

HOUSE BILL No. 2593

By Committee on Insurance and Pensions

2-1

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement of retirants
3 in certain school district positions during a period ending June 30,
4 2024; reducing the required employer contribution rate to only the
5 statutory rate when employing such retirants; decreasing the required
6 waiting period to 60 days; amending K.S.A. 74-4937 and K.S.A. 2021
7 Supp. 74-4914 and repealing the existing sections.
8

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

10 Section 1. K.S.A. 2021 Supp. 74-4914 is hereby amended to read as
11 follows: 74-4914.(1) The normal retirement date for a member of the
12 system shall be the first day of the month coinciding with or following
13 termination of employment with any participating employer not followed
14 by employment with any participating employer within 60 days, or 180
15 days as provided in subsection ~~(10)~~ (9), and without any prearranged
16 agreement for employment with any participating employer, and the
17 attainment of age 65 or, commencing July 1, 1993, age 62 with the
18 completion of 10 years of credited service or the first day of the month
19 coinciding with or following the date that the total of the number of years
20 of credited service and the number of years of attained age of the member
21 is equal to or more than 85. In no event shall a normal retirement date for a
22 member be before six months after the entry date of the participating
23 employer by whom such member is employed. A member may retire on
24 the normal retirement date or on the first day of any month thereafter upon
25 the filing with the office of the retirement system of an application in such
26 form and manner as the board shall prescribe. Such application shall
27 contain a certification by the member that the member will not be
28 employed with any participating employer within 60 days, or 180 days as
29 provided in subsection ~~(10)~~ (9), of retirement and the member has not
30 entered into a prearranged agreement for employment with any
31 participating employer. Nothing herein shall prevent any person, member
32 or retirant from being employed, appointed or elected as an employee,
33 appointee, officer or member of the legislature. Elected officers may retire
34 from the system on any date on or after the attainment of the normal
35 retirement date, but no retirement benefits payable under this act shall be
36 paid until the member has terminated such member's office.

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

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

9 (4) Any member may retire before such member's normal retirement
10 date on the first day of any month coinciding with or following
11 termination of employment with any participating employer not followed
12 by employment with any participating employer within 60 days, or 180
13 days as provided in subsection ~~(10)~~ (9), and the attainment of age 55 with
14 the completion of 10 years of credited service, but in no event before six
15 months after the entry date, upon the filing with the office of the retirement
16 system of an application for retirement in such form and manner as the
17 board shall prescribe. The member's application for retirement shall
18 contain a certification by the member that the member will not be
19 employed with any participating employer within 60 days, or 180 days as
20 provided in subsection ~~(10)~~ (9), of retirement and the member has not
21 entered into a prearranged agreement for employment with any
22 participating employer.

23 ~~(5) Except as provided in subsections (7) and (10), on or after July 1,~~
24 ~~2006, through December 31, 2017, for any retirant who is first employed~~
25 ~~or appointed in or to any position or office by a participating employer~~
26 ~~other than a participating employer for which such retirant was employed~~
27 ~~or appointed during the final two years of such retirant's participation, and,~~
28 ~~on or after April 1, 2009, for any retirant who is employed by a third-party~~
29 ~~entity who contracts services with a participating employer other than a~~
30 ~~participating employer for which such retirant was employed or appointed~~
31 ~~during the final two years of such retirant's participation to fill a position~~
32 ~~covered under K.S.A. 72-2215(a), and amendments thereto, with such~~
33 ~~retirant, such participating employer shall pay to the system the actuarially~~
34 ~~determined employer contribution and the statutorily prescribed employee~~
35 ~~contribution based on the retirant's compensation during any such period~~
36 ~~of employment or appointment. If a retirant is employed or appointed in or~~
37 ~~to any position or office for which compensation for service is paid in an~~
38 ~~amount equal to \$25,000 or more in any one calendar year between July 1,~~
39 ~~2016, and January 1, 2018, by any participating employer for which such~~
40 ~~retirant was employed or appointed during the final two years of such~~
41 ~~retirant's participation, and, on or after April 1, 2009, by any third-party~~
42 ~~entity who contracts services to fill a position covered under K.S.A. 72-~~
43 ~~2215(a), and amendments thereto, with such retirant with a participating~~

1 employer for which such retirant was employed or appointed during the
2 final two years of such retirant's participation, such retirant shall not
3 receive any retirement benefit for any month for which such retirant serves
4 in such position or office. The participating employer who employs such
5 retirant whether by contract directly with the retirant or through an
6 arrangement with a third-party entity shall report to the system within 30
7 days of when the compensation paid to the retirant is equal to or exceeds
8 any limitation provided by this section. Any participating employer who
9 contracts services with any such third-party entity to fill a position covered
10 under K.S.A. 72-2215(a), and amendments thereto, shall include in such
11 contract a provision or condition which requires the third-party entity to
12 provide the participating employer with the necessary compensation paid
13 information related to any such position filled by the third-party entity
14 with a retirant to enable the participating employer to comply with
15 provisions of this subsection relating to the payment of contributions and
16 reporting requirements. The provisions and requirements provided for in
17 amendments made in this act which relate to positions filled with a retirant
18 or employment of a retirant by a third-party entity shall not apply to any
19 contract for services entered into prior to April 1, 2009, between a
20 participating employer and third-party entity as described in this
21 subsection. Any retirant employed by a participating employer or a third-
22 party entity as provided in this subsection shall not make contributions nor
23 receive additional credit under such system for such service except as
24 provided by this section. Upon request of the executive director of the
25 system, the secretary of revenue shall provide such information as may be
26 needed by the executive director to carry out the provisions of this act. The
27 provisions of this subsection shall not apply to retirants employed as
28 substitute teachers without a contract or officers, employees or appointees
29 of the legislature. The provisions of this subsection shall not apply to
30 members of the legislature. The provisions of this subsection shall not
31 apply to any other elected officials. Commencing July 1, 2005, the
32 provisions of this subsection shall not apply to retirants who either retired
33 under the provisions of subsection (1), or, if they retired under the
34 provisions of subsection (4), were retired more than 30 days prior to the
35 effective date of this act and are licensed professional nurses or licensed
36 practical nurses employed by the state of Kansas in an institution as
37 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments
38 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
39 in this subsection shall be construed to create any right, or to authorize the
40 creation of any right, which is not subject to amendment or nullification by
41 act of the legislature. The participating employer of such retirant shall pay
42 to the system the actuarially determined employer contribution based on
43 the retirant's compensation during any such period of employment. The

1 provisions of the subsection shall expire on January 1, 2018.

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

9 ~~(7)(6) (a)(i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and~~
10 ~~amendments thereto, and the provisions of this subsection, commencing~~
11 ~~July 1, 2016, and ending January 1, 2018, any retiree who is employed or~~
12 ~~appointed in or to any position by a participating employer, an independent~~
13 ~~contractor or a third-party entity who contracts services with a~~
14 ~~participating employer to fill a position, without any prearranged~~
15 ~~agreement with such participating employer and not prior to 60 days after~~
16 ~~such retiree's retirement date, shall not receive any retirement benefit for~~
17 ~~any month in any calendar year in which the retiree receives~~
18 ~~compensation in an amount equal to \$25,000 or more, pursuant to this~~
19 ~~subsection. Any participating employer who hires a retiree covered by this~~
20 ~~subsection shall pay to the system the statutorily prescribed employer~~
21 ~~contribution rate for such retiree, without regard to whether the retiree is~~
22 ~~receiving benefits.~~

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

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

- 1 (i) Licensed professional nurses or licensed practical nurses employed
2 by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or
3 38-2302(k), and amendments thereto, the Kansas soldiers' home or the
4 Kansas veterans' home. The participating employer of such retirant shall
5 pay to the system the actuarially determined employer contribution based
6 on the retirant's compensation and the statutorily prescribed employee
7 contribution during any such period of employment;
- 8 (ii) employed by a school district in a position as provided in K.S.A.
9 74-4937(3), ~~(4) or (5)~~, and amendments thereto;
- 10 (iii) certified law enforcement officers employed by the law
11 enforcement training center. Such law enforcement officers shall receive
12 their benefits notwithstanding this subsection. The law enforcement
13 training center shall pay to the system the actuarially determined employer
14 contribution and the statutorily prescribed employee contribution based on
15 the retirant's compensation during any such period of employment;
- 16 (iv) members of the Kansas police and firemen's retirement system
17 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of
18 the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
19 amendments thereto, or members of the state board of regents retirement
20 plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;
- 21 (v) employed as substitute teachers without a contract or officers,
22 employees or appointees of the legislature;
- 23 (vi) a poll worker hired to work an election day for a county election
24 officer responsible for conducting all official elections held in the county;
- 25 (vii) employed by, or have accepted employment from, a participating
26 employer prior to May 1, 2015. Any break in continuous employment by a
27 retirant or move to a different position by a retirant during the effective
28 period of this subsection shall be deemed new employment and shall
29 subject the retirant to the provisions of this subsection. Commencing
30 January 1, 2018, the participating employer of a retirant described in this
31 ~~subsection (7)(b)(vii)~~ *subparagraph* who is employed in a covered
32 position, as defined in K.S.A. 74-49,202, and amendments thereto, shall
33 pay to the system the statutorily prescribed employer contribution rate on
34 the first \$25,000 of such retirant's compensation in a calendar year and a
35 30% employer contribution on any compensation in excess of \$25,000 in a
36 calendar year during any such period of employment. If a retirant is
37 employed by more than one participating employer or performing duties in
38 more than one position, contributions shall be made on compensation from
39 all such employment for that calendar year. If a retirant is employed in a
40 non-covered position, no employer contribution shall be paid to the
41 system;
- 42 (viii) state or local elected officials. A retirant shall not be employed
43 in an elected office within 30 days of such retirant's retirement, except that

1 if a retirant is filling a vacant elected office, no waiting period shall be
2 required; or

3 (ix) employed by the Kansas academies of the United States
4 department of defense STARBASE program.

5 (c) The participating employer shall enroll all retirants, including
6 retirants under ~~subsection (7)(b)(i)~~ *subparagraphs (i), (ii), (iii), (vii) and*
7 *(viii)*, and report to the system when compensation is paid to a retirant as
8 provided in this subsection. Such report shall contain a certification by the
9 appointing authority of the participating employer that any hired retirant
10 has not been employed by the participating employer within 60 days of
11 such retirant's retirement and that there was no prearranged agreement for
12 employment between the participating employer and the hired retirant.
13 Upon request of the executive director of the system, the participating
14 employer shall provide such information as may be needed by the
15 executive director to carry out the provisions of this subsection. No retirant
16 shall make contributions to the system or receive credit for service while
17 employed under the provisions of this subsection.

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

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

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

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

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

33 (e) ~~An employer may submit a written assurance protocol to the~~
34 ~~system to extend the exception provided for in subsection (7)(d) by one-~~
35 ~~year increments for a total extension not to exceed three years. A written~~
36 ~~assurance protocol shall be submitted to the system for each one-year~~
37 ~~increment extension. If a school district submits a written assurance~~
38 ~~protocol, such written assurance protocol shall be signed by the~~
39 ~~superintendent and the board president of such school district. If a~~
40 ~~municipality, as defined in K.S.A. 75-1117, and amendments thereto, other~~
41 ~~than a school district, submits a written assurance protocol, such written~~
42 ~~assurance protocol shall be signed by the governing body or such~~
43 ~~governing body's designee for such municipality. Such written assurance~~

1 protocol shall state that the position was advertised on multiple platforms
 2 for a minimum of 30 calendar days and that at least one of the following
 3 conditions occurred:

- 4 (i) ~~No applications were submitted for the position;~~
- 5 (ii) ~~if applications were submitted, none of the applicants met the~~
 6 ~~reference screening criteria of the employer; or~~
- 7 (iii) ~~if applications were submitted, none of the applicants possessed~~
 8 ~~the appropriate licensure, certification or other necessary credentials for~~
 9 ~~the position.~~

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

11 (f) Retirants who are independent contractors or employees of third-
 12 party entities who contract with a participating employer, shall not be
 13 subject to the compensation limitation or employer contribution
 14 requirements in this subsection or the requirements of ~~subsection (7)(c)-~~
 15 ~~paragraph (c)~~ regarding enrollment and reporting to the system, so long as
 16 all of the following apply:

17 (A) The contractual relationship was not created to allow the retirant
 18 to continue employment with the participating employer after retirement in
 19 a position similar to the one such retirant held prior to retirement;

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

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

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

31 ~~(8)(7)~~ (a) Except as provided in ~~subsection (8)(b) paragraph (b),~~ if
 32 determined by the retirement system that a retirant entered into a
 33 prearranged agreement for employment with a participating employer
 34 prior to such retirant's retirement and prior to the end of the subsequent 60-
 35 day waiting period, or the 180-day waiting period under ~~subsection (10)~~
 36 ~~(9)~~, the monthly retirement benefit of such retirant shall be suspended
 37 during the period that begins on the month in which the retirant is re-
 38 employed and ends six months after the retirant's termination of such
 39 employment. The retirant shall repay to the retirement system all monthly
 40 retirement benefits paid to the retirant by the retirement system that the
 41 retirant received after such employment began. The participating employer
 42 which hired such retirant shall be required to pay to the system any fees,
 43 fines, penalties or any other cost imposed by the internal revenue service

1 and indemnify the system for any cost incurred by the system to defend
2 any action brought by the internal revenue service based on in-service
3 distributions which are a result of any determined prearranged agreement
4 and for any cost incurred by the system to collect any monthly retirement
5 benefit required to be repaid by such retirant pursuant to this subsection.

6 (b) For members who retired on and after July 1, 2016, and on or
7 before July 1, 2019, if determined by the retirement system that a retirant
8 entered into a prearranged agreement for employment with a participating
9 employer prior to such retirant's retirement date and the subsequent 60-day
10 waiting period, or the 180-day waiting period under subsection ~~(10)~~ (9),
11 and upon being notified of the violation, the retirant terminated such
12 employment, the provisions of ~~subsection~~ *paragraph* (a) shall not apply. If
13 any retirant had benefits suspended prior to July 1, 2019, such benefits
14 shall be reimbursed by the retirement system, if the retirant terminated
15 such prearranged employment in accordance with the provisions of this
16 act. On and after July 1, 2019, the executive director may waive such
17 penalties under this subsection if it is determined by the retirement system
18 that any of the following conditions were satisfied:

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

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

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

29 (c) On or before the first day of each regular session of the
30 legislature, beginning with the 2020 regular session, the executive director
31 shall submit an annual report on the number of waivers granted pursuant to
32 ~~subsection (8)(b)~~ *paragraph* (b) in the prior calendar year to the joint
33 committee on pensions, investments and benefits, the house of
34 representatives standing committee on ~~financial institutions~~ *insurance* and
35 pensions and the senate standing committee on financial institutions and
36 insurance, or the successors of such committees.

37 ~~(9)(8)~~ For the purposes of this section a prearranged agreement for
38 employment may be determined by whether the facts and circumstances of
39 the situation indicate that the employer and employee reasonably
40 anticipated that further services would be performed after the employee's
41 retirement.

42 ~~(10)(9)~~ (a) Notwithstanding the provisions of subsection ~~(5) or (7)~~ (6)
43 to the contrary, commencing January 1, 2018, any retirant who is retired

1 more than 60 days, if such retirant's age on the date of retirement is 62 or
2 older, or is retired more than 180 days, if such retirant's age on the date of
3 retirement is less than 62, and who is subsequently hired without any
4 prearranged agreement with the participating employer in a covered
5 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
6 independent contractor or a third-party entity who contracts service to fill
7 such covered position shall not be subject to an earnings limitation that
8 when met or exceeded requires that the retirant not receive a retirement
9 benefit for any month for which such retirant serves in such covered
10 position. The participating employer of such retirant shall pay to the
11 system the statutorily prescribed employer contribution rate on the first
12 \$25,000 of such retirant's compensation in a calendar year and a 30%
13 employer contribution on any compensation in excess of \$25,000 in a
14 calendar year during any such period of employment. If a retirant is
15 employed by more than one participating employer or performing duties in
16 more than one position, contributions shall be made on compensation from
17 all such employment for that calendar year.

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

30 (c) The participating employer shall enroll all retirants, including
31 retirants under subsection ~~(7)(b)(i)~~ (6)(b)(i), (ii), (iii), (vii) and (viii), and
32 report to the system when compensation is paid to a retirant as provided in
33 this subsection. Such report shall contain a certification by the appointing
34 authority of the participating employer that any hired retirant has not been
35 employed by the participating employer within 60 days of such retirant's
36 retirement in the case of a retirant whose age on the date of retirement is
37 62 or older, or within 180 days of such retirant's retirement in the case of a
38 retirant whose age on the date of retirement is less than 62, and that there
39 was no prearranged agreement for employment between the participating
40 employer and the hired retirant. Upon request of the executive director of
41 the system, the participating employer shall provide such information as
42 may be needed by the executive director to carry out the provisions of this
43 subsection. No retirant shall make contributions to the system or receive

1 credit for service while employed under the provisions of this subsection.

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

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

11 Sec. 2. K.S.A. 74-4937 is hereby amended to read as follows: 74-
12 4937. (1) The normal retirement date of a member of the system who is in
13 school employment and who is subject to K.S.A. 74-4940, and
14 amendments thereto, shall be the first day of the month coinciding with or
15 following termination of employment not followed by employment with
16 any participating employer within 60 days, or 180 days as provided in
17 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and without any
18 prearranged agreement for employment with any participating employer,
19 and the attainment of age 65 or, commencing July 1, 1986, age 65 or age
20 60 with the completion of 35 years of credited service or at any age with
21 the completion of 40 years of credited service, or commencing July 1,
22 1993, any alternative normal retirement date already prescribed by law or
23 age 62 with the completion of 10 years of credited service or the first day
24 of the month coinciding with or following the date that the total of the
25 number of years of credited service and the number of years of attained
26 age of the member is equal to or more than 85. Each member upon giving
27 prior notice to the appointing authority and the retirement system may
28 retire on the normal retirement date or the first day of any month
29 thereafter. Such member's application for retirement shall contain a
30 certification by the member that the member will not be employed with
31 any participating employer within 60 days, or 180 days as provided in
32 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, of retirement and the
33 member has not entered into a prearranged agreement for employment
34 with any participating employer.

35 (2) Any member who is in school employment and who is subject to
36 K.S.A. 74-4940, and amendments thereto, may retire before such
37 member's normal retirement date on the first day of the month coinciding
38 with or following termination of employment not followed by employment
39 with any participating employer within 60 days, or 180 days as provided in
40 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and the attainment of age
41 55 with the completion of 10 years of credited service, upon the filing with
42 the office of the retirement system of an application for retirement in such
43 form and manner as the board shall prescribe. The member's application

1 for retirement shall contain a certification by the member that the member
2 will not be employed with any participating employer within 60 days, or
3 180 days as provided in K.S.A. 74-4914~~(10)~~(9), and amendments thereto,
4 of retirement and the member has not entered into a prearranged
5 agreement for employment with any participating employer.

6 (3) (a) The provisions of K.S.A. 74-4914~~(5), (7) and (10)~~(6) and (9),
7 and amendments thereto, which relate to an earnings limitation which
8 when met or exceeded requires that the retirant not receive a retirement
9 benefit for any month for which such retirant serves in a position as
10 described herein shall not apply to retirants who either retired under the
11 provisions of K.S.A. 74-4914(1), and amendments thereto, related to
12 normal retirement, or, if they retired under the provisions of K.S.A. 74-
13 4914(4), and amendments thereto, related to early retirement, and are
14 subsequently hired in a position that requires a license under K.S.A. 72-
15 2157, and amendments thereto, or other provision of law. The provisions
16 of this subsection shall only apply to retirants who retired prior to January
17 1, 2018. Except as otherwise provided, when a retirant is employed by the
18 same school district or a different school district with which such retirant
19 was employed during the final two years of such retirant's participation or
20 employed as an independent contractor or by a third-party entity who
21 contracts services with a school district to fill a position as described in
22 this subsection, the participating employer of such retirant shall pay to the
23 system the actuarially determined employer contribution based on the
24 retirant's compensation during any such period of employment plus 8%.
25 Commencing January 1, 2018, if a retirant is employed in a covered
26 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
27 participating employer shall pay to the system the statutorily prescribed
28 employer contribution rate on the first \$25,000 of such retirant's
29 compensation in a calendar year and a 30% employer contribution on any
30 compensation in excess of \$25,000 in a calendar year during any such
31 period of employment. If a retirant is employed by more than one
32 participating employer or performing duties in more than one position,
33 contributions shall be made on compensation from all such employment
34 for that calendar year. If a retirant is employed in a non-covered position,
35 no employer contribution shall be paid to the system. The participating
36 employer shall enroll all retirants and report to the system when
37 compensation is paid to a retirant as provided in this subsection. Such
38 notice shall contain a certification by the appointing authority of the
39 participating employer that any hired retirant has not been employed by
40 the participating employer within 60 days of such retirant's retirement and
41 that there was no prearranged agreement for employment between the
42 participating employer and the hired retirant. Upon request of the
43 executive director of the system, the participating employer shall provide

1 such information as may be needed by the executive director to carry out
2 the provisions of this subsection. The provisions of this subsection shall
3 not apply to retirants employed as substitute teachers without a contract.
4 ~~The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be~~
5 ~~applicable to retirants employed as described in this subsection, except as~~
6 ~~specifically provided in this subsection.~~ Nothing in this subsection shall be
7 construed to create any right, or to authorize the creation of any right,
8 ~~which that~~ is not subject to amendment or nullification by act of the
9 legislature.

10 (4) (a) ~~On and after July 1, 2016, a school district may hire a retired~~
11 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~
12 ~~72-3404, and amendments thereto, if such retirant is hired not prior to 60~~
13 ~~days after such retirant's retirement date without any prearrangement with~~
14 ~~such school district in the manner prescribed in this subsection. The~~
15 ~~participating employer shall enroll all retirants and report to the system~~
16 ~~when compensation is paid to a retirant as provided in this subsection.~~
17 ~~Such notice shall contain a certification by the appointing authority of the~~
18 ~~participating employer that any hired retirant has not been employed by~~
19 ~~the participating employer within 60 days of such retirant's retirement and~~
20 ~~that there was no prearranged agreement for employment between the~~
21 ~~participating employer and the hired retirant. Upon request of the~~
22 ~~executive director of the system, the participating employer shall provide~~
23 ~~such information as may be needed by the executive director to carry out~~
24 ~~the provisions of this subsection.~~

25 (b) ~~A retirant hired under the provisions of this subsection may~~
26 ~~continue to receive such retirant's full retirement benefit for a period not to~~
27 ~~exceed three school years or 36 months, whichever is less, and shall not be~~
28 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~
29 ~~which relate to a compensation limitation which when met or exceeded~~
30 ~~requires that the retirant not receive a retirement benefit for any month for~~
31 ~~which such retirant serves in a position as described herein. Such retirant~~
32 ~~may be employed by such employer for some or all of a school year, and~~
33 ~~in subsequent school years if the employer is unable to permanently fill the~~
34 ~~position with active members, so long as the retirant's total term of~~
35 ~~employment with all employers under this subsection does not exceed 36~~
36 ~~months or three school years, whichever is less. After such period, the~~
37 ~~retirant shall be subject to the provisions of K.S.A. 74-4914(7), and~~
38 ~~amendments thereto, which relate to a compensation limitation which~~
39 ~~when met or exceeded requires that the retirant not receive a retirement~~
40 ~~benefit for any month for which such retirant serves in a position as~~
41 ~~described herein. The participating employer of such retirant shall pay to~~
42 ~~the system a 30% employer contribution based on the retirant's~~
43 ~~compensation during any such period of employment. The provisions of~~

1 this subsection shall not apply to retirants employed as substitute teachers
2 without a contract. The provisions of K.S.A. 74-4914(5), and amendments
3 thereto, shall be applicable to retirants employed as special teachers,
4 except as specifically provided in this subsection.

5 (c) ~~Each school district that uses the provisions of this subsection to~~
6 ~~hire retirants shall maintain documentation describing their recruiting~~
7 ~~efforts to obtain non-retirant employees to fill the special teacher positions.~~
8 ~~Upon request of the joint committee on pensions, investments and~~
9 ~~benefits, an employer shall provide such documentation to the committee.~~
10 ~~If the committee finds that an employer has not made sufficient efforts to~~
11 ~~hire a non-retirant for the position or if the committee finds evidence of~~
12 ~~prearrangement in violation of this section, the three-year exemption~~
13 ~~provided pursuant to this subsection may be revoked. The committee shall~~
14 ~~notify the executive director of the system that a retirant's exemption has~~
15 ~~been revoked within 30 days of making such a determination.~~

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

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

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

26 (iii) ~~if applications were submitted, none of the applicants possessed~~
27 ~~an appropriate teaching license for the state of Kansas or possessed the~~
28 ~~appropriate credentials to receive any type of teaching license from the~~
29 ~~state of Kansas.~~

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

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

34 (5) (a) ~~On and after July 1, 2016, a school district may hire a retired~~
35 ~~licensed professional to fill a non-special teacher position if such retirant is~~
36 ~~hired not prior to 60 days after such retirant's retirement date without any~~
37 ~~prearrangement with such school district, and if such school district hires a~~
38 ~~retirant for a hard-to-fill position in the manner prescribed in this~~
39 ~~subsection. The participating employer shall enroll all retirants and report~~
40 ~~to the system when compensation is paid to a retirant as provided in this~~
41 ~~subsection. Such notice shall contain a certification by the appointing~~
42 ~~authority of the participating employer that any hired retirant has not been~~
43 ~~employed by the participating employer within 60 days of such retirant's~~

1 retirement and that there was no prearranged agreement for employment
2 between the participating employer and the hired retirant. Upon request of
3 the executive director of the system, the participating employer shall
4 provide such information as may be needed by the executive director to
5 carry out the provisions of this subsection.

6 (b) ~~The state board of education shall annually certify the top five~~
7 ~~types of licensed positions that are hard to fill. A school district may hire a~~
8 ~~retirant to fill a hard-to-fill position for some or all of a school year and in~~
9 ~~subsequent school years if the employer is unable to permanently fill the~~
10 ~~position with an active member. A retirant first hired under the provisions~~
11 ~~of this subsection may be retained by an employer even if such retirant's~~
12 ~~type of position is no longer one of the five types of positions certified by~~
13 ~~the state board of education. A retirant hired under the provisions of this~~
14 ~~subsection may continue to receive such retirant's full retirement benefit~~
15 ~~for a period not to exceed three school years or 36 months, whichever is~~
16 ~~less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and~~
17 ~~amendments thereto, which relate to a compensation limitation which~~
18 ~~when met or exceeded requires that the retirant not receive a retirement~~
19 ~~benefit for any month for which such retirant serves in a position as~~
20 ~~described herein. Such retirant may be employed by such employer for~~
21 ~~some or all of a school year, and in subsequent school years if the~~
22 ~~employer is unable to permanently fill the position with active members,~~
23 ~~so long as the retirant's total term of employment with all employers under~~
24 ~~this subsection does not exceed 36 months or three school years,~~
25 ~~whichever is less. After such period, the retirant shall be subject to the~~
26 ~~provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to~~
27 ~~a compensation limitation which when met or exceeded requires that the~~
28 ~~retirant not receive a retirement benefit for any month for which such~~
29 ~~retirant serves in a position as described herein. The participating~~
30 ~~employer of such retirant shall pay to the system a 30% employer~~
31 ~~contribution based on the retirant's compensation during any such period~~
32 ~~of employment. The provisions of this subsection shall not apply to~~
33 ~~retirants employed as substitute teachers without a contract. The provisions~~
34 ~~of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~
35 ~~retirants employed as described in this subsection, except as specifically~~
36 ~~provided in this subsection.~~

37 (c) ~~Each school district that uses the provisions of this subsection to~~
38 ~~hire retirants for hard-to-fill positions shall maintain documentation~~
39 ~~describing their recruiting efforts to obtain non-retirant employees to fill~~
40 ~~the hard-to-fill positions. Upon request of the joint committee on pensions,~~
41 ~~investments and benefits, a school district shall provide such~~
42 ~~documentation to the committee. If the committee finds that a school~~
43 ~~district has not made sufficient efforts to hire a non-retirant for the position~~

1 or if the committee finds evidence of prearrangement in violation of this
2 section, the three-year exemption provided pursuant to this subsection may
3 be revoked. The committee shall notify the executive director of the
4 system that a retirant's exemption has been revoked within 30 days of
5 making such a determination.

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

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

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

16 ~~(iii) if applications were submitted, none of the applicants possessed~~
17 ~~an appropriate teaching license for the state of Kansas or possessed the~~
18 ~~appropriate credentials to receive any type of teaching license from the~~
19 ~~state of Kansas.~~

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

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

24 ~~(6)(b) Notwithstanding any provision of K.S.A. 74-4914, and~~
25 ~~amendments thereto, or this section to the contrary, for the period~~
26 ~~commencing on the effective date of this act and ending on June 30, 2024,~~
27 ~~a school district may hire an eligible retired school employee as defined by~~
28 ~~K.S.A. 72-2215(a), and amendments thereto, if such retirant is hired not~~
29 ~~prior to 60 days after such retirant's retirement date and without any~~
30 ~~prearranged agreement with such school district. For any retirant hired~~
31 ~~under the provisions of this paragraph, the participating employer of such~~
32 ~~retirant shall pay to the system the statutorily prescribed employer~~
33 ~~contribution rate on all compensation earned by such retirant in a~~
34 ~~calendar year. Such retirant shall not be subject to an earnings limitation~~
35 ~~that when met or exceeded requires that the retirant not receive a~~
36 ~~retirement benefit for any month for which such retirant serves in such~~
37 ~~covered position. All contracts for employment entered into pursuant to~~
38 ~~this paragraph shall expire on or before June 30, 2024. Nothing in this~~
39 ~~paragraph shall be construed to create any right or to authorize the~~
40 ~~creation of any right that is not subject to amendment or nullification by~~
41 ~~act of the legislature.~~

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

1 ~~(7)~~(5) For the purposes of this section a prearranged agreement for
2 employment may be determined by whether the facts and circumstances of
3 the situation indicate that the employer and employee reasonably
4 anticipated that further services would be performed after the employee's
5 retirement.

6 Sec. 3. K.S.A. 74-4937 and K.S.A. 2021 Supp. 74-4914 are hereby
7 repealed.

8 Sec. 4. This act shall take effect and be in force from and after its
9 publication in the Kansas register.