

HOUSE BILL No. 2268

By Committee on Financial Institutions and Pensions

2-2

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; extending
3 sunset date for exemptions; amending K.S.A. 2016 Supp. 74-4914 and
4 74-4937 and repealing the existing sections; also repealing K.S.A. 2016
5 Supp 74-4914f.
6

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

8 Section 1. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as
9 follows: 74-4914. (1) The normal retirement date for a member of the
10 system shall be the first day of the month coinciding with or following
11 termination of employment with any participating employer not followed
12 by employment with any participating employer within 60 days and
13 without any prearranged agreement for employment with any participating
14 employer, and the attainment of age 65 or, commencing July 1, 1993, age
15 62 with the completion of 10 years of credited service or the first day of
16 the month coinciding with or following the date that the total of the
17 number of years of credited service and the number of years of attained
18 age of the member is equal to or more than 85. In no event shall a normal
19 retirement date for a member be before six months after the entry date of
20 the participating employer by whom such member is employed. A member
21 may retire on the normal retirement date or on the first day of any month
22 thereafter upon the filing with the office of the retirement system of an
23 application in such form and manner as the board shall prescribe. Such
24 application shall contain a certification by the member that the member
25 will not be employed with any participating employer within 60 days of
26 retirement and the member has not entered into a prearranged agreement
27 for employment with any participating employer. Nothing herein shall
28 prevent any person, member or retirant from being employed, appointed or
29 elected as an employee, appointee, officer or member of the legislature.
30 Elected officers may retire from the system on any date on or after the
31 attainment of the normal retirement date, but no retirement benefits
32 payable under this act shall be paid until the member has terminated such
33 member's office.

34 (2) No retirant shall make contributions to the system or receive
35 service credit for any service after the date of retirement.

36 (3) Any member who is an employee of an affiliating employer

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

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

18 (5) Except as provided in subsection (7), on or after July 1, 2006, for
19 any retirant who is first employed or appointed in or to any position or
20 office by a participating employer other than a participating employer for
21 which such retirant was employed or appointed during the final two years
22 of such retirant's participation, and, on or after April 1, 2009, for any
23 retirant who is employed by a third-party entity who contracts services
24 with a participating employer other than a participating employer for
25 which such retirant was employed or appointed during the final two years
26 of such retirant's participation to fill a position covered under K.S.A. 72-
27 5410(a), and amendments thereto, with such retirant, such participating
28 employer shall pay to the system the actuarially determined employer
29 contribution and the statutorily prescribed employee contribution based on
30 the retirant's compensation during any such period of employment or
31 appointment. If a retirant is employed or appointed in or to any position or
32 office for which compensation for service is paid in an amount equal to
33 \$20,000 or more in any one such calendar year, or \$25,000 or more in any
34 one calendar year between July 1, 2016, and July 1, ~~2020~~ 2021, by any
35 participating employer for which such retirant was employed or appointed
36 during the final two years of such retirant's participation, and, on or after
37 April 1, 2009, by any third-party entity who contracts services to fill a
38 position covered under K.S.A. 72-5410(a), and amendments thereto, with
39 such retirant with a participating employer for which such retirant was
40 employed or appointed during the final two years of such retirant's
41 participation, such retirant shall not receive any retirement benefit for any
42 month for which such retirant serves in such position or office. The
43 participating employer who employs such retirant whether by contract

1 directly with the retirant or through an arrangement with a third-party
2 entity shall report to the system within 30 days of when the compensation
3 paid to the retirant is equal to or exceeds any limitation provided by this
4 section. Any participating employer who contracts services with any such
5 third-party entity to fill a position covered under K.S.A. 72-5410(a), and
6 amendments thereto, shall include in such contract a provision or condition
7 which requires the third-party entity to provide the participating employer
8 with the necessary compensation paid information related to any such
9 position filled by the third-party entity with a retirant to enable the
10 participating employer to comply with provisions of this subsection
11 relating to the payment of contributions and reporting requirements. The
12 provisions and requirements provided for in amendments made in this act
13 which relate to positions filled with a retirant or employment of a retirant
14 by a third-party entity shall not apply to any contract for services entered
15 into prior to April 1, 2009, between a participating employer and third-
16 party entity as described in this subsection. Any retirant employed by a
17 participating employer or a third-party entity as provided in this subsection
18 shall not make contributions nor receive additional credit under such
19 system for such service except as provided by this section. Upon request of
20 the executive director of the system, the secretary of revenue shall provide
21 such information as may be needed by the executive director to carry out
22 the provisions of this act. The provisions of this subsection shall not apply
23 to retirants employed as substitute teachers or officers, employees or
24 appointees of the legislature. The provisions of this subsection shall not
25 apply to members of the legislature prior to January 8, 2000. The
26 provisions of this subsection shall not apply to any other elected officials
27 prior to the term of office of such elected official which commences on or
28 after July 1, 2000. The provisions of this subsection shall apply to any
29 other elected official, except an elected city or county officer as further
30 provided in this subsection, on and after the term of office of such other
31 elected official which commences on or after July 1, 2000.
32 Notwithstanding any provisions of law to the contrary, when an elected
33 city or county officer is retired under the provisions of subsection (1) or
34 (4) of this section and is paid an amount of compensation of \$25,000 or
35 more in any one calendar year between July 1, 2016, and July 1, ~~2020~~
36 ~~2021~~, such officer may receive such officer's salary, and still be entitled to
37 receive such officer's retirement benefit pursuant to the provisions of
38 K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise
39 provided, commencing January 8, 2001, the provisions of this subsection
40 shall apply to members of the legislature. For determination of the amount
41 of compensation paid pursuant to this subsection, for members of the
42 legislature, compensation shall include any amount paid as provided
43 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,

1 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding
2 any provision of law to the contrary, when a member of the legislature is
3 paid an amount of compensation of \$20,000 or more in any one calendar
4 year, the member may continue to receive any amount provided in K.S.A.
5 46-137a(b) and (d), and amendments thereto, and still be entitled to
6 receive such member's retirement benefit. Commencing July 1, 2005, the
7 provisions of this subsection shall not apply to retirants who either retired
8 under the provisions of subsection (1), or, if they retired under the
9 provisions of subsection (4), were retired more than 30 days prior to the
10 effective date of this act and are licensed professional nurses or licensed
11 practical nurses employed by the state of Kansas in an institution as
12 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments
13 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
14 in this subsection shall be construed to create any right, or to authorize the
15 creation of any right, which is not subject to amendment or nullification by
16 act of the legislature. The participating employer of such retirant shall pay
17 to the system the actuarially determined employer contribution based on
18 the retirant's compensation during any such period of employment.

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

26 (7) (a) Except as provided in K.S.A. 74-4937(3), (4); or (5), and
27 amendments thereto, and the provisions of this subsection, commencing
28 July 1, 2016, and ending July 1, ~~2020~~ 2021, any retirant who is employed
29 or appointed in or to any position by a participating employer or a third-
30 party entity who contracts services with a participating employer to fill a
31 position, without any prearranged agreement with such participating
32 employer and not prior to 60 days after such retirant's retirement date, shall
33 not receive any retirement benefit for any month in any calendar year in
34 which the retirant receives compensation in an amount equal to \$25,000 or
35 more, pursuant to this subsection. The provisions of this subsection shall
36 apply to members of the legislature.

37 (b) The provisions of this subsection shall not apply, except as
38 specifically provided in this subsection, to retirants ~~that~~ who are:

39 (i) Licensed professional nurses or licensed practical nurses
40 employed by the state of Kansas in an institution as defined in K.S.A. 76-
41 12a01(b) or 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers'
42 home or the Kansas veterans' home. The participating employer of such
43 retirant shall pay to the system the actuarially determined employer

1 contribution based on the retirant's compensation and the statutorily
2 prescribed employee contribution during any such period of employment;

3 (ii) employed by a school district in a position as provided in K.S.A.
4 74-4937(3), (4) or (5), and amendments thereto. Any retirant employed by
5 a school district in a position under K.S.A. 74-4937(3), (4) or (5), and
6 amendments thereto, shall be subject to the provisions of subsection (7)(h)
7 which relate to a limitation on the total term of employment with any
8 participating employer in which a retirant may receive such retirant's full
9 retirement benefit;

10 (iii) certified law enforcement officers employed by the law
11 enforcement training center. Such law enforcement officers shall receive
12 their benefits notwithstanding this subsection. The law enforcement
13 training center shall pay to the system the ~~actuarial~~ *actuarially* determined
14 employer contribution and the statutorily prescribed employee contribution
15 based on the retirant's compensation during any such period of
16 employment;

17 (iv) members of the Kansas police and firemen's retirement system
18 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members
19 of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
20 amendments thereto;

21 (v) employed as substitute teachers or officers, employees or
22 appointees of the legislature;

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

26 (vii) employed by, or have accepted employment from, a participating
27 employer prior to May 1, 2015. Any break in continuous employment by a
28 retirant or move to a different position by a retirant during the effective
29 period of this subsection shall be deemed new employment and shall
30 subject the retirant to the provisions of this subsection.

31 (c) The participating employer shall enroll all retirants and report to
32 the system when compensation is paid to a retirant as provided in this
33 subsection. Such report shall contain a certification by the appointing
34 authority of the participating employer that any hired retirant has not been
35 employed by the participating employer within 60 days of such retirant's
36 retirement and that there was no prearranged agreement for employment
37 between the participating employer and the hired retirant. Upon request of
38 the executive director of the system, the participating employer shall
39 provide such information as may be needed by the executive director to
40 carry out the provisions of this subsection. Any participating employer
41 who hires a retirant covered by this subsection shall pay to the system the
42 statutorily prescribed employer contribution rate for such retirant, without
43 regard to whether the retirant is receiving benefits. No retirant shall

1 receive credit for service while employed under the provisions of this
2 subsection.

3 (d) A participating employer may employ a retirant without regard to
4 the compensation limitation in this subsection for a period of one calendar
5 year or one school year, as the case may be, if the following requirements
6 are met:

7 (i) The employer certifies to the board that the position being filled
8 has been vacated due to an unexpected emergency or the employer has
9 been unsuccessful in filling the position;

10 (ii) the employer pays to the system a 30% employer contribution
11 based on the retirant's compensation during any such period of
12 employment. On or before July 1, 2019, and at least every three years
13 thereafter, the board, in consultation with the system's consulting actuary,
14 shall evaluate the plan's experience with employment of such retirants and
15 the corresponding employer contribution rate to assess whether the
16 employer contribution rate can be expected to fund adverse experience or
17 higher liabilities accruing under the system in connection with
18 employment of such retirants, to the extent that such liability can be
19 ascertained or estimated. Based on this evaluation of the plan's experience,
20 the board may certify to the division of the budget, in the case of the state,
21 and to the agent for each other participating employer, a new rate if needed
22 to more fully fund such adverse experience or additional liabilities, but
23 such rate shall not be less than 30%; and

24 (iii) the employer maintains documentation of its efforts to fill the
25 position with a non-retirant and provides such documentation to the joint
26 committee on pensions, investments and benefits upon request of the
27 committee.

28 (e) An employer may submit a written assurance protocol to the
29 system to extend the exception provided for in subsection (7)(d) by one-
30 year increments for a total extension not to exceed three years. A written
31 assurance protocol shall be submitted to the system for each one-year
32 increment extension. If a school district submits a written assurance
33 protocol, such written assurance protocol shall be signed by the
34 superintendent and the board president of such school district. If a
35 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other
36 than a school district, submits a written assurance protocol, such written
37 assurance protocol shall be signed by the governing body or such
38 governing body's designee for such municipality. Such written assurance
39 protocol shall state that the position was advertised on multiple platforms
40 for a minimum of 30 calendar days and that at least one of the following
41 conditions occurred:

42 (i) No applications were submitted for the position;

43 (ii) if applications were submitted, none of the applicants met the

1 reference screening criteria of the employer; or

2 (iii) if applications were submitted, none of the applicants possessed
3 the appropriate licensure, certification or other necessary credentials for
4 the position.

5 (f) On July 1, 2021, and at least every five years thereafter, the joint
6 committee on pensions, investments and benefits shall study the issue of
7 whether the compensation limitation prescribed in this subsection should
8 be adjusted. The committee shall consider the effect of inflation and data
9 on member retirement benefits and active employee compensation.

10 (g) Nothing in this subsection shall be construed to create any right,
11 or to authorize the creation of any right, which is not subject to
12 amendment or nullification by act of the legislature.

13 (h) Any retirant hired by any participating employer under the
14 provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and
15 amendments thereto, may continue to receive such retirant's full retirement
16 benefit so long as, commencing July 1, 2016, such retirant's total term of
17 employment with all participating employers under one or more of such
18 provisions does not exceed 48 months or four school years, whichever is
19 less. After such period, such retirant shall not receive any retirement
20 benefit for any month in any calendar year in which such retirant receives
21 compensation in an amount equal to \$25,000 or more in such calendar
22 year.

23 (8) If determined by the retirement system that a retirant entered into
24 a prearranged agreement for employment with a participating employer
25 prior to such retirant's retirement and prior to the end of the subsequent 60-
26 day waiting period, the monthly retirement benefit of such retirant shall be
27 suspended during the period that begins on the month in which the retirant
28 is re-employed and ends six months after the retirant's termination of such
29 employment. The retirant shall repay to the retirement system all monthly
30 retirement benefits paid to the retirant by the retirement system that the
31 retirant received after such employment began. The participating employer
32 which hired such retirant shall be required to pay to the system any fees,
33 fines, penalties or any other cost imposed by the internal revenue service
34 and indemnify the system for any cost incurred by the system to defend
35 any action brought by the internal revenue service based on in-service
36 distributions which are a result of any determined prearranged agreement
37 and for any cost incurred by the system to collect any monthly retirement
38 benefit required to be repaid by such retirant pursuant to this subsection.

39 (9) For the purposes of this section a prearranged agreement for
40 employment may be determined by whether the facts and circumstances of
41 the situation indicate that the employer and employee reasonably
42 anticipated that further services would be performed after the employee's
43 retirement.

1 Sec. 2. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as
2 follows: 74-4937. (1) The normal retirement date of a member of the
3 system who is in school employment and who is subject to K.S.A. 74-
4 4940, and amendments thereto, shall be the first day of the month
5 coinciding with or following termination of employment not followed by
6 employment with any participating employer within 60 days and without
7 any prearranged agreement for employment with any participating
8 employer, and the attainment of age 65 or, commencing July 1, 1986, age
9 65 or age 60 with the completion of 35 years of credited service or at any
10 age with the completion of 40 years of credited service, or commencing
11 July 1, 1993, any alternative normal retirement date already prescribed by
12 law or age 62 with the completion of 10 years of credited service or the
13 first day of the month coinciding with or following the date that the total
14 of the number of years of credited service and the number of years of
15 attained age of the member is equal to or more than 85. Each member
16 upon giving prior notice to the appointing authority and the retirement
17 system may retire on the normal retirement date or the first day of any
18 month thereafter. Such member's application for retirement shall contain a
19 certification by the member that the member will not be employed with
20 any participating employer within 60 days of retirement and the member
21 has not entered into a prearranged agreement for employment with any
22 participating employer.

23 (2) Any member who is in school employment and who is subject to
24 K.S.A. 74-4940, and amendments thereto, may retire before such
25 member's normal retirement date on the first day of the month coinciding
26 with or following termination of employment not followed by employment
27 with any participating employer within 60 days and the attainment of age
28 55 with the completion of 10 years of credited service, upon the filing with
29 the office of the retirement system of an application for retirement in such
30 form and manner as the board shall prescribe. The member's application
31 for retirement shall contain a certification by the member that the member
32 will not be employed with any participating employer within 60 days of
33 retirement and the member has not entered into a prearranged agreement
34 for employment with any participating employer.

35 (3) Before July 1, ~~2020~~ 2021, the provisions of K.S.A. 74-4914(5),
36 and amendments thereto, which relate to an earnings limitation which
37 when met or exceeded requires that the retirant not receive a retirement
38 benefit for any month for which such retirant serves in a position as
39 described herein shall not apply to retirants who either retired under the
40 provisions of K.S.A. 74-4914(1), and amendments thereto, related to
41 normal retirement, or, if they retired under the provisions of K.S.A. 74-
42 4914(4), and amendments thereto, related to early retirement, were retired
43 more than 60 days prior to May 28, 2009, and are subsequently hired in a

1 position that requires a license under K.S.A. 72-1388, and amendments
2 thereto, or other provision of law. The provisions of this subsection shall
3 only apply to retirants who retired prior to May 1, 2015. The provisions of
4 this subsection do not apply to retirants who retired under K.S.A. 74-
5 4914(4), and amendments thereto, which relates to early retirement prior
6 to age 62. Except as otherwise provided, when a retirant is employed by
7 the same school district or a different school district with which such
8 retirant was employed during the final two years of such retirant's
9 participation or employed by a third-party entity who contracts services
10 with a school district to fill a position as described in this subsection, the
11 participating employer of such retirant shall pay to the system the
12 actuarially determined employer contribution based on the retirant's
13 compensation during any such period of employment plus 8%. The
14 participating employer shall enroll all retirants and report to the system
15 when compensation is paid to a retirant as provided in this subsection.
16 Such notice shall contain a certification by the appointing authority of the
17 participating employer that any hired retirant has not been employed by
18 the participating employer within 60 days of such retirant's retirement and
19 that there was no prearranged agreement for employment between the
20 participating employer and the hired retirant. Upon request of the
21 executive director of the system, the participating employer shall provide
22 such information as may be needed by the executive director to carry out
23 the provisions of this subsection. The provisions of this subsection shall
24 not apply to retirants employed as substitute teachers. The provisions of
25 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
26 retirants employed as described in this subsection, except as specifically
27 provided in this subsection. Nothing in this subsection shall be construed
28 to create any right, or to authorize the creation of any right, which is not
29 subject to amendment or nullification by act of the legislature. The
30 provisions of this subsection shall expire on June 30, ~~2020~~ 2021. After
31 such date the Kansas public employees retirement system and its actuary
32 shall report the experience to the joint committee on pensions, investments
33 and benefits.

34 (4) (a) On and after July 1, 2016, a school district may hire a retired
35 licensed professional to fill a special teacher position as defined in K.S.A.
36 72-962, and amendments thereto, if such retirant is hired not prior to 60
37 days after such retirant's retirement date without any prearrangement with
38 such school district in the manner prescribed in this subsection. The
39 participating employer shall enroll all retirants and report to the system
40 when compensation is paid to a retirant as provided in this subsection.
41 Such notice shall contain a certification by the appointing authority of the
42 participating employer that any hired retirant has not been employed by
43 the participating employer within 60 days of such retirant's retirement and

1 that there was no prearranged agreement for employment between the
2 participating employer and the hired retirant. Upon request of the
3 executive director of the system, the participating employer shall provide
4 such information as may be needed by the executive director to carry out
5 the provisions of this subsection.

6 (b) A retirant hired under the provisions of this subsection may
7 continue to receive such retirant's full retirement benefit for a period not to
8 exceed three school years or 36 months, whichever is less, and shall not be
9 subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,
10 which relate to a compensation limitation which when met or exceeded
11 requires that the retirant not receive a retirement benefit for any month for
12 which such retirant serves in a position as described herein. Such retirant
13 may be employed by such employer for some or all of a school year, and
14 in subsequent school years if the employer is unable to permanently fill the
15 position with active members, so long as the retirant's total term of
16 employment with all employers under this subsection does not exceed 36
17 months or three school years, whichever is less. After such period, the
18 retirant shall be subject to the provisions of K.S.A. 74-4914(7), and
19 amendments thereto, which relate to a compensation limitation which
20 when met or exceeded requires that the retirant not receive a retirement
21 benefit for any month for which such retirant serves in a position as
22 described herein. The participating employer of such retirant shall pay to
23 the system a 30% employer contribution based on the retirant's
24 compensation during any such period of employment. On or before July 1,
25 2019, and at least every three years thereafter, the board, in consultation
26 with the system's consulting actuary, shall evaluate the plan's experience
27 with employment of such retirants and the corresponding employer
28 contribution rate to assess whether the employer contribution rate can be
29 expected to fund adverse experience or higher liabilities accruing under
30 the system in connection with employment of such retirants, to the extent
31 that such liability can be ascertained or estimated. Based on this evaluation
32 of the plan's experience, the board may certify to the division of the
33 budget, in the case of the state, and to the agent for each other participating
34 employer, a new rate if needed to more fully fund such adverse experience
35 or additional liabilities, but such rate shall not be less than 30%. The
36 provisions of this subsection shall not apply to retirants employed as
37 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments
38 thereto, shall be applicable to retirants employed as special teachers,
39 except as specifically provided in this subsection.

40 (c) Each school district that uses the provisions of this subsection to
41 hire retirants shall maintain documentation describing their recruiting
42 efforts to obtain non-retirant employees to fill the special teacher positions.
43 Upon request of the joint committee on pensions, investments and

1 benefits, an employer shall provide such documentation to the committee.
2 If the committee finds that an employer has not made sufficient efforts to
3 hire a non-retirant for the position or if the committee finds evidence of
4 prearrangement in violation of this section, the three-year exemption
5 provided pursuant to this subsection may be revoked. The committee shall
6 notify the executive director of the system that a retirant's exemption has
7 been revoked within 30 days of making such a determination.

8 (d) An employer may submit a written assurance protocol to the
9 system to make a one-time extension to the exception provided for in this
10 subsection by one year. Such written assurance protocol shall be signed by
11 the superintendent and the board president of the school district. Such
12 written assurance protocol shall state that the position was advertised on
13 multiple platforms for a minimum of 30 calendar days and that at least one
14 of the following conditions occurred:

15 (i) No applications were submitted for the position;
16 (ii) if applications were submitted, none of the applicants met the
17 reference screening criteria of the employer; or
18 (iii) if applications were submitted, none of the applicants possessed
19 an appropriate teaching license for the state of Kansas or possessed the
20 appropriate credentials to receive any type of teaching license from the
21 state of Kansas.

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

25 (f) The provisions of this subsection shall expire on July 1, ~~2020~~
26 ~~2021~~.

27 (5) (a) On and after July 1, 2016, a school district may hire a retired
28 licensed professional to fill a non-special teacher position if such retirant is
29 hired not prior to 60 days after such retirant's retirement date without any
30 prearrangement with such school district, and if such school district hires a
31 retirant for a hard-to-fill position in the manner prescribed in this
32 subsection. The participating employer shall enroll all retirants and report
33 to the system when compensation is paid to a retirant as provided in this
34 subsection. Such notice shall contain a certification by the appointing
35 authority of the participating employer that any hired retirant has not been
36 employed by the participating employer within 60 days of such retirant's
37 retirement and that there was no prearranged agreement for employment
38 between the participating employer and the hired retirant. Upon request of
39 the executive director of the system, the participating employer shall
40 provide such information as may be needed by the executive director to
41 carry out the provisions of this subsection.

42 (b) The state board of education shall annually certify the top five
43 types of licensed positions that are hard to fill. A school district may hire a

1 retirant to fill a hard-to-fill position for some or all of a school year and in
2 subsequent school years if the employer is unable to permanently fill the
3 position with an active member. A retirant first hired under the provisions
4 of this subsection may be retained by an employer even if such retirant's
5 type of position is no longer one of the five types of positions certified by
6 the state board of education. A retirant hired under the provisions of this
7 subsection may continue to receive such retirant's full retirement benefit
8 for a period not to exceed three school years or 36 months, whichever is
9 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and
10 amendments thereto, which relate to a compensation limitation which
11 when met or exceeded requires that the retirant not receive a retirement
12 benefit for any month for which such retirant serves in a position as
13 described herein. Such retirant may be employed by such employer for
14 some or all of a school year, and in subsequent school years if the
15 employer is unable to permanently fill the position with active members,
16 so long as the retirant's total term of employment with all employers under
17 this subsection does not exceed 36 months or three school years,
18 whichever is less. After such period, the retirant shall be subject to the
19 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to
20 a compensation limitation which when met or exceeded requires that the
21 retirant not receive a retirement benefit for any month for which such
22 retirant serves in a position as described herein. The participating
23 employer of such retirant shall pay to the system a 30% employer
24 contribution based on the retirant's compensation during any such period
25 of employment. On or before July 1, 2019, and at least every three years
26 thereafter, the board, in consultation with the system's consulting actuary,
27 shall evaluate the plan's experience with employment of such retirants and
28 the corresponding employer contribution rate to assess whether the
29 employer contribution rate can be expected to fund adverse experience or
30 higher liabilities accruing under the system in connection with
31 employment of such retirants, to the extent that such liability can be
32 ascertained or estimated. Based on this evaluation of the plan's experience,
33 the board may certify to the division of the budget, in the case of the state,
34 and to the agent for each other participating employer, a new rate if needed
35 to more fully fund such adverse experience or additional liabilities, but
36 such rate shall not be less than 30%. The provisions of this subsection shall
37 not apply to retirants employed as substitute teachers. The provisions of
38 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
39 retirants employed as described in this subsection, except as specifically
40 provided in this subsection.

41 (c) Each school district that uses the provisions of this subsection to
42 hire retirants for hard-to-fill positions shall maintain documentation
43 describing their recruiting efforts to obtain non-retirant employees to fill

1 the hard-to-fill positions. Upon request of the joint committee on pensions,
2 investments and benefits, a school district shall provide such
3 documentation to the committee. If the committee finds that a school
4 district has not made sufficient efforts to hire a non-retirant for the position
5 or if the committee finds evidence of prearrangement in violation of this
6 section, the three-year exemption provided pursuant to this subsection may
7 be revoked. The committee shall notify the executive director of the
8 system that a retirant's exemption has been revoked within 30 days of
9 making such a determination.

10 (d) An employer may submit a written assurance protocol to the
11 system to make a one-time extension to the exception provided for in this
12 subsection by one year. Such written assurance protocol shall be signed by
13 the superintendent and the board president of the school district. Such
14 written assurance protocol shall state that the position was advertised on
15 multiple platforms for a minimum of 30 calendar days and that at least one
16 of the following conditions occurred:

17 (i) No applications were submitted for the position;

18 (ii) if applications were submitted, none of the applicants met the
19 reference screening criteria of the employer; or

20 (iii) if applications were submitted, none of the applicants possessed
21 an appropriate teaching license for the state of Kansas or possessed the
22 appropriate credentials to receive any type of teaching license from the
23 state of Kansas.

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

27 (f) The provisions of this subsection shall expire on July 1, ~~2020~~
28 2021.

29 (6) The provisions of K.S.A. 74-4914(8), and amendments thereto,
30 shall apply to retirants under the provisions of this section.

31 (7) Any retirant hired by any participating employer under the
32 provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and
33 amendments thereto, may continue to receive such retirant's full retirement
34 benefit so long as, commencing July 1, 2016, such retirant's total term of
35 employment with all participating employers under one or more of such
36 provisions does not exceed 48 months or four school years, whichever is
37 less. After such period, such retirant shall not receive any retirement
38 benefit for any month in any calendar year in which such retirant receives
39 compensation in an amount equal to \$25,000 or more in such calendar
40 year.

41 (8) For the purposes of this section a prearranged agreement for
42 employment may be determined by whether the facts and circumstances of
43 the situation indicate that the employer and employee reasonably

1 anticipated that further services would be performed after the employee's
2 retirement.

3 Sec. 3. K.S.A. 2016 Supp. 74-4914, 74-4914f and 74-4937 are hereby
4 repealed.

5 Sec. 4. This act shall take effect and be in force from and after its
6 publication in the statute book.