

SENATE SUBSTITUTE for HOUSE BILL No. 2194

AN ACT concerning retirement and benefits; relating to the Kansas public employees retirement system and systems thereunder; employer and employee contributions; benefits; member election; sale of real estate of state agencies, disposition of certain proceeds to Kansas public employees retirement fund; KPERS study commission; making certain appropriations for fiscal year 2012; amending K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-4914d, 74-4920, 74-49,205, 74-49,213 and 75-6609 and repealing the existing sections.

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

Section 1. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 2010 Supp. 74-4914d is hereby amended to read as follows: 74-4914d. Any additional cost resulting from the normal retirement date and retirement before such normal retirement date for security officers as provided in K.S.A. 74-4914c, and amendments thereto, and disability benefits as provided in K.S.A. 74-4914e, and amendments thereto, shall be added to the employer rate of contribution for the department of corrections as otherwise determined under K.S.A. 74-4920, and amendments thereto, except that the employer rate of contribution for the department of corrections including any such additional cost added to such employer rate of contribution pursuant to this section shall in no event exceed the employer rate of contribution for the department of corrections for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which security officers contribute during the period: (a) For the fiscal year commencing in calendar year 2006, ~~an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year;~~ and (b) ~~for the fiscal year commencing in calendar year 2007, and in each subsequent calendar year years 2010 through 2012,~~ an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (b) *for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year;* (c) *for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year;* (d) *for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year;* and (e) *for the fiscal year commencing in calendar year 2016, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year.*

Sec. 2. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 74-4915 is hereby amended to read as follows: 74-4915. (1) Any member who retires on or after such member's normal retirement date shall be entitled to receive an annual retirement benefit equal to the sum obtained by adding an amount for participating service and an amount for prior service determined as provided in this section. The amount for prior service shall be equal to 1% of the member's prior service annual salary multiplied by the number of years of prior service entitled to credit as provided in K.S.A. 74-4913, and amendments thereto, except that for members retiring on or after July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, and for the period commencing January 1, 1986, for members retiring before July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, except that any increase in benefits under this section shall be reduced by any postretirement benefit adjustments received by such member prior to July 2, 1985, the amount for prior service shall be calculated using final average salary in lieu of prior service annual salary and, in the case of any such member who became a member under subsection (3) of K.S.A. 74-4925, and amendments thereto, and for whom a final average salary cannot be otherwise determined, such member's final average salary shall be based on all service for which such member received assistance in a plan under subsection (2) of K.S.A. 74-4925, and amendments thereto, as certified by such employer upon request of the board. For any member who retires on or after July 1, 1993, the amount for participating service shall be equal to the total of 1.75% of the member's final average salary multiplied by the number of years of participating service *earned prior to January 1, 2014, and, subject to any election made pursuant to the provisions of section 8, and amendments thereto, 1.4% or 1.85% of the member's final average*

*salary multiplied by the number of years of participating service earned on and after January 1, 2014. If the federal internal revenue service refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto, the amount for participating service earned on and after January 1, 2014, shall be 1.85% of the members final average salary multiplied by the number of years of participating service earned on and after January 1, 2014. Notwithstanding any provision of law to the contrary, in no event shall service that is purchased under the provisions of K.S.A. 74-4919a et seq., and amendments thereto, be credited at a rate that exceeds 1.75% of the purchasing member's final average salary.*

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

(B) Any member who retires on or after July 1, 1993, but before the normal retirement date and has attained age 55 but has not attained age 60 with the completion of 10 years of credited service, shall receive an annual retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date but based upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an amount equal to the total of: (i) (a) The product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (b) the product of .6% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

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

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

(4) Such annual retirement benefits shall be paid in equal monthly installments, except; that the board may provide for the payment of retirement benefits which total less than \$240 a year on other than a monthly basis.

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

(6) The participating employer, when an employee files an application for retirement, shall certify to the system all member contributions of such employee which have not been reported previously. In the event the amount certified results in an overpayment of retirement benefits, the employer shall be held responsible for the contribution amount previously certified from the time of commencement of the overpayment of retirement benefits until the time that such overpayment is discovered by the system. At the time that such overpayment of retirement benefits is discovered by the system, the system shall adjust the amount of retirement benefits paid to the employee to the correct amount based on the participating employer's certification of member contributions which had not been previously reported. The participating employer of the employee who has had such member's retirement benefits adjusted as provided in this subsection shall notify such

employee of such overpayment and such adjustment of retirement benefits. If the contributions previously certified are lower than the actual amount reported, the employer shall be responsible for remitting the correct amount and the member's monthly benefit shall be recalculated based on the amount reported by the employer. When an employee in school employment files such an application, the participating employer responsible for any such amounts as provided in this subsection shall be the employee's eligible employer as specified in subsection (1), (2) or (3) of K.S.A. 74-4931, and amendments thereto, and shall not be the state of Kansas. The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant, any joint annuitant and any beneficiary.

Sec. 3. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 74-4919 is hereby amended to read as follows: 74-4919. (1) *Except as otherwise provided*, each participating employer, beginning with the first payroll for services performed after the entry date, shall deduct from the compensation of each member 4% of such member's compensation as employee contributions. *Subject to any election made pursuant to the provisions of section 8, and amendments thereto, each participating employer, for services performed by an employee first employed prior to July 1, 2009, shall deduct from the compensation of each member, the following amounts expressed as a percentage of compensation during the following periods: (a) Commencing January 1, 2014, for members who elected to receive an amount for participating service equal to the total of 1.4% of such member's final average salary, 4% of such member's compensation as employee contributions, and (b) Commencing January 1, 2014, for members who elected to receive an amount for participating service equal to the total of 1.85% of such member's final average salary, who did not make an election pursuant to section 8, and amendments thereto, or if the federal internal revenue service refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent calendar year, 6% of such member's compensation as employee contributions.* Such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive director for deposit in the Kansas public employees retirement fund. Such deductions shall be credited to the members' individual accounts and interest shall be added annually to such accounts.

(2) (a) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

Sec. 4. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 2010 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case

of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908, and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102, and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as

provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas and to the participating employers under K.S.A. 74-4931, and amendments thereto, shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year years 2010 through 2012, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2013, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2016, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997, and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2007, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2008 and in each subsequent calendar year years 2010 through 2013, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2014, an amount not to exceed more than 0.9% of the amount of the immediately preceding fiscal year; (C) for the fiscal year commencing in calendar year 2015, an amount not to exceed more than 1% of the amount of the immediately preceding fiscal year; (D) for the fiscal year commencing in calendar year 2016, an amount not to exceed more than 1.1% of the amount of the immediately preceding fiscal year; and (E) for the fiscal year commencing in calendar year 2017, and in each subsequent calendar year, an amount not to exceed more than 1.2% of the amount of the immediately preceding fiscal year.

(v) As part of the annual actuarial valuation, there shall be a separate employer rate of contribution calculated for the state of Kansas, a separate employer rate of contribution calculated for participating employers under K.S.A. 74-4931, and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers

under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers.

(vi) There shall be a combined employer rate of contribution certified to the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.

(vii) If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 et seq., and amendments thereto, shall be amortized over 10 years.

(10) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2010 Supp. 74-49,114b, and amendments thereto, for retirants other than local retirants as described in subsection (11) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2007.

(11) The actuarial accrued liability incurred for the provisions of K.S.A. 2010 Supp. 74-49,114b, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(12) The cost of the postretirement benefit payment provided pursuant to the provisions of K.S.A. 2010 Supp. 74-49,114c, and amendments thereto, for retirants other than local retirants as described in subsection (13) or insured disability benefit recipients shall be paid in the fiscal year commencing on July 1, 2008.

(13) The actuarial accrued liability incurred for the provisions of K.S.A. 2010 Supp. 74-49,114c, and amendments thereto, for the KPERS local group and retirants who were employees of local employers which affiliated with the Kansas police and firemen's retirement system shall be amortized over 10 years.

(14) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912, and amendments thereto, at rates different from the rate fixed for employers joining within one year of the first entry date.

(15) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

(16) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(17) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204, and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

Sec. 5. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 2010 Supp. 74-49,205 is hereby amended to read as follows: 74-49,205. For any member who is first employed by a participating employer on or after July 1, 2009, and who retires on or after such member's normal retirement date, *subject to any election made pursuant to the provisions of section 8, and amendments thereto*, the amount for participating service shall be equal to the total of 1.75% of the member's final average salary multiplied by the number of years of participating service *earned prior to January 1, 2014*, to be used in determining such member's annual retirement benefit, *and, subject to any election made pursuant to the provisions of subsection 8, and amendments thereto*, 1.4% of the member's final average salary multiplied by the number of years of participating service *earned on and after January 1, 2014*, to be used in determining such member's annual retirement benefit, *except that if the federal internal revenue services refuses to grant an approval or issues an adverse decision as described in section 8, and amendments thereto*, the amount for participating service *earned on and after January 1, 2014*, shall be 1.75% of the member's final average salary multiplied by the number of years of participating service *earned on and after January 1, 2014*.

Sec. 6. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 2010 Supp. 74-49,213 is hereby amended to read as follows: 74-49,213. (a) Beginning on July 1, 2010, and on each July 1 thereafter, the retirement benefit, pension or annuity payments to each retirant who retires under this act shall be increased by an annual cost-of-living adjustment in an amount equal to 2.0% multiplied by the retirement benefit, pension or annuity payment in effect on that date and shall be paid by the system to the retirant during each such period. The first increase for such a retirant shall be on the second July 1 following such retirant's retirement date. Subsequent increases shall occur on each July 1 thereafter.

(b) As used in this section, "retirant" means: (A) Any person who is a member of the Kansas public employees retirement system pursuant to this act *and who made an election pursuant to section 8, and amendments thereto, to receive an annual cost-of-living adjustment*, who is retired under the provisions of this act, and who is at least 65 years of age; and (B) any person who is a joint annuitant or beneficiary of any member described in clause (A).

Sec. 7. K.S.A. 2010 Supp. 75-6609 is hereby amended to read as follows: 75-6609. (a) When used in this section, "surplus real estate" means real estate which is no longer needed by the state agency which owns such real estate as determined in accordance with this section.

(b) (1) The secretary of administration shall develop criteria for the identification of surplus real estate, including but not limited to, a review of any legal restrictions associated with the real estate and the reasons for the state agency to keep the real estate. In accordance with such criteria, the secretary shall assist state agencies in the identification of surplus real estate. The secretary of administration shall periodically review the status of all real estate of state agencies subject to this section to determine if any of the real estate owned by state agencies is potentially surplus real estate. If any real estate owned by a state agency is determined by the secretary of administration, in consultation with the head of the state agency, to be

surplus real estate in accordance with the criteria developed under subsection (a), then the secretary of administration shall recommend to the governor that such real estate be sold under the procedures prescribed by this section.

(2) The secretary of administration shall develop guidelines for the sale of surplus real estate. In accordance with such guidelines and upon the approval of the governor, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: (A) Public auction; (B) by listing the surplus property with a licensed real estate broker or salesperson; or (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

(c) Prior to the sale of any surplus real estate under subsection (b), the state finance council shall approve the sale, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto. The matter may be submitted to the state finance council for approval at any time, including periods of time during which the legislature is in session.

(d) Prior to offering any real estate for sale, such property shall be appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless the appraisal is waived as provided in this subsection. The secretary of administration may waive the requirement for appraisal for any parcel of surplus real estate that is to be sold at public auction under this section if the secretary of administration determines that it is in the best interests of the state to waive the requirement for appraisal for such parcel of surplus real estate. The costs of any such appraisal may be paid from the proceeds of the sale.

(e) Conveyance of title in surplus real estate offered for sale by the secretary of administration shall be executed on behalf of the state agency by the secretary of administration. The deed for the conveyance may be by warranty deed or by quitclaim deed as determined to be in the best interests of the state by the secretary of administration in consultation with the head of the state agency which owns the surplus real estate.

(f) (1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and any cost of appraisal of the surplus real estate, shall be deposited in the state treasury as prescribed by this subsection, unless otherwise authorized by law. On and after ~~the effective date of this act~~ July 1, 2012, 20% of the proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by state or federal law or by the limitations or restrictions of the state's title to the real estate being sold. In the case of proceeds from the sale of surplus real estate at a state mental health institution or a state mental retardation institution, such portion of the proceeds shall be credited to the client benefit fund of such institution or to another special revenue fund of such institution for: (A) Rehabilitation and repair or other capital improvements for such institution; or (B) one-time expenditures for community mental health organizations if the real estate sold was at a state mental health institution or for community developmental disabilities organizations if the real estate sold was at a state mental retardation institution, and, in any such case, shall be expended in accordance with the provisions of appropriation acts. The remaining 80% of the proceeds from each such sale deposited in the state treasury shall be credited to the ~~state general fund~~ *Kansas public employees retirement fund to be applied to the payment, in full or in part, of the unfunded actuarial pension liability as directed by the Kansas public employees retirement system. As used in this section, "unfunded actuarial pension liability" means the unfunded actuarially accrued liability of the state for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, portion of such liability of the Kansas public employees retirement system, determined as of the later of December 31, 2011, or the end of the most recent calendar year for which an actuarial valuation report is available.*



(2) The amount of expenses and the cost of appraisal for each sale of surplus real estate pursuant to this section shall be transferred and credited to the property contingency fund created under K.S.A. 75-3652, and amendments thereto, and may be expended for any operations of the department of administration.

(3) Any state agency owning real estate may apply to the director of accounts and reports to establish a surplus real estate special revenue fund in the state treasury. Subject to the provisions of appropriation acts, moneys in a surplus real estate special revenue fund may be expended for the operating expenditures of the state agency.

(g) Any sale of property by the secretary of transportation pursuant to K.S.A. 68-413, and amendments thereto, shall not be subject to the provisions of this section. The provisions of this section shall not be applicable to real estate given as an endowment, bequest, or gift to a state educational institution as defined in subsection (g) of K.S.A. 72-4412, and amendments thereto, or to the university of Kansas medical center.

(h) Sale of the Olathe travel information center shall not be subject to the provisions of this section.

New Sec. 8. (a) The provisions of this section and any related provisions shall not be implemented until the board of trustees of the Kansas public employees retirement system has obtained approval for the election and related provisions specified in this section from the federal internal revenue service. The board may implement the remainder of this act prior to implementation of this section. To that end, this section and provisions related thereto are severable from the remainder of this act and shall be repealed if the federal internal revenue service refuses to grant such approval or issues an adverse decision.

(b) Except as otherwise provided in this act, a member of the system under the provisions of K.S.A. 74-4901 et seq., and amendments thereto, on July 1, 2013, may elect to: (1) Contribute, commencing January 1, 2014, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent calendar year, 6% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.85% of such member's final average salary; or (2) continue to contribute 4% of such member's compensation as employee contributions, and to receive an amount for participating service equal to the total of 1.4% of such member's final average salary. Members shall make such election within a 90-day period established by the board.

(c) Except as otherwise provided in this act, a member of the system under the provisions of the Kansas public employees retirement act of 2009, on July 1, 2013, may elect to: (1) Continue to contribute, commencing January 1, 2014, 6% of such member's compensation as employee contributions pursuant to K.S.A. 74-49,210, and amendments thereto, receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto, and receive an amount for participating service equal to the total of 1.4% of the member's final average salary; or (2) continue to contribute 6% of such member's compensation as employee contributions and not be eligible to receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto. Members who make this election to contribute at the 6% amount pursuant to this subsection and not be eligible to receive an annual cost-of-living adjustment shall receive an amount for participating service equal to the total of 1.75% of the member's final average salary. Members shall make such election within a 90-day period established by the board.

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

(2) A member failing to make an election pursuant to subsection (b) shall contribute 6% of such member's compensation as employee contributions, and shall receive an amount for participating service equal to the total of 1.85% of the member's final average salary.

(3) A member failing to make an election pursuant to subsection (c) shall contribute 6% of such member's compensation as employee contribution, shall not receive an annual cost-of-living adjustment pursuant to K.S.A. 2010 Supp. 74-49,213, and amendments thereto, and shall receive an amount for participating service equal to the total of 1.75% of the member's final average salary.

(4) An election under this section, including the default election pursuant to subsection (d)(2) or (d)(3), is a one-time irrevocable election.

(e) The provisions of this section shall take effect July 1, 2012, and upon the date of publication in the Kansas register of the notice prescribed in section 10.

New Sec. 9. (a) There is hereby established the KPERS study commission. The commission shall study and analyze the current KPERS retirement system and systems related thereto, and develop a viable plan to ensure the long-term sustainability of the system. The commission shall particularly study and review the advantages and disadvantages of implementing a defined benefit, defined contribution or hybrid defined benefit/defined contribution retirement benefit plan, or other plan options.

(b) (1) The KPERS study commission shall consist of 13 voting members. The 13 members shall be appointed as follows: (A) Four members of the legislature appointed as follows: One shall be appointed by the president of senate, one shall be appointed by the minority leader of the senate, one shall be appointed by the speaker of the house of representatives and one shall be appointed by the minority leader of the house of representatives;

(B) four at-large members appointed as follows: One shall be appointed by the president of the senate, one appointed by the minority leader of the senate, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives; and

(C) five members appointed by the governor, one of such members shall have been regularly admitted to practice law in the state of Kansas and have engaged in the active practice of law as a lawyer.

(2) The executive director of the Kansas public employees retirement system, the director of the budget, the revisor of statutes and the director of legislative research shall be non-voting, ex officio members of the commission.

(c) The commission shall elect from among its voting members a chairperson. Any vacancy in the membership of the commission shall be filled by appointment in the manner prescribed by this section for the original appointment.

(d) A quorum of the commission shall be six members. All actions of the commission shall be taken by a majority of all members of the commission.

(e) Members of the commission shall receive expenses, mileage and subsistence as provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(f) The staff of the office of revisor of statutes, the Kansas legislative research department and other central legislative staff service agencies shall provide such assistance as may be requested by the commission.

(g) The commission shall submit a report to the legislature and the joint committee on pensions, investment and benefits before January 6, 2012, with any findings and recommendations which the commission deems necessary including the recommendation of any legislation. To carry out the recommendations of the commission, one bill shall be introduced in the senate and one bill shall be introduced in the house of representatives, which such bills shall contain the exact same provisions, during the 2012 legislative session.

New Sec. 10. The revisor of statutes and the director of legislative research shall jointly certify to the secretary of state that the legislature has received and taken action during the regular session of the legislature held in 2012 on the recommendations, including any legislation, of the KPERS study commission created pursuant to section 9 as included in the report submitted to the legislature and the joint committee on pensions, investments and benefits by such commission. For purposes of this section, “taken action” shall mean at least one house of the legislature holding one or more public hearings in one or more committees and voting on final action by any such committee on a bill prescribed by subsection (g) of section 9, and amendments thereto, or a bill containing the exact same provisions of any such bill prescribed by subsection (g) of section 9, and amendments thereto, and the other house of the legislature voting on final action in committee of the whole on a bill prescribed by subsection (g) of section 9, and amendments thereto, or a bill containing the exact same provisions of any such bill prescribed by subsection (g) of section 9, and amendments thereto. Upon receipt of such certification, the secretary of

state shall cause a notice of such certification to be published in the Kansas register.

New Sec. 11.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) On and after July 1, 2011, during the fiscal year ending June 30, 2012, in addition to other purposes for which expenditures may be made by the above agency from the agency operations account of the Kansas public employees retirement fund for fiscal year 2012 as authorized by any appropriation act of the 2011 regular session of the legislature, notwithstanding the provisions of any other statute, expenditures shall be made by the above agency to provide actuarial services for the KPERS study commission. All such expenditures shall be in addition to any other expenditure limitation imposed on expenditures from the agency operations account of the Kansas public employees retirement fund for fiscal year 2012, except that such expenditures shall not exceed \$60,000.

Sec. 12. On July 1, 2012, and the date of publication in the Kansas register of the notice prescribed in section 10, K.S.A. 74-4915 and 74-4919 and K.S.A. 2010 Supp. 74-4914d, 74-4920, 74-49,205, 74-49,213 and 75-6609 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*