

HOUSE BILL No. 2005

By Joint Committee on Pensions, Investments, and Benefits

12-15

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; exempting
3 members of the state board of regents retirement plan from certain
4 employment after retirement provisions; amending K.S.A. 2016 Supp.
5 74-4914 and repealing the existing section; also repealing K.S.A. 2016
6 Supp. 74-4914f.
7

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

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

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

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

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

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

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

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

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

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

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

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

1 retirant shall pay to the system the actuarially determined employer
2 contribution based on the retirant's compensation and the statutorily
3 prescribed employee contribution during any such period of employment;

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

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

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

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

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

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

33 (c) The participating employer shall enroll all retirants and report to
34 the system when compensation is paid to a retirant as provided in this
35 subsection. Such report shall contain a certification by the appointing
36 authority of the participating employer that any hired retirant has not been
37 employed by the participating employer within 60 days of such retirant's
38 retirement and that there was no prearranged agreement for employment
39 between the participating employer and the hired retirant. Upon request of
40 the executive director of the system, the participating employer shall
41 provide such information as may be needed by the executive director to
42 carry out the provisions of this subsection. Any participating employer
43 who hires a retirant covered by this subsection shall pay to the system the

1 statutorily prescribed employer contribution rate for such retirant, without
2 regard to whether the retirant is receiving benefits. No retirant shall
3 receive credit for service while employed under the provisions of this
4 subsection.

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

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

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

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

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

- 1 (i) No applications were submitted for the position;
- 2 (ii) if applications were submitted, none of the applicants met the
3 reference screening criteria of the employer; or
- 4 (iii) if applications were submitted, none of the applicants possessed
5 the appropriate licensure, certification or other necessary credentials for
6 the position.
- 7 (f) On July 1, 2021, and at least every five years thereafter, the joint
8 committee on pensions, investments and benefits shall study the issue of
9 whether the compensation limitation prescribed in this subsection should
10 be adjusted. The committee shall consider the effect of inflation and data
11 on member retirement benefits and active employee compensation.
- 12 (g) Nothing in this subsection shall be construed to create any right,
13 or to authorize the creation of any right, which is not subject to
14 amendment or nullification by act of the legislature.
- 15 (h) Any retirant hired by any participating employer under the
16 provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and
17 amendments thereto, may continue to receive such retirant's full retirement
18 benefit so long as, commencing July 1, 2016, such retirant's total term of
19 employment with all participating employers under one or more of such
20 provisions does not exceed 48 months or four school years, whichever is
21 less. After such period, such retirant shall not receive any retirement
22 benefit for any month in any calendar year in which such retirant receives
23 compensation in an amount equal to \$25,000 or more in such calendar
24 year.
- 25 (8) If determined by the retirement system that a retirant entered into
26 a prearranged agreement for employment with a participating employer
27 prior to such retirant's retirement and prior to the end of the subsequent 60-
28 day waiting period, the monthly retirement benefit of such retirant shall be
29 suspended during the period that begins on the month in which the retirant
30 is re-employed and ends six months after the retirant's termination of such
31 employment. The retirant shall repay to the retirement system all monthly
32 retirement benefits paid to the retirant by the retirement system that the
33 retirant received after such employment began. The participating employer
34 which hired such retirant shall be required to pay to the system any fees,
35 fines, penalties or any other cost imposed by the internal revenue service
36 and indemnify the system for any cost incurred by the system to defend
37 any action brought by the internal revenue service based on in-service
38 distributions which are a result of any determined prearranged agreement
39 and for any cost incurred by the system to collect any monthly retirement
40 benefit required to be repaid by such retirant pursuant to this subsection.
- 41 (9) 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. 2. K.S.A. 2016 Supp. 74-4914 and 74-4914f are hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.