

SENATE BILL No. 204

By Committee on Ways and Means

2-14

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; certain member elections; retirement
3 benefit determinations, one-time payment; membership; amending
4 K.S.A. 2012 Supp. 74-49,135, 74-49,205, 74-49,301, 74-49,306, 74-
5 49,308, 74-49,313 and 74-49,315 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2012 Supp. 74-49,135 is hereby amended to read as
9 follows: 74-49,135. (a) The provisions of this section and any related
10 provisions shall not be implemented until the board of trustees of the
11 Kansas public employees retirement system has obtained approval for the
12 election and related provisions specified in this section from the federal
13 internal revenue service. The board may implement the remainder of this
14 act prior to implementation of this section. To that end, this section and
15 provisions related thereto are severable from the remainder of this act and
16 shall be repealed if the federal internal revenue service refuses to grant
17 such approval or issues an adverse decision.

18 (b) Except as otherwise provided in this act, a member of the system
19 under the provisions of K.S.A. 74-4901 et seq., and amendments thereto,
20 on July 1, 2013, may elect to: (1) Contribute, commencing January 1,
21 2014, 5% of such member's compensation as employee contributions, and
22 commencing January 1, 2015, and in each subsequent calendar year, 6% of
23 such member's compensation as employee contributions, and to receive an
24 amount for participating service equal to the total of 1.85% of such
25 member's final average salary; or (2) continue to contribute 4% of such
26 member's compensation as employee contributions, and to receive an
27 amount for participating service equal to the total of 1.4% of such
28 member's final average salary. Members shall make such election within a
29 90-day period established by the board.

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

32 (2) A member failing to make an election pursuant to subsection (b)
33 shall contribute, *commencing January 1, 2014, 5% of such member's*
34 *compensation as employee contributions, and commencing January 1,*
35 *2015, and in each subsequent year, 6% of such member's compensation as*
36 *employee contributions, and shall receive an amount for participating*

1 service equal to the total of 1.85% of the member's final average salary.

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

4 Sec. 2. K.S.A. 2012 Supp. 74-49,205 is hereby amended to read as
5 follows: 74-49,205. For any member who is first employed by a
6 participating employer on or after July 1, 2009, and who retires on or after
7 such member's normal retirement date, *or such member's retirement date*
8 *pursuant to early retirement as provided pursuant to K.S.A. 2012 Supp.*
9 *74-49,206, and amendments thereto, but prior to ~~January 1, 2014~~ July 1,*
10 *2012, the amount for participating service shall be equal to the total of*
11 *1.75% of the member's final average salary, and for any member who*
12 *retires on or after such member's normal retirement date, or such*
13 *member's retirement date pursuant to early retirement as provided*
14 *pursuant to K.S.A. 2012 Supp. 74-49,206, and amendments thereto, and on*
15 *and after ~~January 1, 2014~~ July 1, 2012, the amount for participating service*
16 *shall be equal to 1.85% of the member's final average salary, multiplied by*
17 *the number of years of participating service to be used in determining such*
18 *member's annual retirement benefit. Notwithstanding any law to the*
19 *contrary, for any member who retired on and after July 1, 2012, but prior*
20 *to the effective date of this act, such member's annual retirement benefit*
21 *shall be redetermined with the amount for participating service to be used*
22 *in determining such member's annual retirement benefit equal to 1.85% of*
23 *the member's final average salary. Any underpayment to such member for*
24 *any monthly retirement benefit as determined pursuant to this section shall*
25 *be paid to such member by the system by means of a one-time*
26 *redetermination benefit payment in a form and manner prescribed by the*
27 *board.*

28 Sec. 3. K.S.A. 2012 Supp. 74-49,301 is hereby amended to read as
29 follows: 74-49,301. (a) The provisions of K.S.A. 2012 Supp. 74-49,301
30 through 74-49,318, and amendments thereto, shall be known and may be
31 cited as the Kansas public employees retirement system act of 2015.

32 (b) Any employee who is first employed by a participating employer
33 on or after January 1, 2015, shall be a member of the system under the
34 provisions of this act on the first day of employment of such employee
35 with such participating employer.

36 (c) (1) *Any non-vested employee other than an elected official of a*
37 *participating employer who has been employed in a covered position as*
38 *defined in K.S.A. 2012 Supp. 74-49,202, and amendments thereto, other*
39 *than with a school employer, shall remain a member of the Kansas public*
40 *employees retirement system as provided pursuant to K.S.A. 74-4901 et*
41 *seq., and amendments thereto, on and after July 1, 2009, if the member:*
42 *(A) Does not leave covered employment with a participating employer for*
43 *a period of time exceeding 30 consecutive days; (B) does not withdraw*

1 *such member's annuity savings account as defined by K.S.A. 74-49,302,*
2 *and amendments thereto, forfeiting such member's membership in the*
3 *interim; and (C) returns to covered employment with a participating*
4 *employer in a covered position within such 30-day time period.*

5 (2) *Any non-vested employee other than an elected official of a*
6 *participating employer who has been employed in a covered position with*
7 *a participating school employer, shall remain a member of the Kansas*
8 *public employees retirement system as provided pursuant to K.S.A. 74-*
9 *4901 et seq., and amendments thereto, if the member: (A) Was employed in*
10 *a covered position with a participating school employer for the duration of*
11 *the school year and immediately returns to covered employment with*
12 *another participating school employer at the beginning of the following*
13 *school year; and (B) does not withdraw such member's annuity savings*
14 *account as defined by K.S.A. 74-49,302, and amendments thereto,*
15 *forfeiting such member's membership in the interim.*

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

21 ~~(d)~~(e) A system member may not simultaneously be a member of the
22 pre-2015 plan and the plan established pursuant to this act. A period of
23 service may not be credited in more than one retirement plan within the
24 system.

25 ~~(e)~~(f) The board of trustees of the Kansas public employees
26 retirement system shall administer the provisions of this act in the same
27 manner as the board administers the provisions of K.S.A. 74-4901 et seq.,
28 and amendments thereto, except as specifically provided in this act.

29 ~~(f)~~(g) Unless specifically provided in this act, the provisions of
30 K.S.A. 74-4901 et seq., and amendments thereto, shall be applicable to this
31 act. In an event that a conflict exists between the provisions of this act and
32 the provisions of K.S.A. 74-4901 et seq., and amendments thereto, the
33 provisions of this act shall control, and to that end, no legal or contractual
34 rights shall inure to the benefit of members or participating employers
35 under this act with regard to the provisions of K.S.A. 74-4901 et seq., and
36 amendments thereto, when the provisions of this act control.

37 ~~(g)~~(h) Each participating employer as provided in this act and each
38 employee as defined by this act shall be subject to the provisions of this
39 act as specified in this act and subject to the provisions of K.S.A. 74-4901
40 et seq., and amendments thereto, as appropriate as to terms, conditions and
41 requirements not specifically covered in this act. The provisions of this act
42 shall not apply to members of the Kansas public employees retirement
43 system as provided in K.S.A. 74-4901 et seq., and 74-49,201 et seq., and

1 amendments thereto, first employed by a participating employer prior to
2 January 1, 2015, unless otherwise provided in this act.

3 ~~(h)~~(i) The provisions of this act shall be part of and supplemental to
4 the provisions of K.S.A. 74-4901 et seq., and amendments thereto, subject
5 to the limitations contained in this act.

6 Sec. 4. K.S.A. 2012 Supp. 74-49,306 is hereby amended to read as
7 follows: 74-49,306. (a) A member's annuity savings account is the sum of
8 the member's mandatory contributions plus the interest credits on those
9 contributions, which shall be credited no less frequently than quarterly
10 based on the account balances as of the last day of the preceding quarter.
11 Effective January 1, 2015, the interest credits are 5.25% per annum. The
12 legislature may from time to time prospectively change the interest credits,
13 and expressly reserves the right to do so.

14 (b) The board may, in the board's discretion, from time to time
15 provide for an additional interest credit, subject to the following
16 conditions: (1) The additional interest credit may not exceed 4% per
17 annum;

18 (2) if the funding ratio of the system as a whole is equal to or more
19 than 80% as certified by the board, the board shall provide for an
20 additional interest credit which may not exceed the lesser of 4% or a
21 percentage of the rate of return on the system's assets that is above 8% for
22 a fiscal year which such percentage is equal to the funding ratio of the
23 system as a whole for each fiscal year;

24 (3) the additional interest ~~rate~~ *credit* for a fiscal year shall not be
25 granted unless the rate of return on the system's assets is at least 10% for
26 that fiscal year; and

27 (4) if the funding ratio of the system as a whole is less than 80% as
28 certified by the board, the board shall consider the funding of the system,
29 market conditions, investment returns and other related factors specified
30 by the board.

31 (c) The member's annuity savings account is vested from the date that
32 the employee becomes a member of the plan.

33 (d) Interest credits under subsections (a) and (b) shall not be granted
34 on the member's annuity savings account following the end of the second
35 plan year following the member's termination of employment under the
36 plan without vesting in the retirement annuity account as provided in
37 K.S.A. 2012 Supp. 74-49,312, and amendments thereto.

38 (e) For a member to be eligible for an additional interest credit, the
39 member shall have an account balance at the time the interest credit is
40 posted to the account.

41 Sec. 5. K.S.A. 2012 Supp. 74-49,308 is hereby amended to read as
42 follows: 74-49,308. (a) A member's retirement annuity account is the sum
43 of all employer credits to the account plus the interest credits on the

1 account, which shall be credited no less frequently than quarterly, based on
2 the account balances as of the last day of the preceding quarter. Effective
3 January 1, 2015, the interest credits are 5.25% per annum. The legislature
4 may from time to time prospectively change the interest credits, and
5 expressly reserves the right to do so.

6 (b) The board may, in the board's discretion, from time to time
7 provide for an additional interest credit, subject to the following
8 conditions: (1) The additional interest credit may not exceed 4% per
9 annum;

10 (2) if the funding ratio of the system as a whole, is equal to or more
11 than 80% as certified by the board, the board shall provide for an
12 additional interest credit which may not exceed the lesser of 4% or a
13 percentage of the rate of return on the system's assets that is above 8% for
14 a fiscal year which such percentage is equal to the overall funded ratio of
15 the system as a whole for each fiscal year;

16 (3) the additional interest ~~rate~~ credit for a fiscal year shall not be
17 granted unless the rate of return on the system's assets is at least 10% for
18 that fiscal year; and

19 (4) if the funding ratio of the system as a whole is less than 80% as
20 certified by the board, the board shall consider the funding of the system,
21 market conditions, investment returns and other related factors specified
22 by the board.

23 (c) For a member to be eligible for an additional interest credit, the
24 member shall have an account balance at the time the interest credit is
25 posted to the account.

26 (d) Interest credits under subsections (a) and (b) shall not be granted
27 on the member's non-vested retirement annuity account following the end
28 of the second plan year following the member's termination of
29 employment covered under the plan.

30 Sec. 6. K.S.A. 2012 Supp. 74-49,313 is hereby amended to read as
31 follows: 74-49,313. (a) Except as provided in subsection (e), a member
32 who has a nonforfeitable interest in the member's retirement annuity
33 account, at any time after termination from service and the attainment of
34 normal retirement age, shall receive an annuity based upon the balance in
35 such member's retirement annuity account, using mortality rates
36 established by the board by official action as of the member's annuity start
37 date and interest rates established by the legislature as of the member's
38 annuity start date, and such interest rate shall initially be 6%. The
39 legislature may from time to time prospectively change the interest rate
40 and the board may from time to time prospectively change the mortality
41 rates, and the legislature expressly reserves such rights to do so.

42 (b) Except as provided in subsection (e), a member who has a vested
43 interest in the member's retirement annuity account, who terminates ~~after~~

1 ~~attainment of age 55~~ covered employment, without forfeiting such
2 member's account, with the completion of at least 10 years of service, shall
3 be eligible to receive, upon attainment of age 55, an annuity based upon
4 employer credits and interest credits in such member's retirement annuity
5 account, using mortality rates established by the board by official action as
6 of the member's annuity start date and an interest rate established by the
7 legislature as of the member's annuity start date, and such interest rate
8 shall initially be 6%. The legislature may from time to time prospectively
9 change the interest rate and the board may from time to time prospectively
10 change the mortality rates, and the legislature expressly reserves such
11 rights to do so.

12 (c) The form of benefit payable under subsections (a) and (b) shall be
13 a single life annuity with 10-year certain. The member may elect any
14 option described in K.S.A. 74-4918, and amendments thereto, except the
15 partial lump-sum option, subject to actuarial factors established by the
16 board from time to time. The benefit option selected may include a self-
17 funded cost-of-living adjustment feature, in which the account value is
18 converted to a benefit amount that increases by a fixed percentage over
19 time. One or more fixed percentages shall be established by the board,
20 which may be changed from time to time. In lieu of a part of an annuity,
21 for a member entitled to a benefit under subsection (a), the member may
22 elect to receive a lump-sum of such member's retirement annuity account
23 of any fixed dollar amount or percent, but in no event may the lump-sum
24 option elected under this section and the lump-sum option elected under
25 subsection (a) of K.S.A. 2012 Supp. 74-49,311, and amendments thereto,
26 exceed 30% of the total value of such member's annuity savings account
27 and retirement annuity account.

28 (d) Except as provided in subsection (e), in the case of an active or
29 inactive member:

- 30 (1) Who is vested in the member's retirement annuity account;
- 31 (2) who has five or more years of service at death; and
- 32 (3) who dies before attaining normal retirement age, with such
33 member's spouse at time of death designated as such member's sole
34 primary beneficiary, the member's surviving spouse on and after the date
35 the member would have attained normal retirement age had such member
36 not died, shall receive an annuity based upon employer credits and interest
37 credits in the retirement annuity account, using factors established by the
38 board by official action as of the beneficiary's annuity start date. The form
39 of benefit shall be a single life annuity with 10-year certain.

40 (e) If a member's vested retirement annuity account is less than
41 \$1,000 upon separation from service, or the total of the member's vested
42 retirement annuity account and annuity savings account balance is less
43 than \$1,000, the account balance or balances shall be mandatorily

1 distributed to the member in accordance with section 401(a)(31)(B) of the
2 federal internal revenue code. If the member does not elect to have such
3 distribution paid directly to an eligible retirement plan specified by the
4 participant in a direct rollover or to receive the distribution directly, then
5 the board will pay the distribution to the member directly.

6 Sec. 7. K.S.A. 2012 Supp. 74-49,315 is hereby amended to read as
7 follows: 74-49,315. A member's beneficiary shall be determined as
8 provided in the ~~pre-2014~~ *pre-2015* plan. Upon filing a written application
9 with the board after the death of a member receiving a benefit under
10 ~~subsection~~ *subsections (a) or (b)* of K.S.A. 2012 Supp. 74-49,313, and
11 amendments thereto, the member's beneficiary is entitled to a \$4,000 death
12 benefit as provided in K.S.A. 74-4989, and amendments thereto.

13 Sec. 8. K.S.A. 2012 Supp. 74-49,135, 74-49,205, 74-49,301, 74-
14 49,306, 74-49,308, 74-49,313 and 74-49,315 are hereby repealed.

15 Sec. 9. This act shall take effect and be in force from and after its
16 publication in the Kansas register.