

STATE OF KANSAS

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HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **House Substitute for SB 259**, on page 1, in line 19, before "shall" by inserting "and who makes an election as prescribed by section 29, and amendments thereto, or the default election in subsection (b)(2) of section 29, and amendments thereto, ";

On page 24, following line 3, by inserting:

"New Sec. 29. An employee first employed by a participating employer on or after January 1, 2014, shall elect to become a member of the plan established pursuant to section 1, *et seq.*, and amendments thereto, or the plan established pursuant to section 30 *et seq.*, and amendments thereto, by making an election within six months from such employee's first day of employment with a participating employer.

(b) (1) Elections made pursuant to this section shall be made on a form and in a manner prescribed by the board.

(2) An employee failing to make an election prescribed by this section shall be a member of the plan established pursuant to section 1 *et seq.*, and amendments thereto.

(3) An election made by a member prescribed by this section, including the default election pursuant to subsection (b)(2), is a one-time irrevocable election.

(c) A member in either plan who becomes inactive after an election prescribed by this section, and who returns to active membership remains in the plan previously elected.

(d) A member may not simultaneously be a member of the plan established in section 1, *et seq.*, and amendments thereto, and, the plan established in section 30 *et seq.*, and amendments thereto, and shall be a member of one plan or the other. A period of service shall be credited in only one plan or the other.

(e) During the six-month period commencing after the employee's first day of employment in which the employee has to make the election required pursuant to this section, the following provisions are applicable:

(1) Such employee shall participate in the Kansas public employees deferred compensation plan as provided pursuant to K.S.A. 2011 Supp. 74-49b07 *et seq.*, and amendments thereto, except that such employees shall have 6% of such employee's compensation deferred and deducted each payroll period in accordance with the Kansas public employees deferred compensation plan;

(2) the participating employer of any such employee shall contribute 1% of such member's compensation to a qualified government plan pursuant to section 401(a) and 414(d) of the federal internal revenue code and its implementing regulations; and

(3) upon the commencement of the employee's plan after the six-month election period prescribed by this section, all amounts in the employee's deferred compensation plan and the qualified plan prescribed in subsection (e)(2) shall be transferred to the plan that the employee elects pursuant to this act or the default election as prescribed by the board.

(f) Unless the context requires otherwise, terms used in this section shall have the meanings set forth in K.S.A. 74-4902, and amendments thereto.

New Sec. 30. (a) The provisions of sections 30 through 45, and amendments thereto, shall be known and may be cited as the Kansas public employees retirement system defined contribution act, and shall be effective on and after January 1, 2014.

(b) This act applies to any individual who is first employed by a participating employer on or after January 1, 2014, and who makes an election as prescribed by section 29, and amendments thereto.

(c) This act does not apply to members of the Kansas police and firemen's retirement system, K.S.A. 74-4951 *et seq.*, and amendments thereto, and the retirement system for judges, K.S.A. 20-2601 *et seq.*, and amendments thereto, and security officers as provided in K.S.A. 74-4914a, and amendments thereto.

New Sec. 31. Unless the context requires otherwise, terms that are used in this act have the meanings set forth for them in K.S.A. 74-4902, and amendments thereto, and the following definitions apply:

(a) "Act" means the provisions of section 30 et seq., and amendments thereto;

(b) "active DC plan member" means a DC plan member who is actively employed by a participating employer;

(c) "defined benefit plan" means the defined benefit plan for the Kansas public employees retirement system for KPERS;

(d) "DC plan member" means an individual who is required by section 30, and amendments thereto, to be a member of the defined contribution plan. The term also includes any survivor or beneficiary of a DC plan member, who has a retirement account in the defined contribution plan;

(e) "optional retirement program" means the retirement plan established by the state board of regents under K.S.A. 74-4925, and amendments thereto; and

(f) "plan" or "defined contribution plan" means the defined contribution retirement plan established by section 32, and amendments thereto.

New Sec. 32. (a) The board shall establish within the Kansas public employees retirement system a separate defined contribution plan in accordance with the provisions of this act. The plan must be established as a pension plan for the exclusive benefit of members and their beneficiaries and as a "qualified governmental plan" pursuant to sections 401(a) and 414(d) of the federal internal revenue code and its implementing regulations. Retirement accounts must be established for each DC plan member. Assets of the plan must be held in trust. The plan is established in addition to any retirement, pension, deferred compensation or other benefit plan administered by the state or a political subdivision.

(b) The board shall contract for plan administration and use a competitive proposal process when contracting for consulting, educational, investment, recordkeeping or other services for the plan.

New Sec. 33. (a) The board has the powers and shall perform the duties regarding the defined contribution plan as provided in K.S.A. 74-4909, and amendments thereto, as applicable. The board may also exercise the powers and shall perform the duties provided in this act.

(b) The board shall adopt a plan document and reasonable and necessary policies and procedures, without the need for corresponding rules and regulations.

(c) The board shall negotiate a contract with a third party administrator for administration of the defined contribution plan. Such contract shall be awarded through a competitive proposal process including the issuance of a request for proposal. Such third party administrator shall be selected by the board based on specific criteria identified by the board, and shall include, experience, variety of investments, liquidity, fee structure, education, customer service and other factors identified by the board.

New Sec. 34. (a) The board may establish an account within the defined contribution plan for paying the plan's administrative expenses.

(b) The board may:

(1) Assess fees on DC plan member accounts to pay the reasonable administrative costs of the plan; and

(2) negotiate with a vendor or vendors for vendor reimbursement of board administrative expenses for the plan.

(c) All fees assessed must be fully disclosed to members and treated as public information.

(d) Costs for the board to secure investment advice, recordkeeping, contract oversight, educational materials for members, performance evaluations and other appropriate information and services, are included as part of the administrative expenses of the plan.

New Sec. 35. The statutory provisions governing the defined contribution plan are subject to amendment by the legislature. The board has the power to amend the plan document, policies and procedures, consistent with the statutory provisions governing the defined contribution plan at the time

of the amendment.

New Sec. 36. The board shall accept the rollover of contributions and the income on those contributions from another eligible retirement plan to the member's rollover account only to the extent allowed under applicable federal law.

New Sec. 37 (a) A DC plan member's mandatory contribution account includes the DC plan member's contributions and the income on those contributions and is vested from the date that the employee becomes a member of the plan.

(b) A DC plan member's employer contribution account includes the employer's contributions and the income on those contributions and is vested only when the member has a total of seven years of participating service in the defined contribution plan.

(c) A DC plan member's rollover account includes the member's rollovers of contributions made pursuant to section 36, and amendments thereto, and income on those contributions and are vested from the date that the contribution is credited to the account.

(d) If the DC plan member's employer contribution account is not vested upon termination of plan membership, as provided in this section, the employer contributions and income are forfeited as provided in section 38, and amendments thereto.

New Sec. 38. (a) An active DC plan member shall contribute 6% of compensation to the defined contribution plan. These contributions shall be picked up by the employer via a salary reduction as provided in section 414(h)(2) of the federal internal revenue code.

(b) A DC plan member may not make voluntary contributions to the defined contribution plan.

(c) Subject to adjustment by the board as provided in section 39, and amendments thereto, an active DC plan member's employer shall contribute the following:

(1) To the active DC plan member's employer contribution account, an amount equal to:

(A) One percent of compensation for each member who has six months but less than one year

of service;

(B) two percent of compensation for each member who has one but less than two years of service;

(C) three percent of compensation for each member who has two but less than three years of service; and

(D) four percent of compensation for each member who has three or more years of service;

(2) a percentage of compensation, determined by the board under section 39, and amendments thereto, to the defined benefit plan as the plan funding rate as described in section 39, and amendments thereto;

(3) a percentage of compensation, determined by the board, must be allocated to the administrative account established by section 34, and amendments thereto; and

(4) a percentage of compensation, determined by the board, must be allocated to the death and long-term disability plan under K.S.A. 74-4927, and amendments thereto.

(d) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a DC plan member's retirement account. The board shall allocate the forfeitures under section 37, and amendments thereto, to meet the plan's administrative expenses, including startup expenses.

New Sec. 39. (a) The board shall periodically review the sufficiency of the plan funding rate and shall adjust the amount of contributions under section 38, and amendments thereto, as specified in this section. The board shall collect and maintain the data necessary to comply with this section. The plan funding rate set in section 38, and amendments thereto, must be adjusted as provided in this section and the plan document to actuarially fund the defined benefit plan's unfunded liabilities and the change in the normal cost contribution rate that is the result of the DC plan member's participation in the defined contribution plan.

(b) If the board determines that the plan funding rate should be increased or decreased, the

plan funding rate under section 38, and amendments thereto, must be increased or decreased accordingly.

New Sec. 40. (a) The investment alternatives under the defined contribution plan may be the same as the investment alternatives under the Kansas public employees deferred compensation plan.

(b) The board shall from time to time review the suitability and management of investment alternatives and may change the alternatives to be offered. The board shall notify affected DC plan members of potential changes before any changes become effective.

(c) The board shall establish a default investment option for any DC plan member who does not have an effective investment direction. The board may utilize a balanced fund as the default investment fund.

(d) Assets within each member's accounts must be invested as directed by the member. However, the non-vested portion of the DC plan member's employer contribution account shall be invested in the board's default investment fund.

New Sec. 41. Except as provided in section 45, and amendments thereto, any time after termination of service, a DC plan member or the DC plan member's beneficiary may terminate plan membership by filing a written application with the board and removing the DC plan member's vested account balance from the plan through any combination of the following payout options, each of which is subject to the provisions of the plan document and the federal internal revenue code and the applicable regulations of the internal revenue service:

- (a) A direct rollover to an eligible retirement plan;
- (b) a regular rollover to an eligible retirement plan;
- (c) a lump-sum distribution of the DC plan member's vested account balance; or
- (d) an optional form of distribution offered by the board under section 42, and amendments thereto.

New Sec. 42. (a) Subject to the provisions of the plan document, a DC plan member, after

termination of service, may leave the DC plan member's vested account balance in the plan, and the DC plan member is eligible for a distribution as provided in this section.

(b) After termination of service and upon filing a written application with the board, a DC plan member may select any distribution option provided by the plan document.

(c) A DC plan member who is less than 70 ½ years of age who returns to service may not continue to receive a distribution under this section while actively employed in a covered position.

(d) The plan document shall provide that distributions must comply with the minimum distribution requirements established in the federal internal revenue code and applicable under K.S.A. 74-49,123, and amendments thereto.

(e) The plan document may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 43. A DC plan member's beneficiary must be determined as provided in the defined benefit plan regulations. Upon filing a written application with the board after the death of a DC plan member, the DC plan member's beneficiary is entitled to the DC plan member's vested account balance.

New Sec. 44. Before termination of service, a DC plan member may not receive a refund of any portion of the DC plan member's vested account balance.

New Sec. 45. (a) For the purposes of providing the "insured death benefit" and "insured disability benefit" as prescribed in K.S.A. 74-4927, and amendments thereto, the term "member" as used in K.S.A. 74-4927, and amendments thereto, shall include those members of the Kansas public employees retirement system's defined contribution plan as defined in section 31, and amendments thereto.

(b) Each participating employer shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe each payroll period an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in subsection (c)(4) of section



38, and amendments thereto.

(c) Except as otherwise provided, in the event that a DC plan member as defined in section 31, and amendments thereto, becomes eligible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, the member's participating employer shall continue to make the contributions on behalf of such individual to the retirement plan as required under subsection (c)(1) of section 38, and amendments thereto, and shall also contribute to the retirement plan an amount equal to the individual's contribution required under subsection (a) of section 38, and amendments thereto, if the DC plan member is permanently and totally disabled as defined in section 72(m) of the federal internal revenue code. Commencing on and after July 1, 2013, such contributions shall cease at the earlier of: (1) The date that the individual is no longer entitled to an insured disability benefit under K.S.A. 74-4927, and amendments thereto; or (2) the date that is five years after the date the individual becomes eligible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto. For purposes of applying this subsection, compensation under section 38, and amendments thereto, means the individual's compensation at the time the individual became disabled as defined under the insured disability program prescribed in K.S.A. 74-4927, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 9, after the semicolon by inserting "enacting the Kansas public employees retirement system defined contribution act, terms, conditions, requirements, benefits and contributions; new member election;"

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