' home. The participating employer of such
11 retirant shall pay to the system the actuarially determined employer
12 contribution based on the retirant's compensation and the statutorily
13 prescribed employee contribution during any such period of employment;

14 (ii) employed by a school district in a position as provided in K.S.A.
15 74-4937(3), and amendments thereto;

16 (iii) certified law enforcement officers employed by the law
17 enforcement training center. Such law enforcement officers shall receive
18 their benefits notwithstanding this subsection. The law enforcement
19 training center shall pay to the system the actuarially determined employer
20 contribution and the statutorily prescribed employee contribution based on
21 the retirant's compensation during any such period of employment;

22 (iv) members of the Kansas police and firemen's retirement system
23 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of
24 the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
25 amendments thereto, or members of the state board of regents retirement
26 plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

27 (v) employed as substitute teachers without a contract or officers,
28 employees or appointees of the legislature;

29 (vi) a poll worker hired to work an election day for a county election
30 officer responsible for conducting all official elections held in the county;

31 (vii) employed by, or have accepted employment from, a participating
32 employer prior to May 1, 2015. Any break in continuous employment by a
33 retirant or move to a different position by a retirant during the effective
34 period of this subsection shall be deemed new employment and shall
35 subject the retirant to the provisions of this subsection. Commencing
36 January 1, 2018, the participating employer of a retirant described in this
37 subparagraph who is employed in a covered position, as defined in K.S.A.
38 74-49,202, and amendments thereto, shall pay to the system the statutorily
39 prescribed employer contribution rate on the first \$40,000 of such retirant's
40 compensation in a calendar year and a 30% employer contribution on any
41 compensation in excess of \$40,000 in a calendar year during any such
42 period of employment. If a retirant is employed by more than one
43 participating employer or performing duties in more than one position,

1 contributions shall be made on compensation from all such employment
 2 for that calendar year. If a retirant is employed in a non-covered position,
 3 no employer contribution shall be paid to the system;

4 (viii) state or local elected officials. A retirant shall not be employed
 5 in an elected office within 30 days of such retirant's retirement, except that
 6 if a retirant is filling a vacant elected office, no waiting period shall be
 7 required;

8 (ix) employed by the Kansas academies of the United States
 9 department of defense STARBASE program; ~~or~~

10 (x) employed as a licensed professional nurse, licensed practical
 11 nurse or in a direct support position of an affiliated employer organized
 12 under K.S.A. 19-4001, and amendments thereto, or defined under K.S.A.
 13 39-1803, and amendments thereto; *or*

14 (xi) *employed as a teacher by a school district in a position for which*
 15 *a certificate to teach is required.*

16 (c) The participating employer shall enroll all retirants, including
 17 retirants under subsection (6)(b)(i), (ii), (iii), (vii) and (viii), and report to
 18 the system when compensation is paid to a retirant as provided in this
 19 subsection. Such report shall contain a certification by the appointing
 20 authority of the participating employer that any hired retirant has not been
 21 employed by the participating employer within 60 days of such retirant's
 22 retirement and that there was no prearranged agreement for employment
 23 between the participating employer and the hired retirant. Upon request of
 24 the executive director of the system, the participating employer shall
 25 provide such information as may be needed by the executive director to
 26 carry out the provisions of this subsection. No retirant shall make
 27 contributions to the system or receive credit for service while employed
 28 under the provisions of this subsection.

29 (d) Retirants who are independent contractors or employees of third-
 30 party entities who contract with a participating employer, shall not be
 31 subject to the compensation limitation or employer contribution
 32 requirements in this subsection or the requirements of paragraph (c)
 33 regarding enrollment and reporting to the system, so long as all of the
 34 following apply:

35 (A) The contractual relationship was not created to allow the retirant
 36 to continue employment with the participating employer after retirement in
 37 a position similar to the one such retirant held prior to retirement;

38 (B) the activities performed by the independent contractor or third-
 39 party entity are not normally performed exclusively by employees of that
 40 participating employer; and

41 (C) the retirant meets the classification of independent contractor as
 42 provided in K.S.A. 44-768, and amendments thereto, or activities
 43 performed by the third-party entity that employs the retirant are performed

1 on a limited-term basis and the third-party entity is not a participating
2 employer in the system.

3 (e) Nothing in this subsection shall be construed to create any right,
4 or to authorize the creation of any right, which is not subject to
5 amendment or nullification by act of the legislature.

6 (7) (a) Except as provided in paragraph (b), if determined by the
7 retirement system that a retirant entered into a prearranged agreement for
8 employment with a participating employer prior to such retirant's
9 retirement and prior to the end of the subsequent 60-day waiting period, or
10 the 180-day waiting period under subsection (9), the monthly retirement
11 benefit of such retirant shall be suspended during the period that begins on
12 the month in which the retirant is re-employed and ends six months after
13 the retirant's termination of such employment. The retirant shall repay to
14 the retirement system all monthly retirement benefits paid to the retirant by
15 the retirement system that the retirant received after such employment
16 began. The participating employer which hired such retirant shall be
17 required to pay to the system any fees, fines, penalties or any other cost
18 imposed by the internal revenue service and indemnify the system for any
19 cost incurred by the system to defend any action brought by the internal
20 revenue service based on in-service distributions which are a result of any
21 determined prearranged agreement and for any cost incurred by the system
22 to collect any monthly retirement benefit required to be repaid by such
23 retirant pursuant to this subsection.

24 (b) For members who retired on and after July 1, 2016, and on or
25 before July 1, 2019, if determined by the retirement system that a retirant
26 entered into a prearranged agreement for employment with a participating
27 employer prior to such retirant's retirement date and the subsequent 60-day
28 waiting period, or the 180-day waiting period under subsection (9), and
29 upon being notified of the violation, the retirant terminated such
30 employment, the provisions of paragraph (a) shall not apply. If any retirant
31 had benefits suspended prior to July 1, 2019, such benefits shall be
32 reimbursed by the retirement system, if the retirant terminated such
33 prearranged employment in accordance with the provisions of this act. On
34 and after July 1, 2019, the executive director may waive such penalties
35 under this subsection if it is determined by the retirement system that any
36 of the following conditions were satisfied:

37 (i) The retirant's total length of reemployment was less than 21
38 calendar days;

39 (ii) the retirant's total compensation during the total length of
40 reemployment was less than 10% of the amount of such retirant's
41 retirement benefit that would be suspended pursuant to this subsection; or

42 (iii) other facts and circumstances indicated that the retirant would
43 not have been reemployed but for an error on the part of the participating

1 employer or the retirement system in verifying the retirement status of
2 such retirant and such retirant immediately terminated employment upon
3 being notified of the violation.

4 (c) On or before the first day of each regular session of the
5 legislature, beginning with the 2020 regular session, the executive director
6 shall submit an annual report on the number of waivers granted pursuant to
7 paragraph (b) in the prior calendar year to the joint committee on pensions,
8 investments and benefits, the house of representatives standing committee
9 on financial institutions and pensions and the senate standing committee
10 on financial institutions and insurance, or the successors of such
11 committees.

12 (8) For the purposes of this section a prearranged agreement for
13 employment may be determined by whether the facts and circumstances of
14 the situation indicate that the employer and employee reasonably
15 anticipated that further services would be performed after the employee's
16 retirement.

17 (9) (a) Notwithstanding the provisions of subsection (6) to the
18 contrary, commencing January 1, 2018, any retirant who is retired more
19 than 60 days, if such retirant's age on the date of retirement is 62 or older,
20 or is retired more than 180 days, if such retirant's age on the date of
21 retirement is less than 62, and who is subsequently hired without any
22 prearranged agreement with the participating employer in a covered
23 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
24 independent contractor or a third-party entity who contracts service to fill
25 such covered position shall not be subject to an earnings limitation that
26 when met or exceeded requires that the retirant not receive a retirement
27 benefit for any month for which such retirant serves in such covered
28 position. The participating employer of such retirant shall pay to the
29 system the statutorily prescribed employer contribution rate on the first
30 \$40,000 of such retirant's compensation in a calendar year and a 30%
31 employer contribution on any compensation in excess of \$40,000 in a
32 calendar year during any such period of employment. If a retirant is
33 employed by more than one participating employer or performing duties in
34 more than one position, contributions shall be made on compensation from
35 all such employment for that calendar year.

36 (b) Notwithstanding the provisions of subsection (6) to the contrary,
37 commencing January 1, 2018, any retirant who is retired more than 60
38 days, if such retirant's age on the date of retirement is 62 or older, or is
39 retired more than 180 days, if such retirant's age on the date of retirement
40 is less than 62, and who is subsequently hired without any prearranged
41 agreement with the participating employer in a non-covered position, or an
42 independent contractor or a third-party entity who contracts service to fill
43 such non-covered position, shall not be subject to an earnings limitation

1 that when met or exceeded requires that the retirant not receive a
2 retirement benefit for any month for which such retirant serves in such
3 non-covered position. No employer contribution shall be paid to the
4 system on compensation paid to a retirant hired in a non-covered position.

5 (c) The participating employer shall enroll all retirants, including
6 retirants under subsection (6)(b)(i), (ii), (iii), (vii) and (viii), and report to
7 the system when compensation is paid to a retirant as provided in this
8 subsection. Such report shall contain a certification by the appointing
9 authority of the participating employer that any hired retirant has not been
10 employed by the participating employer within 60 days of such retirant's
11 retirement in the case of a retirant whose age on the date of retirement is
12 62 or older, or within 180 days of such retirant's retirement in the case of a
13 retirant whose age on the date of retirement is less than 62, and that there
14 was no prearranged agreement for employment between the participating
15 employer and the hired retirant. Upon request of the executive director of
16 the system, the participating employer shall provide such information as
17 may be needed by the executive director to carry out the provisions of this
18 subsection. No retirant shall make contributions to the system or receive
19 credit for service while employed under the provisions of this subsection.

20 (d) The provisions of this subsection relating to an earnings limitation
21 and employer contributions shall not apply to any retirant described in
22 subsection (6)(b) or to retirants who are independent contractors or
23 employees of third-party entities who contract with a participating
24 employer as described in subsection (6)(d), except as specifically provided
25 in this subsection.

26 (e) Nothing in this subsection shall be construed to create any right,
27 or to authorize the creation of any right that is not subject to amendment or
28 nullification by act of the legislature.

29 Sec. 2. K.S.A. 2024 Supp. 74-4914 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.