

HOUSE BILL No. 2365

By Representatives V. Miller, Alcalá, Amyx, Boyd, Carlin, Carr, Curtis, Featherston, Haskins, Haswood, Highberger, Hougland, Hoye, Martinez, Meyer, D. Miller, S. Miller, Ohaebosim, Poskin, S. Ruiz, Sawyer, Sawyer Clayton, Schlingensiepen, Winn and Woodard

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1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; terminating the Kansas public employees
3 retirement system act of 2015; transferring the members of such act to
4 the Kansas public employees retirement system act of 2009; amending
5 K.S.A. 74-4916 and repealing the existing section; also repealing
6 K.S.A. 74-49,301, 74-49,302, 74-49,303, 74-49,304, 74-49,305, 74-
7 49,306, 74-49,307, 74-49,308, 74-49,309, 74-49,310, 74-49,311, 74-
8 49,312, 74-49,313, 74-49,314, 74-49,315, 74-49,316, 74-49,317 and
9 74-49,318.

10

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

12 New Section 1. (a) Any employee who is first employed by a
13 participating employer on and after July 1, 2023, shall be a member of the
14 system under the provisions of the Kansas public employees retirement
15 system act of 2009, K.S.A. 74-49,201 et seq., and amendments thereto.

16 (b) On January 1, 2024, the Kansas public employees retirement
17 system act of 2015, K.S.A. 74-49,301 et seq., prior to its repeal, shall be
18 terminated and all active and inactive members enrolled in the Kansas
19 public employees retirement system act of 2015 shall have such
20 membership transferred to the group of members governed by the
21 provisions of the Kansas public employees retirement system act of 2009,
22 K.S.A. 74-49,201 et seq., and amendments thereto. All member and
23 employer contributions and service credit prior to January 1, 2024, shall be
24 transferred and thereafter be treated as and governed by the provisions of
25 the Kansas public employees retirement system act of 2009, subject to the
26 provisions of this section. Upon transfer to the provisions of the Kansas
27 public employees retirement system act of 2009, members shall be entitled
28 to all rights and benefits of such act for all prior and future service and
29 subject to all obligations thereof. Any benefit received under the
30 provisions of the Kansas public employees retirement system act of 2009
31 shall not be less than the benefit the member was entitled to under the
32 Kansas public employees retirement system act of 2015 at the time of the
33 transfer. Participating employers shall be subject to all obligations under
34 the Kansas public employees retirement system act of 2009 for the

1 members being transferred under this section.

2 (c) On and after January 1, 2024, employer contributions and interest
3 as provided by K.S.A. 74-49,308, and amendments thereto, shall be used
4 by the system to offset the cost of the transfer of membership to the
5 Kansas public employees retirement system act of 2009. Members shall
6 have no right or obligation to such employer contributions and interest.

7 (d) On and after January 1, 2024, the board of trustees shall affect
8 such transfer and termination and take all necessary steps to ensure that
9 such transfer of persons and assets authorized by this section does not
10 affect the system's applicable qualification requirements for governmental
11 plans under the federal internal revenue code.

12 (e) This section shall be a part of and supplemental to the provisions
13 of K.S.A. 74-49,201 et seq., and amendments thereto.

14 Sec. 2. On January 1, 2024, K.S.A. 74-4916 is hereby amended to
15 read as follows: 74-4916. (1) Upon the death of a member before
16 retirement, the member's accumulated contributions shall be paid to the
17 member's beneficiary.

18 (2) (a) In the event that a member dies before retirement as a result of
19 an accident arising out of and in the course of the member's actual
20 performance of duty in the employ of a participating employer
21 independent of all other causes and not as a result of a willfully negligent
22 or intentional act of the member, an accidental death benefit shall be
23 payable if: (A) A report of the accident, in a form acceptable to the board,
24 is filed in the office of the executive director of the board within 60 days
25 after the date of the accident causing such death and an application for
26 such benefit, in such form and manner as the board shall prescribe, is filed
27 in the office of the executive director of the board within two years of the
28 date of the accident, but the board may waive such time limits for a
29 reasonable period if in the judgment of the board the failure to meet these
30 limits was due to lack of knowledge or incapacity; and (B) the board finds
31 from such evidence as it may require, to be submitted in such form and
32 manner as it shall prescribe, that the natural and proximate cause of death
33 was the result of an accident arising out of and in the course of the
34 member's employment with a participating employer independent of all
35 other causes at a definite time and place. Such accidental death benefit
36 shall be a lump-sum amount of \$50,000 and an annual amount of $\frac{1}{2}$ of the
37 member's final average salary, ~~and for members who were first employed~~
38 ~~by a participating employer and covered as a member of the system under~~
39 ~~the provisions of K.S.A. 74-49,301 et seq., and amendments thereto, an~~
40 ~~annual amount of 50% of such member's salary averaged over the final~~
41 ~~three years of such member's covered employment, which that shall accrue~~
42 from the first day of the month following the date of death and ~~which that~~
43 shall be payable in monthly installments or as the board may direct, but,

1 after June 30, 1982, in no case shall the accidental death benefit be less
2 than \$100 per month. The accidental death benefit payments shall be paid
3 to the surviving spouse of such deceased member, such payments to
4 continue so long as such surviving spouse lives or if there is no surviving
5 spouse, or in the case the spouse dies before the youngest child of such
6 deceased member attains age 18 or before the youngest child of such
7 deceased member attains age 23 years, if such child is a full-time student
8 as provided in K.S.A. 74-49,117, and amendments thereto, or if there are
9 one or more children of the member who are totally disabled and
10 dependent on the member or spouse, then to the child or children of such
11 member under age 18 or under age 23, if such child or children are full-
12 time students as provided in K.S.A. 74-49,117, and amendments thereto,
13 and to the child or children of the member who are totally disabled and
14 dependent on the member or spouse, divided in such manner as the board
15 in its discretion shall determine, to continue until the youngest surviving
16 child dies or attains age 18 or attains age 23 if such child is a full-time
17 student as provided in K.S.A. ~~74-49,117~~ 74-49,117, and amendments
18 thereto, or, in the case of the child or children who are totally disabled and
19 dependent on the member or spouse, until death or until no longer totally
20 disabled, or if there is no surviving spouse or child eligible for accidental
21 death benefits under this subsection-(2) at the time of the member's death,
22 then to the parent or parents of such member who are dependent on such
23 member, to continue until the last such parent dies. All payments due
24 under this subsection-(2) to a minor shall be made to a legally appointed
25 conservator of such minor or totally disabled child as provided in K.S.A.
26 74-49,127, and amendments thereto. Commencing on the effective date of
27 this act, any surviving spouse, who was receiving benefits pursuant to this
28 section and who had such benefits terminated by reason of such spouse's
29 remarriage, shall be entitled to once again receive benefits pursuant to this
30 section, except that such surviving spouse shall not be entitled to recover
31 any benefits not received after the termination of benefits by reason of
32 such surviving spouse's remarriage but before the effective date of this act.

33 (b) In construction of this section of the act there shall be no
34 presumption that the death of the member was the result of an accident nor
35 shall there be a liberal interpretation of the law or evidence in favor of the
36 person claiming under this subsection-(2). In the event of the death of a
37 member resulting from a heart, circulatory or respiratory condition there
38 must be clear and precise evidence that death was the result of an accident
39 independent of all other causes which arose out of and in the course of the
40 member's actual performance of duties in the employ of a participating
41 employer.

42 (c) The annual benefit under this subsection-(2) shall be reduced by
43 any workers compensation benefit payable. If the workers compensation

1 benefit is paid in a lump-sum, the amount of such reduction shall be
2 calculated on a monthly basis over the period of time for which workers
3 compensation benefits would have been payable had such lump-sum not
4 been paid. For any recipient already in receipt of such benefits on the
5 effective date of this act, no change in the original reduction for workers
6 compensation benefits shall be applicable to benefits paid prior to July 1,
7 1994. In the event that a member should die as a result of an accident as
8 described in this subsection~~(2)~~, all elections or options previously made
9 by the deceased member shall become void and of no effect whatsoever
10 and the retirement system shall be liable only for the accidental death
11 benefit, refund of accumulated contributions as described in subsection (1)
12 and any insured death benefit that may be due. The benefit payable under
13 this subsection~~(2)~~ shall be known and referred to as the "accidental death
14 benefit."

15 (3) (a) Upon the application of a member, or the member's appointing
16 authority acting for the member, a member who is in the employ of a
17 participating employer and becomes totally and permanently disabled for
18 duty in the employ of a participating employer, by reason of an accident
19 which occurred prior to July 1, 1975, may be retired by the board if: ~~(A)~~(i)
20 The board finds the total and permanent disability to be the natural and
21 proximate result of an accident causing personal injury or disease
22 independent of all other causes and arising out of and in the course of the
23 member's actual performance of duties as an employee of a participating
24 employer; ~~(B)~~(ii) a report of the accident, in a form acceptable to the board
25 is filed in the office of the executive director of the board within 200 days
26 after the date of the accident causing such injury; ~~(C)~~(iii) such application
27 for retirement under this provision, in such form and manner as shall be
28 prescribed by the board, is filed in the office of the executive director of
29 the board within two years of the date of the accident; ~~(D)~~(iv) after a
30 medical examination of the member has been made by or under the
31 direction of a medical physician or physicians or any other practitioner
32 holding a valid license to practice a branch of the healing arts issued by the
33 state board of healing arts designated by the board and the medical
34 physician or physicians or any other practitioner holding a valid license to
35 practice a branch of the healing arts issued by the state board of healing
36 arts report in writing to the board that the member is physically or
37 mentally totally disabled for duty in the employ of a participating
38 employer and that such disability will probably be permanent; and ~~(E)~~(v)
39 the board finds that the member became permanently and totally disabled
40 on a date certain based on the evidence furnished and the professional
41 guidance obtained and that such disability was not the result of a willfully
42 negligent or intentional act of the member. If the board shall so retire the
43 applicant, the member shall receive annually an accidental total disability

1 benefit equal to $\frac{1}{2}$ of the member's final average salary which shall accrue
2 from the first day of the month following the date of such accidental total
3 and permanent disability as found by the board payable in monthly
4 installments or as the board may direct.

5 (b) In construction of this subsection—~~(3)~~ there shall be no
6 presumption that the disability of the member was the result of an accident
7 nor shall there be a liberal interpretation of the law or evidence in favor of
8 the member claiming under this subsection—~~(3)~~. In the event of the
9 disability of a member resulting from a heart, circulatory or respiratory
10 condition there must be clear and precise evidence that disability was the
11 result of an accident independent of all other causes which arose out of and
12 in the course of the member's actual performance of duties in the employ
13 of a participating employer.

14 (c) A member will continue to receive such accidental total disability
15 benefit so long as the member is wholly and continuously disabled by such
16 injury and prevented thereby from engaging in any gainful occupation or
17 employment for which the member is reasonably qualified by reason of
18 education, training or experience. The accidental loss of both hands by
19 actual severance through or above the wrist joint, or the accidental loss of
20 both feet by actual severance through or above the ankle joint or the entire
21 and irrecoverable accidental loss of sight of both eyes, or such severance
22 of one hand and one foot, and such severance of one hand or one foot and
23 such loss of sight of one eye, shall be deemed accidental total and
24 permanent disability and accidental total disability benefits shall be paid so
25 long as the member lives.

26 (d) Any retirant retired by reason of such accidental total and
27 permanent disability who has been receiving benefits under the provisions
28 of this subsection—~~(3)~~ for a period of five years shall be deemed finally
29 retired and shall not be subject to further medical examinations, except
30 that if the board of trustees has reasonable grounds to question whether the
31 retirant remains totally and permanently disabled, a further medical
32 examination or examinations may be required. Refusal or neglect to
33 submit to examination shall be sufficient cause for suspending or
34 discontinuing the accidental total disability benefit. If the refusal or neglect
35 continues for a period of one year, all of the member's rights with respect
36 to such accidental total disability benefit may be revoked by the board.

37 (e) In the event that a retirant who is receiving an accidental total
38 disability benefit dies within five years after the date of the retirant's
39 retirement, an accidental death benefit shall then be payable as provided in
40 subsection (2) ~~of this section~~.

41 (f) A member who retires under the provisions of this subsection—~~(3)~~
42 shall receive such benefits as provided in this subsection—~~(3)~~ in lieu of all
43 other retirement benefits provided under the retirement system except that

1 no member shall be entitled to receive any payments under this subsection
2 (~~3~~) for a period for which insured disability benefits are received.

3 (g) The value, as determined by the board upon recommendation of
4 the actuary, of any workmen's compensation benefits paid or payable to
5 the recipient of an accidental total disability benefit shall be deducted from
6 the amount payable under this section.

7 (h) The benefit payable under ~~subsection (3) of this section~~
8 *subsection* shall be known and referred to as *the* "accidental total disability
9 benefit."

10 (4) The payment of benefits as provided in this section is subject to
11 the provisions of K.S.A. 74-49,123, and amendments thereto.

12 Sec. 3. On January 1, 2024, K.S.A. 74-4916, 74-49,301, 74-49,302,
13 74-49,303, 74-49,304, 74-49,305, 74-49,306, 74-49,307, 74-49,308, 74-
14 49,309, 74-49,310, 74-49,311, 74-49,312, 74-49,313, 74-49,314, 74-
15 49,315, 74-49,316, 74-49,317 and 74-49,318 are hereby repealed.

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