

HOUSE BILL No. 2711

By Committee on Financial Institutions and Pensions

Requested by Representative Hoye

2-6

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system **and systems thereunder; *membership***
3 ***waiting period for direct support positions of community service***
4 ***providers;*** employment after retirement; increasing the amount of
5 retirant compensation subject to the statutory employer contribution
6 rate; **providing an exemption for retirants employed by a**
7 **community developmental disability organization or a community**
8 **service provider affiliated with a community developmental disability**
9 **organization in a licensed professional nurse, licensed practical**
10 **nurse or direct support position; increasing the earnings limit for**
11 **members of the Kansas police and firemen's retirement system;**
12 **amending K.S.A. 74-4937, 74-4957 and 74-4957a and K.S.A. 2023**
13 **Supp. 74-4911 and 74-4914 and repealing the existing sections.**
14

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

16 ***Section 1. K.S.A. 2023 Supp. 74-4911 is hereby amended to read as***
17 ***follows: 74-4911. (1) Any employee of a participating employer other***
18 ***than an elected official on the entry date of such employer shall be a***
19 ***member of the system on either the entry date or the first day of the***
20 ***payroll period coinciding with or following the completion of one year of***
21 ***service, whichever is later, except that an employee of a participating***
22 ***employer who was first employed by a participating employer on or after***
23 ***July 1, 2008, but before July 1, 2009, shall be a member on July 1, 2009,***
24 ***and except that an employee who is first employed by a participating***
25 ***employer on or after July 1, 2009, shall be a member of the system on***
26 ***the first day of employment of such employee with such participating***
27 ***employer. On and after July 1, 2019, employees employed in direct***
28 ***support positions of an affiliated employer organized under K.S.A. 19-***
29 ***4001, and amendments thereto, and or defined under K.S.A. 39-1803,***
30 ***and amendments thereto, may become a member of the system on the***
31 ***first day of the payroll period coinciding with or following the***
32 ***completion of a two-year period of training, whichever is later. For***
33 ***purposes of this act occasional breaks in service which shall not exceed***

1 *an aggregate of 10 days in any such year shall not constitute a break in*
2 *service for purposes of determining the membership date of such*
3 *employee.*

4 *(2) Except as otherwise provided in this subsection, any employee*
5 *other than an elected official who is employed by a participating*
6 *employer after the entry date of such employer shall be a member of the*
7 *system on the first day of the payroll period coinciding with or following*
8 *completion of one year of continuous service. For purposes of this act,*
9 *occasional breaks in service which shall not exceed an aggregate of 10*
10 *days in any such year shall not constitute a break in continuous service*
11 *for purposes of determining the membership date of such employee. For*
12 *purposes of this subsection, any employee of a local governmental unit*
13 *which has its own pension plan who becomes an employee of a*
14 *participating employer as a result of a merger or consolidation of*
15 *services provided by local governmental units, which occurred on*
16 *January 1, 1994, may count service with such local governmental unit in*
17 *determining whether such employee has met the one year of continuous*
18 *service requirement contained in this subsection.*

19 *(3) Any employee who is an elected official and is eligible to join*
20 *the system shall file, within 90 days after taking the oath of office, an*
21 *irrevocable election to become or not to become a member of the system.*
22 *Such election shall become effective immediately upon making such*
23 *election, if such election is made within 14 days of taking the oath of*
24 *office or, otherwise, on the first day of the first payroll period of the first*
25 *quarter following receipt of the election in the office of the retirement*
26 *system. In the event that such elected official fails to file the election to*
27 *become a member of the retirement system, it shall be presumed that*
28 *such person has elected not to become a member.*

29 *(4) Except as otherwise required by USERRA, any employee other*
30 *than an elected official who is in military service or on leave of absence*
31 *on the entry date of such employee's employer shall become a member of*
32 *the system upon returning to active employment or on the first day of the*
33 *payroll period coinciding with or following the completion of one year of*
34 *service, whichever is later. For purposes of this act, occasional breaks in*
35 *service which shall not exceed an aggregate of 10 days in any such year*
36 *shall not constitute a break in service for purposes of determining the*
37 *membership date of such employee.*

38 *(5) Any employee of the state of Kansas other than an elected*
39 *official, who is receiving or is eligible for assistance by the state board of*
40 *regents in the purchase of a retirement annuity under K.S.A. 74-4925,*
41 *and amendments thereto, and who becomes ineligible for such*
42 *assistance because such employee's position is reclassified to a position*
43 *in the classified service under the Kansas civil service act, or who*

1 *becomes ineligible for such assistance because such person accepts and*
2 *transfers to a position in the classified service under the Kansas civil*
3 *service act shall be a member of the system on the first day of the payroll*
4 *period coinciding with or following the effective date of such*
5 *reclassification or transfer. Any such employee who became ineligible*
6 *for such assistance prior to the effective date of this act April 15, 1977,*
7 *because of such a reclassification or such a transfer occurring prior to*
8 *the effective date of this act April 15, 1977, and who is not a member of*
9 *the system on the effective date of this act April 15, 1977, shall be a*
10 *member of the system on the first day of the payroll period coinciding*
11 *with or following the effective date of this act April 15, 1977.*

12 *(6) Any employee of the state board of regents or of an educational*
13 *institution under its management, other than an elected official, who is a*
14 *member of the system and who becomes ineligible to be a member of the*
15 *system because such employee's position is reclassified to a position*
16 *under the Kansas civil service act which is eligible for assistance by the*
17 *state board of regents in the purchase of a retirement annuity under*
18 *K.S.A. 74-4925, and amendments thereto, or who becomes ineligible to*
19 *be a member of the system because such employee transfers to a position*
20 *under the Kansas civil service act which is eligible for such assistance,*
21 *shall become eligible for such assistance in accordance with the*
22 *provisions of K.S.A. 74-4925, and amendments thereto, unless such*
23 *employee files a written election in the office of the retirement system, in*
24 *the form and manner prescribed by the board of trustees thereof, to*
25 *remain a member of the system prior to the first day of the first complete*
26 *payroll period occurring after the effective date of such reclassification*
27 *or transfer. Failure to file such written election shall be presumed to be*
28 *an election not to remain a member of the system and to become eligible*
29 *for assistance by the state board of regents in the purchase of a*
30 *retirement annuity under K.S.A. 74-4925, and amendments thereto.*
31 *Such election, whether to remain a member of the system or to become*
32 *eligible for such assistance, shall be effective as of the effective date of*
33 *such reclassification or transfer, and shall be irrevocable.*

34 *(7) Any elected official who at the time of becoming an elected*
35 *official is already a member of the system by being or having been an*
36 *employee of a participating employer shall continue as a member of the*
37 *system.*

38 ~~Section 1.~~ *Sec. 2.* K.S.A. 2023 Supp. 74-4914 is hereby amended to
39 read as follows: 74-4914.(1) The normal retirement date for a member of
40 the system shall be the first day of the month coinciding with or following
41 termination of employment with any participating employer not followed
42 by employment with any participating employer within 60 days, or 180
43 days as provided in subsection ~~(10)~~ (9), and without any prearranged

1 agreement for employment with any participating employer, and the
2 attainment of age 65 or, commencing July 1, 1993, age 62 with the
3 completion of 10 years of credited service or the first day of the month
4 coinciding with or following the date that the total of the number of years
5 of credited service and the number of years of attained age of the member
6 is equal to or more than 85. In no event shall a normal retirement date for a
7 member be before six months after the entry date of the participating
8 employer by whom such member is employed. A member may retire on
9 the normal retirement date or on the first day of any month thereafter upon
10 the filing with the office of the retirement system of an application in such
11 form and manner as the board shall prescribe. Such application shall
12 contain a certification by the member that the member will not be
13 employed with any participating employer within 60 days, or 180 days as
14 provided in subsection~~-(10)~~ (9), of retirement and the member has not
15 entered into a prearranged agreement for employment with any
16 participating employer. Nothing herein shall prevent any person, member
17 or retirant from being employed, appointed or elected as an employee,
18 appointee, officer or member of the legislature. Elected officers may retire
19 from the system on any date on or after the attainment of the normal
20 retirement date, but no retirement benefits payable under this act shall be
21 paid until the member has terminated such member's office.

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

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

30 (4) Any member may retire before such member's normal retirement
31 date on the first day of any month coinciding with or following
32 termination of employment with any participating employer not followed
33 by employment with any participating employer within 60 days, or 180
34 days as provided in subsection~~-(10)~~ (9), and the attainment of age 55 with
35 the completion of 10 years of credited service, but in no event before six
36 months after the entry date, upon the filing with the office of the retirement
37 system of an application for retirement in such form and manner as the
38 board shall prescribe. The member's application for retirement shall
39 contain a certification by the member that the member will not be
40 employed with any participating employer within 60 days, or 180 days as
41 provided in subsection~~-(10)~~ (9), of retirement and the member has not
42 entered into a prearranged agreement for employment with any
43 participating employer.

1 (5)—Except as provided in subsections (7) and (10), on or after July 1,
2 2006, through December 31, 2017, for any retirant who is first employed
3 or appointed in or to any position or office by a participating employer
4 other than a participating employer for which such retirant was employed
5 or appointed during the final two years of such retirant's participation, and,
6 on or after April 1, 2009, for any retirant who is employed by a third-party
7 entity who contracts services with a participating employer other than a
8 participating employer for which such retirant was employed or appointed
9 during the final two years of such retirant's participation to fill a position
10 covered under K.S.A. 72-2215(a), and amendments thereto, with such
11 retirant, such participating employer shall pay to the system the actuarially
12 determined employer contribution and the statutorily prescribed employee
13 contribution based on the retirant's compensation during any such period
14 of employment or appointment. If a retirant is employed or appointed in or
15 to any position or office for which compensation for service is paid in an
16 amount equal to \$25,000 or more in any one calendar year between July 1,
17 2016, and January 1, 2018, by any participating employer for which such
18 retirant was employed or appointed during the final two years of such
19 retirant's participation, and, on or after April 1, 2009, by any third-party
20 entity who contracts services to fill a position covered under K.S.A. 72-
21 2215(a), and amendments thereto, with such retirant with a participating
22 employer for which such retirant was employed or appointed during the
23 final two years of such retirant's participation, such retirant shall not
24 receive any retirement benefit for any month for which such retirant serves
25 in such position or office. The participating employer who employs such
26 retirant whether by contract directly with the retirant or through an
27 arrangement with a third-party entity shall report to the system within 30
28 days of when the compensation paid to the retirant is equal to or exceeds
29 any limitation provided by this section. Any participating employer who
30 contracts services with any such third-party entity to fill a position covered
31 under K.S.A. 72-2215(a), and amendments thereto, shall include in such
32 contract a provision or condition which requires the third-party entity to
33 provide the participating employer with the necessary compensation paid
34 information related to any such position filled by the third-party entity
35 with a retirant to enable the participating employer to comply with
36 provisions of this subsection relating to the payment of contributions and
37 reporting requirements. The provisions and requirements provided for in
38 amendments made in this act which relate to positions filled with a retirant
39 or employment of a retirant by a third-party entity shall not apply to any
40 contract for services entered into prior to April 1, 2009, between a
41 participating employer and third-party entity as described in this
42 subsection. Any retirant employed by a participating employer or a third-
43 party entity as provided in this subsection shall not make contributions nor

1 receive additional credit under such system for such service except as
2 provided by this section. Upon request of the executive director of the
3 system, the secretary of revenue shall provide such information as may be
4 needed by the executive director to carry out the provisions of this act. The
5 provisions of this subsection shall not apply to retirants employed as
6 substitute teachers without a contract or officers, employees or appointees
7 of the legislature. The provisions of this subsection shall not apply to
8 members of the legislature. The provisions of this subsection shall not
9 apply to any other elected officials. Commencing July 1, 2005, the
10 provisions of this subsection shall not apply to retirants who either retired
11 under the provisions of subsection (1), or, if they retired under the
12 provisions of subsection (4), were retired more than 30 days prior to the
13 effective date of this act and are licensed professional nurses or licensed
14 practical nurses employed by the state of Kansas in an institution as
15 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments
16 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
17 in this subsection shall be construed to create any right, or to authorize the
18 creation of any right, which is not subject to amendment or nullification by
19 act of the legislature. The participating employer of such retirant shall pay
20 to the system the actuarially determined employer contribution based on
21 the retirant's compensation during any such period of employment. The
22 provisions of the subsection shall expire on January 1, 2018.

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

30 (7)(6) (a)-(i) ~~Except as provided in K.S.A. 74-4937(3), (4), or (5), and~~
31 ~~amendments thereto, and the provisions of this subsection, commencing~~
32 ~~July 1, 2016, and ending January 1, 2018, any retirant who is employed or~~
33 ~~appointed in or to any position by a participating employer, an independent~~
34 ~~contractor or a third-party entity who contracts services with a~~
35 ~~participating employer to fill a position, without any prearranged~~
36 ~~agreement with such participating employer and not prior to 60 days after~~
37 ~~such retirant's retirement date, shall not receive any retirement benefit for~~
38 ~~any month in any calendar year in which the retirant receives~~
39 ~~compensation in an amount equal to \$25,000 or more, pursuant to this~~
40 ~~subsection. Any participating employer who hires a retirant covered by this~~
41 ~~subsection shall pay to the system the statutorily prescribed employer~~
42 ~~contribution rate for such retirant, without regard to whether the retirant is~~
43 ~~receiving benefits.~~

(ii) Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first ~~\$25,000-\$50,000~~ **\$40,000** of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~\$25,000-\$50,000~~ **\$40,000** in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.

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

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

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), ~~(4) or (5)~~; and amendments thereto;

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

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

(v) employed as substitute teachers without a contract or officers,

1 employees or appointees of the legislature;

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

4 (vii) employed by, or have accepted employment from, a participating
5 employer prior to May 1, 2015. Any break in continuous employment by a
6 retirant or move to a different position by a retirant during the effective
7 period of this subsection shall be deemed new employment and shall
8 subject the retirant to the provisions of this subsection. Commencing
9 January 1, 2018, the participating employer of a retirant described in this
10 ~~subsection (7)(b)(vii)~~ *subparagraph* who is employed in a covered
11 position, as defined in K.S.A. 74-49,202, and amendments thereto, shall
12 pay to the system the statutorily prescribed employer contribution rate on
13 the first ~~\$25,000-\$50,000~~ **\$40,000** of such retirant's compensation in a
14 calendar year and a 30% employer contribution on any compensation in
15 excess of ~~\$25,000-\$50,000~~ **\$40,000** in a calendar year during any such
16 period of employment. If a retirant is employed by more than one
17 participating employer or performing duties in more than one position,
18 contributions shall be made on compensation from all such employment
19 for that calendar year. If a retirant is employed in a non-covered position,
20 no employer contribution shall be paid to the system;

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

25 (ix) employed by the Kansas academies of the United States
26 department of defense STARBASE program; **or**

27 **(x) employed as a licensed professional nurse, licensed practical**
28 **nurse or in a direct support position of an affiliated employer**
29 **organized under K.S.A. 19-4001, and amendments thereto, ~~and~~ or**
30 **defined under K.S.A. 39-1803, and amendments thereto.**

31 (c) The participating employer shall enroll all retirants, including
32 retirants under subsection ~~(7)(b)(i)~~ **(6)(b)(i)**, (ii), (iii), (vii) and (viii), and
33 report to the system when compensation is paid to a retirant as provided in
34 this subsection. Such report 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. No retirant shall make
42 contributions to the system or receive credit for service while employed
43 under the provisions of this subsection.

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

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

8 (ii) ~~the employer pays to the system a 30% employer contribution~~
9 ~~based on the retirant's compensation during any such period of~~
10 ~~employment; and~~

11 (iii) ~~the employer maintains documentation of its efforts to fill the~~
12 ~~position with a non-retirant and provides such documentation to the joint~~
13 ~~committee on pensions, investments and benefits upon request of the~~
14 ~~committee.~~

15 The provisions of this paragraph shall expire on January 1, 2018.

16 (e) ~~An employer may submit a written assurance protocol to the~~
17 ~~system to extend the exception provided for in subsection (7)(d) by one-~~
18 ~~year increments for a total extension not to exceed three years. A written~~
19 ~~assurance protocol shall be submitted to the system for each one-year~~
20 ~~increment extension. If a school district submits a written assurance~~
21 ~~protocol, such written assurance protocol shall be signed by the~~
22 ~~superintendent and the board president of such school district. If a~~
23 ~~municipality, as defined in K.S.A. 75-1117, and amendments thereto, other~~
24 ~~than a school district, submits a written assurance protocol, such written~~
25 ~~assurance protocol shall be signed by the governing body or such~~
26 ~~governing body's designee for such municipality. Such written assurance~~
27 ~~protocol shall state that the position was advertised on multiple platforms~~
28 ~~for a minimum of 30 calendar days and that at least one of the following~~
29 ~~conditions occurred:~~

30 (i) ~~No applications were submitted for the position;~~

31 (ii) ~~if applications were submitted, none of the applicants met the~~
32 ~~reference screening criteria of the employer; or~~

33 (iii) ~~if applications were submitted, none of the applicants possessed~~
34 ~~the appropriate licensure, certification or other necessary credentials for~~
35 ~~the position.~~

36 The provisions of this paragraph shall expire on January 1, 2018.

37 (f) ~~Retirants who are independent contractors or employees of third-~~
38 ~~party entities who contract with a participating employer, shall not be~~
39 ~~subject to the compensation limitation or employer contribution~~
40 ~~requirements in this subsection or the requirements of subsection (7)(e)~~
41 ~~paragraph (c) regarding enrollment and reporting to the system, so long as~~
42 ~~all of the following apply:~~

43 (A) ~~The contractual relationship was not created to allow the retirant~~

1 to continue employment with the participating employer after retirement in
2 a position similar to the one such retirant held prior to retirement;

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

6 (C) the retirant meets the classification of independent contractor as
7 provided in K.S.A. 44-768, and amendments thereto, or activities
8 performed by the third-party entity that employs the retirant are performed
9 on a limited-term basis and the third-party entity is not a participating
10 employer in the system.

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

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

32 (b) For members who retired on and after July 1, 2016, and on or
33 before July 1, 2019, if determined by the retirement system that a retirant
34 entered into a prearranged agreement for employment with a participating
35 employer prior to such retirant's retirement date and the subsequent 60-day
36 waiting period, or the 180-day waiting period under subsection ~~(10)~~ (9),
37 and upon being notified of the violation, the retirant terminated such
38 employment, the provisions of ~~subsection~~ *paragraph (a)* shall not apply. If
39 any retirant had benefits suspended prior to July 1, 2019, such benefits
40 shall be reimbursed by the retirement system, if the retirant terminated
41 such prearranged employment in accordance with the provisions of this
42 act. On and after July 1, 2019, the executive director may waive such
43 penalties under this subsection if it is determined by the retirement system

1 that any of the following conditions were satisfied:

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

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

7 (iii) other facts and circumstances indicated that the retirant would
8 not have been reemployed but for an error on the part of the participating
9 employer or the retirement system in verifying the retirement status of
10 such retirant and such retirant immediately terminated employment upon
11 being notified of the violation.

12 (c) On or before the first day of each regular session of the
13 legislature, beginning with the 2020 regular session, the executive director
14 shall submit an annual report on the number of waivers granted pursuant to
15 ~~subsection (8)(b)~~ *paragraph (b)* in the prior calendar year to the joint
16 committee on pensions, investments and benefits, the house of
17 representatives standing committee on financial institutions and pensions
18 and the senate standing committee on financial institutions and insurance,
19 or the successors of such committees.

20 ~~(9)~~(8) For the purposes of this section a prearranged agreement for
21 employment may be determined by whether the facts and circumstances of
22 the situation indicate that the employer and employee reasonably
23 anticipated that further services would be performed after the employee's
24 retirement.

25 ~~(10)~~(9) (a) Notwithstanding the provisions of subsection ~~(5)~~ or ~~(7)~~ (6)
26 to the contrary, commencing January 1, 2018, any retirant who is retired
27 more than 60 days, if such retirant's age on the date of retirement is 62 or
28 older, or is retired more than 180 days, if such retirant's age on the date of
29 retirement is less than 62, and who is subsequently hired without any
30 prearranged agreement with the participating employer in a covered
31 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
32 independent contractor or a third-party entity who contracts service to fill
33 such covered position shall not be subject to an earnings limitation that
34 when met or exceeded requires that the retirant not receive a retirement
35 benefit for any month for which such retirant serves in such covered
36 position. The participating employer of such retirant shall pay to the
37 system the statutorily prescribed employer contribution rate on the first
38 ~~\$25,000-\$50,000~~ **\$40,000** of such retirant's compensation in a calendar
39 year and a 30% employer contribution on any compensation in excess of
40 ~~\$25,000-\$50,000~~ **\$40,000** in a calendar year during any such period of
41 employment. If a retirant is employed by more than one participating
42 employer or performing duties in more than one position, contributions
43 shall be made on compensation from all such employment for that

1 calendar year.

2 (b) Notwithstanding the provisions of subsection ~~(5) or (7)~~ (6) to the
3 contrary, commencing January 1, 2018, any retirant who is retired more
4 than 60 days, if such retirant's age on the date of retirement is 62 or older,
5 or is retired more than 180 days, if such retirant's age on the date of
6 retirement is less than 62, and who is subsequently hired without any
7 prearranged agreement with the participating employer in a non-covered
8 position, or an independent contractor or a third-party entity who contracts
9 service to fill such non-covered position, shall not be subject to an
10 earnings limitation that when met or exceeded requires that the retirant not
11 receive a retirement benefit for any month for which such retirant serves in
12 such non-covered position. No employer contribution shall be paid to the
13 system on compensation paid to a retirant hired in a non-covered position.

14 (c) The participating employer shall enroll all retirants, including
15 retirants under subsection ~~(7)(b)(i)~~ (6)(b)(i), (ii), (iii), (vii) and (viii), and
16 report to the system when compensation is paid to a retirant as provided in
17 this subsection. Such report shall contain a certification by the appointing
18 authority of the participating employer that any hired retirant has not been
19 employed by the participating employer within 60 days of such retirant's
20 retirement in the case of a retirant whose age on the date of retirement is
21 62 or older, or within 180 days of such retirant's retirement in the case of a
22 retirant whose age on the date of retirement is less than 62, and that there
23 was no prearranged agreement for employment between the participating
24 employer and the hired retirant. Upon request of the executive director of
25 the system, the participating employer shall provide such information as
26 may be needed by the executive director to carry out the provisions of this
27 subsection. No retirant shall make contributions to the system or receive
28 credit for service while employed under the provisions of this subsection.

29 (d) The provisions of this subsection relating to an earnings limitation
30 and employer contributions shall not apply to any retirant described in
31 subsection ~~(7)(b)~~ (6)(b) or to retirants who are independent contractors or
32 employees of third-party entities who contract with a participating
33 employer as described in subsection ~~(7)(f)~~ (6)(d), except as specifically
34 provided in this subsection.

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

38 Sec. ~~2~~ 3. K.S.A. 74-4937 is hereby amended to read as follows: 74-
39 4937. (1) The normal retirement date of a member of the system who is in
40 school employment and who is subject to K.S.A. 74-4940, and
41 amendments thereto, shall be the first day of the month coinciding with or
42 following termination of employment not followed by employment with
43 any participating employer within 60 days, or 180 days as provided in

1 K.S.A. 74-4914(10)(9), and amendments thereto, and without any
2 prearranged agreement for employment with any participating employer,
3 and the attainment of age 65 or, commencing July 1, 1986, age 65 or age
4 60 with the completion of 35 years of credited service or at any age with
5 the completion of 40 years of credited service, or commencing July 1,
6 1993, any alternative normal retirement date already prescribed by law or
7 age 62 with the completion of 10 years of credited service or the first day
8 of the month coinciding with or following the date that the total of the
9 number of years of credited service and the number of years of attained
10 age of the member is equal to or more than 85. Each member upon giving
11 prior notice to the appointing authority and the retirement system may
12 retire on the normal retirement date or the first day of any month
13 thereafter. Such member's application for retirement shall contain a
14 certification by the member that the member will not be employed with
15 any participating employer within 60 days, or 180 days as provided in
16 K.S.A. 74-4914(10)(9), and amendments thereto, of retirement and the
17 member has not entered into a prearranged agreement for employment
18 with any participating employer.

19 (2) Any member who is in school employment and who is subject to
20 K.S.A. 74-4940, and amendments thereto, may retire before such
21 member's normal retirement date on the first day of the month coinciding
22 with or following termination of employment not followed by employment
23 with any participating employer within 60 days, or 180 days as provided in
24 K.S.A. 74-4914(10)(9), and amendments thereto, and the attainment of age
25 55 with the completion of 10 years of credited service, upon the filing with
26 the office of the retirement system of an application for retirement in such
27 form and manner as the board shall prescribe. The member's application
28 for retirement shall contain a certification by the member that the member
29 will not be employed with any participating employer within 60 days, or
30 180 days as provided in K.S.A. 74-4914(10)(9), and amendments thereto,
31 of retirement and the member has not entered into a prearranged
32 agreement for employment with any participating employer.

33 (3) The provisions of K.S.A. 74-4914(5), (7) and (10)(6) and (9), and
34 amendments thereto, ~~which~~ *that* relate to an earnings limitation which
35 when met or exceeded requires that the retirant not receive a retirement
36 benefit for any month ~~for~~ *during* which such retirant serves in a position as
37 described herein shall not apply to retirants who either retired under the
38 provisions of K.S.A. 74-4914(1), and amendments thereto, related to
39 normal retirement, or, if they retired under the provisions of K.S.A. 74-
40 4914(4), and amendments thereto, related to early retirement, and are
41 subsequently hired in a position that requires a license under K.S.A. 72-
42 2157, and amendments thereto, or other provision of law. The provisions
43 of this subsection shall only apply to retirants who retired prior to January

1 1, 2018. Except as otherwise provided, when a retirant is employed by the
2 same school district or a different school district with which such retirant
3 was employed during the final two years of such retirant's participation or
4 employed as an independent contractor or by a third-party entity who
5 contracts services with a school district to fill a position as described in
6 this subsection, the participating employer of such retirant shall pay to the
7 system the actuarially determined employer contribution based on the
8 retirant's compensation during any such period of employment plus 8%.
9 Commencing January 1, 2018, if a retirant is employed in a covered
10 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
11 participating employer shall pay to the system the statutorily prescribed
12 employer contribution rate on the first ~~\$25,000~~ ~~\$50,000~~ **\$40,000** of such
13 retirant's compensation in a calendar year and a 30% employer
14 contribution on any compensation in excess of ~~\$25,000~~ ~~\$50,000~~ **\$40,000**
15 in a calendar year during any such period of employment. If a retirant is
16 employed by more than one participating employer or performing duties in
17 more than one position, contributions shall be made on compensation from
18 all such employment for that calendar year. If a retirant is employed in a
19 non-covered position, no employer contribution shall be paid to the
20 system. The participating employer shall enroll all retirants and report to
21 the system when compensation is paid to a retirant as provided in this
22 subsection. Such notice shall contain a certification by the appointing
23 authority of the participating employer that any hired retirant has not been
24 employed by the participating employer within 60 days of such retirant's
25 retirement and that there was no prearranged agreement for employment
26 between the participating employer and the hired retirant. Upon request of
27 the executive director of the system, the participating employer shall
28 provide such information as may be needed by the executive director to
29 carry out the provisions of this subsection. The provisions of this
30 subsection shall not apply to retirants employed as substitute teachers
31 without a contract. ~~The provisions of K.S.A. 74-4914(5), and amendments~~
32 ~~thereto, shall be applicable to retirants employed as described in this~~
33 ~~subsection, except as specifically provided in this subsection.~~ Nothing in
34 this subsection shall be construed to create any right, or to authorize the
35 creation of any right, ~~which~~ *that* is not subject to amendment or
36 nullification by act of the legislature.

37 ~~(4) (a) On and after July 1, 2016, a school district may hire a retired~~
38 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~
39 ~~72-3404, and amendments thereto, if such retirant is hired not prior to 60~~
40 ~~days after such retirant's retirement date without any prearrangement with~~
41 ~~such school district in the manner prescribed in this subsection. The~~
42 ~~participating employer shall enroll all retirants and report to the system~~
43 ~~when compensation is paid to a retirant as provided in this subsection.~~

1 Such notice shall contain a certification by the appointing authority of the
2 participating employer that any hired retirant has not been employed by
3 the participating employer within 60 days of such retirant's retirement and
4 that there was no prearranged agreement for employment between the
5 participating employer and the hired retirant. Upon request of the
6 executive director of the system, the participating employer shall provide
7 such information as may be needed by the executive director to carry out
8 the provisions of this subsection.

9 (b) A retirant hired under the provisions of this subsection may
10 continue to receive such retirant's full retirement benefit for a period not to
11 exceed three school years or 36 months, whichever is less, and shall not be
12 subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,
13 which relate to a compensation limitation which when met or exceeded
14 requires that the retirant not receive a retirement benefit for any month for
15 which such retirant serves in a position as described herein. Such retirant
16 may be employed by such employer for some or all of a school year, and
17 in subsequent school years if the employer is unable to permanently fill the
18 position with active members, so long as the retirant's total term of
19 employment with all employers under this subsection does not exceed 36
20 months or three school years, whichever is less. After such period, the
21 retirant shall be subject to the provisions of K.S.A. 74-4914(7), and
22 amendments thereto, which relate to a compensation limitation which
23 when met or exceeded requires that the retirant not receive a retirement
24 benefit for any month for which such retirant serves in a position as
25 described herein. The participating employer of such retirant shall pay to
26 the system a 30% employer contribution based on the retirant's
27 compensation during any such period of employment. The provisions of
28 this subsection shall not apply to retirants employed as substitute teachers
29 without a contract. The provisions of K.S.A. 74-4914(5), and amendments
30 thereto, shall be applicable to retirants employed as special teachers,
31 except as specifically provided in this subsection.

32 (c) Each school district that uses the provisions of this subsection to
33 hire retirants shall maintain documentation describing their recruiting
34 efforts to obtain non-retirant employees to fill the special teacher positions.
35 Upon request of the joint committee on pensions, investments and
36 benefits, an employer shall provide such documentation to the committee.
37 If the committee finds that an employer has not made sufficient efforts to
38 hire a non-retirant for the position or if the committee finds evidence of
39 prearrangement in violation of this section, the three-year exemption
40 provided pursuant to this subsection may be revoked. The committee shall
41 notify the executive director of the system that a retirant's exemption has
42 been revoked within 30 days of making such a determination.

43 (d) An employer may submit a written assurance protocol to the

1 system to make a one-time extension to the exception provided for in this
2 subsection by one year. Such written assurance protocol shall be signed by
3 the superintendent and the board president of the school district. Such
4 written assurance protocol shall state that the position was advertised on
5 multiple platforms for a minimum of 30 calendar days and that at least one
6 of the following conditions occurred:

- 7 (i) No applications were submitted for the position;
- 8 (ii) if applications were submitted, none of the applicants met the
9 reference screening criteria of the employer; or
- 10 (iii) if applications were submitted, none of the applicants possessed
11 an appropriate teaching license for the state of Kansas or possessed the
12 appropriate credentials to receive any type of teaching license from the
13 state of Kansas.

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

17 (f) The provisions of this subsection shall expire on January 1, 2018.

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

33 (b) The state board of education shall annually certify the top five
34 types of licensed positions that are hard to fill. A school district may hire a
35 retiree to fill a hard-to-fill position for some or all of a school year and in
36 subsequent school years if the employer is unable to permanently fill the
37 position with an active member. A retiree first hired under the provisions
38 of this subsection may be retained by an employer even if such retiree's
39 type of position is no longer one of the five types of positions certified by
40 the state board of education. A retiree hired under the provisions of this
41 subsection may continue to receive such retiree's full retirement benefit
42 for a period not to exceed three school years or 36 months, whichever is
43 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and

1 ~~amendments thereto, which relate to a compensation limitation which~~
2 ~~when met or exceeded requires that the retirant not receive a retirement~~
3 ~~benefit for any month for which such retirant serves in a position as~~
4 ~~described herein. Such retirant may be employed by such employer for~~
5 ~~some or all of a school year, and in subsequent school years if the~~
6 ~~employer is unable to permanently fill the position with active members,~~
7 ~~so long as the retirant's total term of employment with all employers under~~
8 ~~this subsection does not exceed 36 months or three school years,~~
9 ~~whichever is less. After such period, the retirant shall be subject to the~~
10 ~~provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to~~
11 ~~a compensation limitation which when met or exceeded requires that the~~
12 ~~retirant not receive a retirement benefit for any month for which such~~
13 ~~retirant serves in a position as described herein. The participating~~
14 ~~employer of such retirant shall pay to the system a 30% employer~~
15 ~~contribution based on the retirant's compensation during any such period~~
16 ~~of employment. The provisions of this subsection shall not apply to~~
17 ~~retirants employed as substitute teachers without a contract. The provisions~~
18 ~~of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~
19 ~~retirants employed as described in this subsection, except as specifically~~
20 ~~provided in this subsection.~~

21 ~~(e) Each school district that uses the provisions of this subsection to~~
22 ~~hire retirants for hard-to-fill positions shall maintain documentation~~
23 ~~describing their recruiting efforts to obtain non-retirant employees to fill~~
24 ~~the hard-to-fill positions. Upon request of the joint committee on pensions,~~
25 ~~investments and benefits, a school district shall provide such~~
26 ~~documentation to the committee. If the committee finds that a school~~
27 ~~district has not made sufficient efforts to hire a non-retirant for the position~~
28 ~~or if the committee finds evidence of prearrangement in violation of this~~
29 ~~section, the three-year exemption provided pursuant to this subsection may~~
30 ~~be revoked. The committee shall notify the executive director of the~~
31 ~~system that a retirant's exemption has been revoked within 30 days of~~
32 ~~making such a determination.~~

33 ~~(d) An employer may submit a written assurance protocol to the~~
34 ~~system to make a one-time extension to the exception provided for in this~~
35 ~~subsection by one year. Such written assurance protocol shall be signed by~~
36 ~~the superintendent and the board president of the school district. Such~~
37 ~~written assurance protocol shall state that the position was advertised on~~
38 ~~multiple platforms for a minimum of 30 calendar days and that at least one~~
39 ~~of the following conditions occurred:~~

- 40 ~~(i) No applications were submitted for the position;~~
41 ~~(ii) if applications were submitted, none of the applicants met the~~
42 ~~reference screening criteria of the employer; or~~
43 ~~(iii) if applications were submitted, none of the applicants possessed~~

1 an appropriate teaching license for the state of Kansas or possessed the
2 appropriate credentials to receive any type of teaching license from the
3 state of Kansas.

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

7 ~~(f) The provisions of this subsection shall expire on January 1, 2018.~~

8 ~~(6)(4)~~ The provisions of K.S.A. 74-4914~~(8)~~(7), and amendments
9 thereto, shall apply to retirants under the provisions of this section.

10 ~~(7)(5)~~ For the purposes of this section a prearranged agreement for
11 employment may be determined by whether the facts and circumstances of
12 the situation indicate that the employer and employee reasonably
13 anticipated that further services would be performed after the employee's
14 retirement.

15 ~~Sec. 3.~~ 4. K.S.A. 74-4957 is hereby amended to read as follows:
16 74-4957. (1) The normal retirement date for a member of the system
17 who is appointed or employed prior to July 1, 1989, and who does not
18 make an election pursuant to K.S.A. 74-4955a, and amendments
19 thereto, shall be the first day of the month coinciding with or following
20 termination of employment not followed by employment with any
21 participating employer within 30 days, and the attainment of age 55
22 and the completion of 20 years of credited service or the completion of
23 32 years of credited service regardless of the age of the member. Any
24 member may retire on such member's normal retirement date or on
25 the first day of any month thereafter.

26 (2) *Early retirement.* Any member who is appointed or employed
27 prior to July 1, 1989, and who does not make an election pursuant to
28 K.S.A. 74-4955a, and amendments thereto, may retire before such
29 member's normal retirement date on the first day of any month
30 coinciding with or following termination of employment not followed
31 by employment with any participating employer within 30 days and
32 the attainment of age 50 and the completion of 20 years of credited
33 service.

34 (3) Notwithstanding the provisions of subsections (1) and (2) of
35 this section and K.S.A. 74-4955a, 74-4957a, 74-4958a, 74-4960a, 74-
36 4963a and 74-4964a, and amendments thereto, the normal retirement date
37 for any member who was, up to the entry date of such member's employer,
38 covered by a pension system under the provisions of K.S.A. 13-14a01 to
39 through 13-14a14, inclusive, or 14-10a01 to through 14-10a15, inclusive,
40 and amendments thereto, shall be the first day of the month coinciding
41 with or following the attainment of age 50 and the completion of 25 years
42 of credited service.

43 (4) In no event shall a member be eligible to retire until such

1 member has been a contributing member of the system for 12 months
2 of participating service, and shall have given such member's employer
3 prior notice of retirement.

4 (5) If a retirant who retired on or after July 1, 1994, is employed,
5 elected or appointed in or to any position or office for which
6 compensation for service is paid in an amount equal to ~~\$25,000-~~
7 ~~\$40,000~~ or more in any one such calendar year, by the same state
8 agency or the same police or fire department of any county, city,
9 township or special district or the same sheriff's office of a county
10 during the final two years of such retirant's participation, such
11 retirant shall not receive any retirement benefit for any month for
12 which such retirant serves in such position or office. The participating
13 employer shall report to the system within 30 days of when the
14 compensation paid to the retirant is equal to or exceeds any limitation
15 provided by this section. Any retirant employed by a participating
16 employer in the Kansas police and firemen's retirement system shall
17 not make contributions nor receive additional credit under such
18 system for such service except as provided by this section. Upon
19 request of the executive director of the system, the secretary of
20 revenue shall provide such information as may be needed by the
21 executive director to carry out the provisions of this act.

22 ~~Sec. 4.~~ 5. K.S.A. 74-4957a is hereby amended to read as follows:
23 74-4957a. (1) The normal retirement date for a member of the system
24 who is appointed or employed on or after July 1, 1989, or who makes
25 an election pursuant to K.S.A. 74-4955a, and amendments thereto, to
26 be covered by the provisions of this act shall be the first day of the
27 month coinciding with or following termination of employment not
28 followed by employment with any participating employer within 30
29 days and the attainment of age 55 and the completion of 20 years of
30 credited service, age 50 and the completion of 25 years of credited
31 service or age 60 with the completion of 15 years of credited service.
32 Any such member may retire on such member's normal retirement
33 date or on the first day of any month thereafter.

34 (2) Any member may retire before such member's normal
35 retirement date on the first day of any month coinciding with or
36 following termination of employment not followed by employment
37 with any participating employer within 30 days and the attainment of
38 age 50 and the completion of 20 years of credited service.

39 (3) In no event shall a member be eligible to retire until such
40 member has been a contributing member of the system for 12 months
41 of participating service, and shall have given such member's employer
42 prior notice of retirement.

43 (4) If a retirant who retired on or after July 1, 1996, is employed,

1 elected or appointed in or to any position or office for which
2 compensation for service is paid in an amount equal to ~~\$25,000-~~
3 ~~\$40,000~~ or more in any one such calendar year, by the same state
4 agency or the same police or fire department of any county, city,
5 township or special district or the same sheriff's office of a county
6 during the final two years of such retirant's participation, such
7 retirant shall not receive any retirement benefit for any month for
8 which such retirant serves in such position or office. The participating
9 employer shall report to the system within 30 days of when the
10 compensation paid to the retirant is equal to or exceeds any limitation
11 provided by this section. Any retirant employed by a participating
12 employer in the Kansas police and firemen's retirement system shall
13 not make contributions nor receive additional credit under such
14 system for such service except as provided by this section. Upon
15 request of the executive director of the system, the secretary of
16 revenue shall provide such information as may be needed by the
17 executive director to carry out the provisions of this act.

18 (5) The provisions of this section shall be effective on and after
19 July 1, 1989, and shall apply only to members who were appointed or
20 employed prior to July 1, 1989, and who made an election pursuant to
21 K.S.A. 74-4955a, and amendments thereto; and persons appointed or
22 employed on or after July 1, 1989.

23 Sec. ~~3-5~~, 6. K.S.A. 74-4937, 74-4957 and 74-4957a and K.S.A. 2023
24 Supp. 74-4911 and 74-4914 are hereby repealed.

25 Sec. ~~4-6~~, 7. This act shall take effect and be in force from and after
26 its publication in the statute book.