

**SENATE BILL No. 429**

By Committee on Ways and Means

2-14

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1 AN ACT concerning retirement and pensions; enacting the Kansas public  
2 employees retirement system act of 2014; providing terms, conditions  
3 and requirements relating thereto for certain new members; relating to  
4 benefits and contributions; elimination of service credit purchases;  
5 repealing K.S.A. 74-4919a, 74-4919g, 74-4919i, 74-4919k, 74-4919n,  
6 74-4919p, 74-4919q, 74-4919r and 74-4919s and K.S.A. 2011 Supp.  
7 74-4919h, 74-4919j, 74-4919l, 74-4919m, 74-4919o, 74-4919u and 74-  
8 4919v.  
9

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

11 Section 1. (a) The provisions of sections 1 through 17, and  
12 amendments thereto, shall be known and may be cited as the Kansas  
13 public employees retirement system act of 2014.

14 (b) This act applies to any individual who is:

15 (1) First hired on and after January 1, 2014, by a participating  
16 employer and who would otherwise qualify for membership in the Kansas  
17 public employees retirement system, K.S.A. 74-4901 *et seq.*, and  
18 amendments thereto; and

19 (2) any individual:

20 (A) Who was a member of the Kansas public employees retirement  
21 system prior to January 1, 2014, but was not an active or inactive member  
22 of the Kansas public employees retirement system on January 1, 2014;

23 (B) who is hired on or after January 1, 2014, by a participating  
24 employer; and

25 (C) who would otherwise qualify for membership in the Kansas  
26 public employees retirement system, K.S.A. 74-4901 *et seq.*, and  
27 amendments thereto.

28 (c) This act does not apply to members of the Kansas police and  
29 firemen's retirement system, K.S.A. 74-4951 *et seq.*, and amendments  
30 thereto, and the retirement system for judges, K.S.A. 20-2601 *et seq.*, and  
31 amendments thereto.

32 (d) A system member may not simultaneously be a member of the  
33 pre-2014 plan and the plan established pursuant to this act. A period of  
34 service may not be credited in more than one retirement plan within the  
35 system.

36 (e) The board of trustees of the Kansas public employees retirement

1 system shall administer the provisions of this act in the same manner as the  
2 board administers the provisions of K.S.A. 74-4901 *et seq.*, and  
3 amendments thereto, except as specifically provided in this act.

4 (f) Unless specifically provided in this act, the provisions of K.S.A.  
5 74-4901 *et seq.*, and amendments thereto, shall be applicable to this act. In  
6 an event that a conflict exists between the provisions of this act and the  
7 provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto, the  
8 provisions of this act shall control, and to that end, no legal or contractual  
9 rights shall inure to the benefit of members or participating employers  
10 under this act with regard to the provisions of K.S.A. 74-4901 *et seq.*, and  
11 amendments thereto, when the provisions of this act control.

12 (g) Each participating employer as provided in this act and each  
13 employee as defined by this act shall be subject to the provisions of this  
14 act as specified in this act and subject to the provisions of K.S.A. 74-4901  
15 *et seq.*, and amendments thereto, as appropriate as to terms, conditions and  
16 requirements not specifically covered in this act. The provisions of this act  
17 shall not apply to members of the Kansas public employees retirement  
18 system as provided in K.S.A. 74-4901 *et seq.*, and 74-49,201 *et seq.*, and  
19 amendments thereto, employed by a participating employer prior to  
20 January 1, 2014, unless otherwise provided in this act.

21 (h) The provisions of this act shall be part of and supplemental to the  
22 provisions of K.S.A. 74-4901 *et seq.*, and amendments thereto, subject to  
23 the limitations contained in this act.

24 Sec. 2. (a) Terms that are used in this act have the meanings set forth  
25 for them in K.S.A. 74-4902, and amendments thereto, unless otherwise  
26 provided or the context otherwise requires.

27 (b) As used in this act, unless otherwise provided or the context  
28 otherwise requires:

29 (1) "Act" means the Kansas public employees retirement system act  
30 of 2014, section 1 *et seq.*, and amendments thereto;

31 (2) "active member" means a member who is actively employed by a  
32 participating employer;

33 (3) "403(b) plan" means an investment alternative offered to  
34 qualifying public school employees, community college employees and  
35 other eligible employees as allowed under section 403(b) of the internal  
36 revenue code. The 403(b) plan shall be comprised of tax deferred annuities  
37 described in section 403(b) of the internal revenue code, including  
38 custodial accounts described in section 403(b)(7) of the internal revenue  
39 code;

40 (4) "employee directed account" means the account established for a  
41 member under section 3, and amendments thereto;

42 (5) "employer annuity account" means the account established for a  
43 member under section 3, and amendments thereto;

1 (6) "member" means an individual who is required by section 1, and  
2 amendments thereto, to be a member of the plan. The term also includes  
3 any survivor or beneficiary of such member;

4 (7) "normal retirement age" means the attainment of age 65, except  
5 that for security officers, normal retirement age means the attainment of  
6 age 55;

7 (8) "plan" means the plan established within the Kansas public  
8 employees retirement system by section 3, and amendments thereto;

9 (9) "pre-2014 plan" means the plan established pursuant to K.S.A.  
10 74-4901 *et seq.*, and amendments thereto, and K.S.A. 74-49,201 *et seq.*,  
11 and amendments thereto; and

12 (10) "system" means the Kansas public employees retirement system.

13 Sec. 3. (a) The board shall establish within the Kansas public  
14 employees retirement system a plan in accordance with the provisions of  
15 this act. In addition to other options provided under such plan, for  
16 qualifying public school employees, community college employees and  
17 other eligible employees, the plan shall include all plan options as allowed  
18 under section 403(b) of the internal revenue code. For all other employees,  
19 the plan must be established as part of the pension plan pursuant to K.S.A.  
20 74-4920, and amendments thereto, for the exclusive benefit of members  
21 and their beneficiaries, and as a qualified governmental plan pursuant to  
22 sections 401(a), 414(d), and 414(k) of the federal internal revenue code  
23 and its implementing regulations. The plan is established in addition to any  
24 retirement, pension, deferred compensation or other benefit plan currently  
25 administered by the state or a political subdivision thereof. Assets of the  
26 plan must be held in the trust for the Kansas public employees retirement  
27 system.

28 (b) (1) For members who are qualifying public school employees,  
29 community college employees and other eligible employees, the board  
30 shall establish separate accounts for employee contributions of each  
31 member. These separate accounts shall be administered as a defined  
32 contribution plan as provided by section 403(b) of the federal internal  
33 revenue code and implementing regulations.

34 (2) For all other members, the board shall establish separate accounts  
35 for the mandatory contributions of each member. These separate accounts  
36 shall be administered in the nature of a defined contribution plan as  
37 provided by section 414(k) of the federal internal revenue code and  
38 implementing regulations.

39 (3) Accounts described in both subsection (b)(1) and (b)(2) shall be  
40 referred to as the employee directed accounts.

41 (c) The board shall establish for each member an employer annuity  
42 account, which shall be credited with employer credits as provided  
43 pursuant to section 10, and amendments thereto, and interest credits on

1 those employer contribution credits as determined by the board under  
2 section 11, and amendments thereto. The employer annuity account shall  
3 be used to determine a lump-sum distribution or an annuity for the  
4 member upon retirement as provided in section 13, and amendments  
5 thereto.

6 Sec. 4. (a) The board has the powers and shall perform the duties  
7 regarding the plan as provided in K.S.A. 74-4909, and amendments  
8 thereto, as applicable. The board may exercise the powers and shall  
9 perform the duties provided in this act.

10 (b) The board may contract for any aspect of plan administration and  
11 must use a competitive proposal process when contracting for consulting,  
12 educational, investment, recordkeeping or other administrative services for  
13 the plan.

14 Sec. 5. (a) For participants in the 403(b) plan, up to the amount  
15 allowed by the internal revenue code, each participating employer shall  
16 make a mandatory contribution of 6% of an eligible employee's  
17 compensation to the 403(b) plan for participants in such plan. Eligible  
18 employees for the 403(b) plan may contribute an additional, discretionary  
19 contribution through payroll deductions on a pre-tax or after-tax basis. The  
20 403(b) plan shall comply with all applicable provisions of the internal  
21 revenue code.

22 (b) For all other members, up to the amount allowed by the internal  
23 revenue code, each active member shall make a mandatory contribution of  
24 6% of the member's compensation to the member's employee directed  
25 account in the 401(a) plan. These contributions shall be picked up by the  
26 employer via a salary reduction as provided in section 414(h)(2) of the  
27 federal internal revenue code. An employer may not pick up these  
28 contributions without a corresponding salary reduction as provided in  
29 section 414(h)(2) of the federal internal revenue code. A member under  
30 this subsection may not make voluntary contributions to the plan. The  
31 401(a) plan shall comply with all applicable provision of the internal  
32 revenue code.

33 (c) A member's employee directed account includes the member's  
34 mandatory contributions under this section, and the gains and losses on  
35 those contributions. The member's employee directed account is vested  
36 from the date the employee becomes a member of the plan.

37 Sec. 6. (a) A wide range of investment alternatives shall be  
38 established for the employee directed accounts. For qualifying public  
39 school employees, community college employees and other eligible  
40 employees, such investment alternatives shall include, but not be limited  
41 to, investment alternatives as allowed under section 403(b) of the federal  
42 internal revenue code. For all employees, there also shall be offered an  
43 investment alternative that is similar to the investment portfolio of the

1 Kansas public employees retirement system.

2 (b) The board shall from time to time review the suitability and  
3 management of investment alternatives under the employee directed  
4 accounts and may change the alternatives to be offered. The board shall  
5 notify affected members of potential changes before any changes become  
6 effective, except if the board determines there is a compelling need to  
7 change an alternative immediately.

8 (c) The default option for any member or beneficiary who does not  
9 have an effective investment direction shall be the fund that is similar to  
10 the investment portfolio of KPERs.

11 (d) Assets within each employee directed account must be invested as  
12 directed by the member within the investment alternatives established by  
13 the board, unless the board determines there is a compelling need to  
14 remove assets from an investment alternative. In such a case, the asset will  
15 be moved to the default alternative until the member elects another  
16 investment alternative.

17 Sec. 7. (a) With respect to the employee directed accounts, the board  
18 may:

19 (1) Assess fees on member employee directed accounts to pay the  
20 reasonable administrative costs of the accounts, which fees may be  
21 reasonable or asset based fees, or both, as determined by the board;

22 (2) negotiate with a vendor or vendors for vendor reimbursement of  
23 board administrative expenses for the accounts;

24 (3) assess fees on employers to pay reasonable administrative costs of  
25 the accounts; and

26 (4) assess specific fees on an individual member employee directed  
27 account to pay specific expenses attributable to that member.

28 (b) All fees assessed must be fully disclosed to members and treated  
29 as public information.

30 (c) Costs for the board to secure investment advice, recordkeeping,  
31 contract oversight, educational materials for members, performance  
32 evaluations and other appropriate information and services are included as  
33 part of the administrative expenses of the plan.

34 Sec. 8. The board shall establish a rollover account for each member  
35 and shall accept the rollover of contributions and the income on those  
36 contributions from another eligible retirement plan to the member's  
37 rollover account only to the extent allowed under applicable federal law.  
38 The board shall establish policies with respect to the rollover accounts as  
39 to investments, distributions and other administrative matters.

40 Sec. 9. (a) An employer credit shall be made to the member's  
41 employer annuity account at the end of each calendar quarter according to  
42 the following schedule:

43 (1) One percent of compensation for each member who has up to one

1 year of service;

2 (2) one and one-half percent of compensation for each member who  
3 has one but less than two years of service;

4 (3) two percent of compensation for each member who has two but  
5 less than three years of service;

6 (4) two and one-half percent of compensation for each member who  
7 has three but less than four years of service;

8 (5) three percent of compensation for each member who has four but  
9 less than five years of service;

10 (6) three and one-half percent of compensation for each member who  
11 has five but less than six years of service;

12 (7) four percent of compensation for each member who has six but  
13 less than seven years of service;

14 (8) four and one-half percent of compensation for each member who  
15 has seven but less than eight years of service; and

16 (9) five percent of compensation for each member who has eight or  
17 more years of service.

18 (b) An active member's employer shall contribute a percentage of  
19 compensation, determined by the board, which must be allocated to the  
20 death and long-term disability plan under K.S.A. 74-4927, and  
21 amendments thereto.

22 (c) Any credited service accrued by a member under the provisions of  
23 the pre-2014 plan shall be credited for the purpose of computing such  
24 member's years of service under this section.

25 Sec. 10. (a) A member's employer annuity account is the sum of all  
26 employer credits to the account plus the interest credits on the account,  
27 which shall be determined at the end of each year. The interest credits shall  
28 be determined under section 11, and amendments thereto.

29 (b) If the member's employer annuity account is not vested upon the  
30 member's termination of plan membership, as provided in section 13, and  
31 amendments thereto, the employer credits and interest credits are forfeited  
32 as provided in section 13, and amendments thereto. If the member's  
33 employer annuity account is vested upon the member's termination of plan  
34 membership, as provided in section 13, and amendments thereto, but the  
35 member dies prior to attaining normal retirement age without a spouse  
36 eligible for the employer annuity account under section 13, and  
37 amendments thereto, the employer credits and interest credits are forfeited.  
38 Forfeitures may not be used to increase a member's account, but instead  
39 will be used to pay administrative expenses of the accounts or to reduce  
40 employer contributions.

41 Sec. 11. At the end of each calendar year, the board shall credit each  
42 employer annuity account with a zero percent interest credit. At the end of  
43 each calendar year, the board shall also credit each employer annuity

1 account with a supplemental interest credit rate, which will equal the net  
2 investment return on the KPERS portfolio, which may be negative or  
3 positive, in that particular calendar year. If the member retires in the  
4 middle of a calendar year, the board shall credit that member's employer  
5 annuity account with a supplemental interest credit rate that equals the net  
6 investment return on the KPERS portfolio, which may be negative or  
7 positive, for that portion of that calendar year. For the purposes of  
8 determining the member's annuity benefit amount pursuant to section 13,  
9 and amendments thereto, a member's employer annuity account shall not  
10 be less than the total amount of employer credits to the account.

11 Sec. 12. (a) Any time after termination of service or death, a member  
12 or the member's beneficiary may file a written application with the board  
13 and take a distribution of the member's employee directed account from  
14 the plan through any combination of the following payout options, each of  
15 which is subject to the applicable provisions of the federal internal revenue  
16 code and the applicable regulations of the internal revenue service:

- 17 (1) A direct rollover to an eligible retirement plan;
- 18 (2) a lump-sum distribution; or
- 19 (3) an optional form of periodic distribution offered by the board by  
20 official action.

21 (b) The board by official action may specify minimum account  
22 balances for purposes of allowing benefit payment options and rollovers in  
23 accordance with federal law.

24 Sec. 13. (a) A member is vested, but subject to forfeiture, in the  
25 member's employer annuity account upon completion of five years of  
26 service. A member's benefit is nonforfeitable upon the attainment of  
27 normal retirement age and the completion of at least five years of service,  
28 whichever is later.

29 (b) Except as provided in subsection (d), a member who has a  
30 nonforfeitable interest in the member's employer annuity account, at any  
31 time after termination from service and the attainment of normal  
32 retirement age, shall receive an annuity that may be provided by employer  
33 credits and income credits in the employer annuity account, using factors  
34 established by the board by official action as of the member's annuity start  
35 date, and based on the pension benefits guaranty corporation distress  
36 termination interest rates. The normal form of benefit shall be a single life  
37 annuity with five-year certain. The member may elect any joint and  
38 survivor option described in K.S.A. 74-4918, and amendments thereto.

39 (c) Except as provided in subsection (d), in the case of an active or  
40 inactive member:

- 41 (1) Who is vested in the member's employer annuity account;
- 42 (2) who has 10 or more years of service at death; and
- 43 (3) who dies before attaining normal retirement age, with their spouse

1 at time of death designated as their sole primary beneficiary, the member's  
2 surviving spouse on and after the date the member would have attained  
3 normal retirement age had they not died, shall receive an annuity that may  
4 be provided by employer credits and income credits in the employer  
5 annuity account, using factors established by the board by official action as  
6 of the beneficiary's annuity start date and taking into consideration the  
7 pension benefit guaranty corporation distress termination interest rates.  
8 The normal form of benefit shall be a single life annuity with five-year  
9 certain. The beneficiary may elect any joint and survivor option as  
10 described in K.S.A. 74-4918, and amendments thereto.

11 (d) If a member's vested employer annuity account is less than \$1,000  
12 upon separation from service, the account balance shall be mandatorily  
13 distributed to the member in accordance with section 401(a)(31)(B) of the  
14 federal internal revenue code. If the member does not elect to have such  
15 distribution paid directly to an eligible retirement plan specified by the  
16 participant in a direct rollover or to receive the distribution directly, then  
17 the board will pay the distribution to the member directly.

18 Sec. 14. A member's beneficiary must be determined as provided in  
19 the pre-2014 plan regulations. Upon filing a written application with the  
20 board after the death of a member, the member's beneficiary is entitled to  
21 the member's employee directed account.

22 Sec. 15. (a) Members of the retirement system under the Kansas  
23 public employees retirement system act of 2014 shall be covered in the  
24 death and disability plan in accordance with K.S.A. 74-4927, and  
25 amendments thereto, but subject to the provisions of this section.

26 (b) (1) In the event that a member becomes eligible for and begins  
27 receiving a long-term disability benefit under the plan, such member shall  
28 be given participating service credit for the entire period of such disability.  
29 Such member's employer annuity account shall be credited with the  
30 amount of credits and interest prescribed in this act for the entire period of  
31 such disability.

32 (2) The salary upon which credits to such member's employer annuity  
33 account are based shall be the employee's salary at the time of disability,  
34 which shall be adjusted once each year on January 1, but only after five  
35 years of disability, by the lesser of: (A) The percentage increase in the  
36 consumer price index for all urban consumers as published by the bureau  
37 of labor statistics of the United States department of labor measured in the  
38 prior November, minus 1%; or

39 (B) 4% per annum.

40 (3) All credits to the employer annuity account shall cease upon the  
41 earliest of: (A) Death; (B) attainment of normal retirement age; or (C) the  
42 date the member is no longer entitled to receive disability benefits  
43 pursuant to law.



1       Sec. 16. The provisions of K.S.A. 74-49,122, 74-49,123 and 74-  
2 49,124, and amendments thereto, apply to this act, except the definitions of  
3 "actuarial equivalent" and "actuarial computation" are not applicable to  
4 this act.

5       Sec. 17. The provisions of sections 1 through 17, and amendments  
6 thereto, shall be effective on and after January 1, 2014.

7       Sec. 18. Any purchase of service credit which was commenced prior  
8 to July 1, 2013, is not subject to the provisions of this act.

9       Sec. 19. K.S.A. 74-4919a, 74-4919g, 74-4919i, 74-4919k, 74-4919n,  
10 74-4919p, 74-4919q, 74-4919r and 74-4919s and K.S.A. 2011 Supp. 74-  
11 4919h, 74-4919j, 74-4919l, 74-4919m, 74-4919o, 74-4919u and 74-4919v  
12 are hereby repealed.

13       Sec. 20. This act shall take effect and be in force from and after its  
14 publication in the statute book.