

**HOUSE BILL No. 2772**

By Committee on Appropriations

3-7

1 AN ACT concerning retirement and pensions; relating to the Kansas public  
2 employees retirement system; prohibiting certain organizations and  
3 associations from being an eligible employer; amending K.S.A. 2017  
4 Supp. 74-4902 and repealing the existing section; also repealing K.S.A.  
5 19-2689, 74-4931a and 74-4931b.  
6

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

8 Section 1. K.S.A. 2017 Supp. 74-4902 is hereby amended to read as  
9 follows: 74-4902. As used in articles 49 and 49a of chapter 74 of the  
10 Kansas Statutes Annotated, and amendments thereto, unless otherwise  
11 provided or the context otherwise requires:

12 (1) "Accumulated contributions" means the sum of all contributions  
13 by a member to the system which are credited to the member's account,  
14 with interest allowed thereon;

15 (2) "acts" means the provisions of articles 49 and 49a of the Kansas  
16 Statutes Annotated, and amendments thereto;

17 (3) "actuarial equivalent" means an annuity or benefit of equal value  
18 to the accumulated contributions, annuity or benefit, when computed upon  
19 the basis of the actuarial tables in use by the system. Whenever the amount  
20 of any benefit is to be determined on the basis of actuarial assumptions,  
21 the assumptions shall be specified in a way that precludes employer  
22 discretion;

23 (4) "actuarial tables" means the actuarial tables approved and in use  
24 by the board at any given time;

25 (5) "actuary" means the actuary or firm of actuaries employed or  
26 retained by the board at any given time;

27 (6) "agent" means the individual designated by each participating  
28 employer through whom system transactions and communication are  
29 directed;

30 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,  
31 and amendments thereto, any natural person or persons, estate or trust, or  
32 any combination thereof, named by a member to receive any benefits as  
33 provided for by this act. Designations of beneficiaries by a member who is  
34 a member of more than one retirement system made on or after July 1,  
35 1987, shall be the basis of any benefits payable under all systems unless  
36 otherwise provided by law. Except as otherwise provided by subsection

1 ~~(33) of this section~~ (32), if there is no named beneficiary living at the time  
2 of the member's death, any benefits provided for by this act shall be paid  
3 to: (A) The member's surviving spouse; (B) the member's dependent child  
4 or children; (C) the member's dependent parent or parents; (D) the  
5 member's nondependent child or children; (E) the member's nondependent  
6 parent or parents; *or* (F) the estate of the deceased member; in the order of  
7 preference as specified in this subsection;

8 (8) "board of trustees," "board" or "trustees" means the managing  
9 body of the system which is known as the Kansas public employees  
10 retirement system board of trustees;

11 (9) "compensation" means, except as otherwise provided, all salary,  
12 wages and other remuneration payable to a member for personal services  
13 performed for a participating employer, including maintenance or any  
14 allowance in lieu thereof provided a member as part of compensation, but  
15 not including reimbursement for travel or moving expenses or on and after  
16 July 1, 1994, payment pursuant to an early retirement incentive program  
17 made prior to the retirement of the member. Beginning with the employer's  
18 fiscal year ~~which~~ *that* begins in calendar year 1991 or for employers other  
19 than the state of Kansas, beginning with the fiscal year ~~which~~ *that* begins  
20 in calendar year 1992, when the compensation of a member who remains  
21 in substantially the same position during any two consecutive years of  
22 participating service used in calculating final average salary is increased  
23 by an amount which exceeds 15%, then the amount of such increase which  
24 exceeds 15% shall not be included in compensation, except that: (A) Any  
25 amount of compensation for accumulated sick leave or vacation or annual  
26 leave paid to the member; (B) any increase in compensation for any  
27 member due to a reclassification or reallocation of such member's position  
28 or a reassignment of such member's job classification to a higher range or  
29 level; and (C) any increase in compensation as provided in any contract  
30 entered into prior to January 1, 1991, and still in force on the effective date  
31 of this act, pursuant to an early retirement incentive program as provided  
32 in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in  
33 the amount of compensation of such member used in determining such  
34 member's final average salary and shall not be subject to the 15%  
35 limitation provided in this subsection. Any contributions by such member  
36 on the amount of such increase which exceeds 15% which is not included  
37 in compensation shall be returned to the member. Unless otherwise  
38 provided by law, beginning with the employer's fiscal year coinciding with  
39 or following July 1, 1985, compensation shall include any amounts for tax  
40 sheltered annuities or deferred compensation plans. Beginning with the  
41 employer's fiscal year ~~which~~ *that* begins in calendar year 1991,  
42 compensation shall include amounts under sections 403b, 457 and 125 of  
43 the federal internal revenue code of 1986 and, as the board deems

1 appropriate, any other section of the federal internal revenue code of 1986  
2 which defers or excludes amounts from inclusion in income. For purposes  
3 of applying limits under the federal internal revenue code "compensation"  
4 shall have the meaning as provided in K.S.A. 74-49,123, and amendments  
5 thereto. For purposes of this subsection and application to the provisions  
6 of ~~subsection (4)~~ of K.S.A. 74-4927(4), and amendments thereto,  
7 "compensation" shall not include any payments made by the state board of  
8 regents pursuant to the provisions of ~~subsection (5)~~ of K.S.A. 74-4927a(5),  
9 and amendments thereto, to a member of the faculty or other person  
10 defined in ~~subsection (1)(a)~~ of K.S.A. 74-4925(1)(a), and amendments  
11 thereto;

12 (10) "credited service" means the sum of participating service and  
13 prior service and in no event shall credited service include any service  
14 which is credited under another retirement plan authorized under any law  
15 of this state;

16 (11) "dependent" means a parent or child of a member who is  
17 dependent upon the member for at least  $\frac{1}{2}$  of such parent or child's  
18 support;

19 (12) "effective date" means the date upon which the system becomes  
20 effective by operation of law;

21 (13) "eligible employer" means the state of Kansas, and any county,  
22 city, township, special district or any instrumentality of any one or several  
23 of the aforementioned or any noncommercial public television or radio  
24 station located in this state which receives state funds allocated by the  
25 Kansas public broadcasting commission whose employees are covered by  
26 social security. If a class or several classes of employees of any above  
27 defined employer are not covered by social security, such employer shall  
28 be deemed an eligible employer only with respect to such class or those  
29 classes of employees who are covered by social security. *On and after July*  
30 *1, 2018, "eligible employer" shall not include the league of Kansas*  
31 *municipalities, the Kansas association of counties, the Kansas state high*  
32 *school activities association, or substantially similar successor*  
33 *organizations or associations; or any organization or association that*  
34 *engages in lobbying as defined in K.S.A. 46-225, and amendments thereto.*  
35 *An officer or employee of any such organization or association who is a*  
36 *member of the system prior to July 1, 2018, shall be eligible to continue*  
37 *with membership in the system if such officer or employee does not have a*  
38 *break in service after July 1, 2018;*

39 (14) "employee" means any appointed or elective officer or employee  
40 of a participating employer whose employment is not seasonal or  
41 temporary and whose employment requires at least 1,000 hours of work  
42 per year, and any such officer or employee who is concurrently employed  
43 performing similar or related tasks by two or more participating

1 employers, who each remit employer and employee contributions on  
2 behalf of such officer or employee to the system, and whose combined  
3 employment is not seasonal or temporary, and whose combined  
4 employment requires at least 1,000 hours of work per year, but not  
5 including: (A) Any employee who is a contributing member of the United  
6 States civil service retirement system; (B) any employee who is a  
7 contributing member of the federal employees retirement system; (C) any  
8 employee who is a leased employee as provided in section 414 of the  
9 federal internal revenue code of a participating employer; and (D) any  
10 employee or class of employees specifically exempted by law. After June  
11 30, 1975, no person who is otherwise eligible for membership in the  
12 Kansas public employees retirement system shall be barred from such  
13 membership by reason of coverage by, eligibility for or future eligibility  
14 for a retirement annuity under the provisions of K.S.A. 74-4925, and  
15 amendments thereto, except that no person shall receive service credit  
16 under the Kansas public employees retirement system for any period of  
17 service for which benefits accrue or are granted under a retirement annuity  
18 plan under the provisions of K.S.A. 74-4925, and amendments thereto.  
19 After June 30, 1982, no person who is otherwise eligible for membership  
20 in the Kansas public employees retirement system shall be barred from  
21 such membership by reason of coverage by, eligibility for or future  
22 eligibility for any benefit under another retirement plan authorized under  
23 any law of this state, except that no such person shall receive service credit  
24 under the Kansas public employees retirement system for any period of  
25 service for which any benefit accrues or is granted under any such  
26 retirement plan. Employee shall include persons who are in training at or  
27 employed by, or both, a sheltered workshop for the blind operated by the  
28 secretary for children and families. The entry date for such persons shall  
29 be the beginning of the first pay period of the fiscal year commencing in  
30 calendar year 1986. Such persons shall be granted prior service credit in  
31 accordance with K.S.A. 74-4913, and amendments thereto. However, such  
32 persons classified as home industry employees shall not be covered by the  
33 retirement system. Employees shall include any member of a board of  
34 county commissioners of any county and any council member or  
35 commissioner of a city whose compensation is equal to or exceeds \$5,000  
36 per year;

37 (15) "entry date" means the date as of which an eligible employer  
38 joins the system. The first entry date pursuant to this act is January 1,  
39 1962;

40 (16) "executive director" means the managing officer of the system  
41 employed by the board under this act;

42 (17) "final average salary" means in the case of a member who retires  
43 prior to January 1, 1977, and in the case of a member who retires after

1 January 1, 1977, and who has less than five years of participating service  
2 after January 1, 1967, the average highest annual compensation paid to  
3 such member for any five years of the last 10 years of participating service  
4 immediately preceding retirement or termination of employment, or in the  
5 case of a member who retires on or after January 1, 1977, and who has five  
6 or more years of participating service after January 1, 1967, the average  
7 highest annual compensation paid to such member on or after January 1,  
8 1967, for any five years of participating service preceding retirement or  
9 termination of employment, or, in any case, if participating service is less  
10 than five years, then the average annual compensation paid to the member  
11 during the full period of participating service, or, in any case, if the  
12 member has less than one calendar year of participating service such  
13 member's final average salary shall be computed by multiplying such  
14 member's highest monthly salary received in that year by 12; in the case of  
15 a member who became a member under ~~subsection (3)~~ of K.S.A. 74-  
16 4925(3), and amendments thereto, or who became a member with a  
17 participating employer as defined in ~~subsection (3)~~ of K.S.A. 74-4931(3),  
18 and amendments thereto, and who elects to have compensation paid in  
19 other than 12 equal installments, such compensation shall be annualized as  
20 if the member had elected to receive 12 equal installments for any such  
21 periods preceding retirement; in the case of a member who retires after  
22 July 1, 1987, the average highest annual compensation paid to such  
23 member for any four years of participating service preceding retirement or  
24 termination of employment; in the case of a member who retires on or  
25 after July 1, 1993, whose date of membership in the system is prior to July  
26 1, 1993, and any member who is in such member's membership waiting  
27 period on July 1, 1993, and whose date of membership in the system is on  
28 or after July 1, 1993, the average highest annual compensation, as defined  
29 in subsection (9), paid to such member for any four years of participating  
30 service preceding retirement or termination of employment or the average  
31 highest annual salary, as defined in ~~subsection (34)~~ (33), paid to such  
32 member for any three years of participating service preceding retirement  
33 or termination of employment, whichever is greater; and in the case of a  
34 member who retires on or after July 1, 1993, and whose date of  
35 membership in the system is on or after July 1, 1993, the average highest  
36 annual salary, as defined in ~~subsection (34)~~ (33), paid to such member for  
37 any three years of participating service preceding retirement or termination  
38 of employment. Final average salary shall not include any purchase of  
39 participating service credit by a member as provided in ~~subsection (2)~~ of  
40 K.S.A. 74-4919h(2), and amendments thereto, which is completed within  
41 five years of retirement. For any application to purchase or repurchase  
42 service credit for a certain period of service as provided by law received  
43 by the system after May 17, 1994, for any member who will have

1 contributions deducted from such member's compensation at a percentage  
2 rate equal to two or three times the employee's rate of contribution or will  
3 begin paying to the system a lump-sum amount for such member's  
4 purchase or repurchase and such deductions or lump-sum payment  
5 commences after the commencement of the first payroll period in the third  
6 quarter, "final average salary" shall not include any amount of  
7 compensation or salary which is based on such member's purchase or  
8 repurchase. Any application to purchase or repurchase multiple periods of  
9 service shall be treated as multiple applications. For purposes of this  
10 subsection, the date that such member is first hired as an employee for  
11 members who are employees of employers that elected to participate in the  
12 system on or after January 1, 1994, shall be the date that such employee's  
13 employer elected to participate in the system. In the case of any former  
14 member who was eligible for assistance pursuant to K.S.A. 74-4925, and  
15 amendments thereto, prior to July 1, 1998, for the purpose of calculating  
16 final average salary of such member, such member's final average salary  
17 shall be based on such member's salary while a member of the system or  
18 while eligible for assistance pursuant to K.S.A. 74-4925, and amendments  
19 thereto, whichever is greater;

20 (18) "fiscal year" means, for the Kansas public employees retirement  
21 system, the period commencing July 1 of any year and ending June 30 of  
22 the next;

23 (19) "Kansas public employees retirement fund" means the fund  
24 created by this act for payment of expenses and benefits under the system  
25 and referred to as the fund;

26 (20) "leave of absence" means a period of absence from employment  
27 without pay, authorized and approved by the employer, and which after the  
28 effective date does not exceed one year;

29 (21) "member" means an eligible employee who is in the system and  
30 is making the required employee contributions; any former employee who  
31 has made the required contributions to the system and has not received a  
32 refund if such member is within five years of termination of employment  
33 with a participating employer; or any former employee who has made the  
34 required contributions to the system, has not yet received a refund and has  
35 been granted a vested benefit;

36 (22) "military service" means service in the uniformed forces of the  
37 United States, for which retirement benefit credit must be given under the  
38 provisions of USERRA or service in the armed forces of the United States  
39 or in the commissioned corps of the United States public health service,  
40 which service is immediately preceded by a period of employment as an  
41 employee or by entering into an employment contract with a participating  
42 employer and is followed by return to employment as an employee with  
43 the same or another participating employer within 12 months immediately

1 following discharge from such military service, except that if the board  
2 determines that such return within 12 months was made impossible by  
3 reason of a service-connected disability, the period within which the  
4 employee must return to employment with a participating employer shall  
5 be extended not more than two years from the date of discharge or  
6 separation from military service;

7 (23) "normal retirement date" means the date on or after which a  
8 member may retire with full retirement benefits pursuant to K.S.A. 74-  
9 4914, and amendments thereto;

10 (24) "participating employer" means an eligible employer who has  
11 agreed to make contributions to the system on behalf of its employees;

12 (25) "participating service" means the period of employment after the  
13 entry date for which credit is granted a member;

14 (26) "prior service" means the period of employment of a member  
15 prior to the entry date for which credit is granted a member under this act;

16 (27) "prior service annual salary" means the highest annual salary, not  
17 including any amounts received as payment for overtime or as  
18 reimbursement for travel or moving expense, received for personal  
19 services by the member from the current employer in any one of the three  
20 calendar years immediately preceding January 1, 1962, or the entry date of  
21 the employer, whichever is later, except that if a member entered the  
22 employment of the state during the calendar year 1961, the prior service  
23 annual salary shall be computed by multiplying such member's highest  
24 monthly salary received in that year by 12;

25 (28) "retirant" means a member who has retired under this system;

26 (29) "retirement benefit" means a monthly income or the actuarial  
27 equivalent thereof paid in such manner as specified by the member  
28 pursuant to this act or as otherwise allowed to be paid at the discretion of  
29 the board, with benefits accruing from the first day of the month  
30 coinciding with or following retirement and ending on the last day of the  
31 month in which death occurs. Upon proper identification a surviving  
32 spouse may negotiate the warrant issued in the name of the retirant. If  
33 there is no surviving spouse, the last warrant shall be payable to the  
34 designated beneficiary;

35 (30) "retirement system" or "system" means the Kansas public  
36 employees retirement system as established by this act and as it may be  
37 amended;

38 (31) "social security" means the old age, survivors and disability  
39 insurance section of the federal social security act;

40 (32) "trust" means an express trust, created by a trust instrument,  
41 including a will, designated by a member to receive payment of the  
42 insured death benefit under K.S.A. 74-4927, and amendments thereto, and  
43 payment of the member's accumulated contributions under ~~subsection (1)~~

1 of K.S.A. 74-4916(1), and amendments thereto. A designation of a trust  
2 shall be filed with the board. If no will is admitted to probate within six  
3 months after the death of the member or no trustee qualifies within such  
4 six months or if the designated trust fails, for any reason whatsoever, the  
5 insured death benefit under K.S.A. 74-4927, and amendments thereto, and  
6 the member's accumulated contributions under ~~subsection (1) of K.S.A.~~  
7 74-4916(1), and amendments thereto, shall be paid in accordance with the  
8 provisions of subsection (7) ~~of this section~~ as in other cases where there is  
9 no named beneficiary living at the time of the member's death and any  
10 payments so made shall be a full discharge and release to the system from  
11 any further claims;

12 (33) "salary" means all salary and wages payable to a member for  
13 personal services performed for a participating employer, including  
14 maintenance or any allowance in lieu thereof provided a member as part of  
15 salary. Salary shall not include reimbursement for travel or moving  
16 expenses, payment for accumulated sick leave or vacation or annual leave,  
17 severance pay or any other payments to the member determined by the  
18 board to not be payments for personal services performed for a  
19 participating employer constituting salary or on and after July 1, 1994,  
20 payment pursuant to an early retirement incentive program made prior to  
21 the retirement of the member. When the salary of a member who remains  
22 in substantially the same position during any two consecutive years of  
23 participating service used in calculating final average salary is increased  
24 by an amount which exceeds 15%, then the amount of such increase which  
25 exceeds 15% shall not be included in salary. Any contributions by such  
26 member on the amount of such increase which exceeds 15% which is not  
27 included in compensation shall be returned to the member. Unless  
28 otherwise provided by law, salary shall include any amounts for tax  
29 sheltered annuities or deferred compensation plans. Salary shall include  
30 amounts under sections 403b, 457 and 125 of the federal internal revenue  
31 code of 1986 and, as the board deems appropriate, any other section of the  
32 federal internal revenue code of 1986 which defers or excludes amounts  
33 from inclusion in income. For purposes of applying limits under the  
34 federal internal revenue code "salary" shall have the meaning as provided  
35 in K.S.A. 74-49,123, and amendments thereto. In any case, if participating  
36 service is less than three years, then the average annual salary paid to the  
37 member during the full period of participating service, or, in any case, if  
38 the member has less than one calendar year of participating service such  
39 member's final average salary shall be computed by multiplying such  
40 member's highest monthly salary received in that year by 12;

41 (34) "federal internal revenue code" means the federal internal  
42 revenue code of 1954 or 1986, as in effect on July 1, 2008, and as  
43 applicable to a governmental plan; and

1       (35) "USERRA" means the federal uniformed services employment  
2 and reemployment rights act of 1994 as in effect on July 1, 2008.

3       Sec. 2. K.S.A. 19-2689, 74-4931a and 74-4931b and K.S.A. 2017  
4 Supp. 74-4902 are hereby repealed.

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