

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2639

By Committee on Insurance and Pensions

2-8

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; ~~reducing~~
3 ~~the required waiting period to 30 days~~ **increasing the amount of**
4 **retirant compensation subject to the statutory employer**
5 **contribution rate; reducing the required employer contribution**
6 **rate to only the statutory rate when employing retirants who are**
7 **retired for one year or more when hired by a participating**
8 **employer** for a period ending June 30, 2023; amending K.S.A. 74-4937
9 and K.S.A. 2021 Supp. 74-4914 and repealing the existing sections.

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

12 Section 1. K.S.A. 2021 Supp. 74-4914 is hereby amended to read as
13 follows: 74-4914.

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

1 after the attainment of the normal retirement date, but no retirement
2 benefits payable under this act shall be paid until the member has
3 terminated such member's office.

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

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

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

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

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

1 act of the legislature. The participating employer of such retirant shall pay
2 to the system the actuarially determined employer contribution based on
3 the retirant's compensation during any such period of employment. The
4 provisions of the subsection shall expire on January 1, 2018.

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

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

26 (ii) Commencing January 1, 2018, for all retirements that occurred
27 prior to such date, any retirant who is employed or appointed in or to any
28 position by a participating employer, an independent contractor or a third-
29 party entity who contracts services with a participating employer to fill a
30 position, without any prearranged agreement with such participating
31 employer and not prior to 60 days after such retirant's retirement date, shall
32 not be subject to an earnings limitation that when met or exceeded requires
33 that the retirant not receive a retirement benefit for any month for which
34 such retirant serves in such position. If a retirant is employed in a covered
35 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
36 participating employer of such retirant shall pay to the system the
37 statutorily prescribed employer contribution rate on the first ~~\$25,000~~
38 **\$27,500** of such retirant's compensation in a calendar year and a 30%
39 employer contribution on any compensation in excess of ~~\$25,000~~ **\$27,500**
40 in a calendar year during any such period of employment. If a retirant is
41 employed by more than one participating employer or performing duties in
42 more than one position, contributions shall be made on compensation from
43 all such employment for that calendar year. If a retirant is employed in a

1 non-covered position, no employer contribution shall be paid to the
2 system.

3 (b) The provisions of this subsection shall not apply, except as
4 specifically provided in this subsection, to retirants who are:

5 (i) Licensed professional nurses or licensed practical nurses employed
6 by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or
7 38-2302(k), and amendments thereto, the Kansas soldiers' home or the
8 Kansas veterans' home. The participating employer of such retirant shall
9 pay to the system the actuarially determined employer contribution based
10 on the retirant's compensation and the statutorily prescribed employee
11 contribution during any such period of employment;

12 (ii) employed by a school district in a position as provided in K.S.A.
13 74-4937(3), ~~(4) or (5)~~; and amendments thereto;

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

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

25 (v) employed as substitute teachers without a contract or officers,
26 employees or appointees of the legislature;

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

29 (vii) employed by, or have accepted employment from, a participating
30 employer prior to May 1, 2015. Any break in continuous employment by a
31 retirant or move to a different position by a retirant during the effective
32 period of this subsection shall be deemed new employment and shall
33 subject the retirant to the provisions of this subsection. Commencing
34 January 1, 2018, the participating employer of a retirant described in this
35 ~~subsection (7)(b)(vii)~~ *subparagraph* who is employed in a covered
36 position, as defined in K.S.A. 74-49,202, and amendments thereto, shall
37 pay to the system the statutorily prescribed employer contribution rate on
38 the first ~~\$25,000~~ **\$27,500** of such retirant's compensation in a calendar year
39 and a 30% employer contribution on any compensation in excess of
40 ~~\$25,000~~ **\$27,500** in a calendar year during any such period of
41 employment. If a retirant is employed by more than one participating
42 employer or performing duties in more than one position, contributions
43 shall be made on compensation from all such employment for that

1 calendar year. If a retirant is employed in a non-covered position, no
2 employer contribution shall be paid to the system;

3 (viii) state or local elected officials. A retirant shall not be employed
4 in an elected office within 30 days of such retirant's retirement, except that
5 if a retirant is filling a vacant elected office, no waiting period shall be
6 required; or

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

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

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

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

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

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

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

37 (e) ~~An employer may submit a written assurance protocol to the~~
38 ~~system to extend the exception provided for in subsection (7)(d) by one-~~
39 ~~year increments for a total extension not to exceed three years. A written~~
40 ~~assurance protocol shall be submitted to the system for each one-year~~
41 ~~increment extension. If a school district submits a written assurance~~
42 ~~protocol, such written assurance protocol shall be signed by the~~
43 ~~superintendent and the board president of such school district. If a~~

1 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other
2 than a school district, submits a written assurance protocol, such written
3 assurance protocol shall be signed by the governing body or such
4 governing body's designee for such municipality. Such written assurance
5 protocol shall state that the position was advertised on multiple platforms
6 for a minimum of 30 calendar days and that at least one of the following
7 conditions occurred:

- 8 (i) No applications were submitted for the position;
9 (ii) if applications were submitted, none of the applicants met the
10 reference screening criteria of the employer; or
11 (iii) if applications were submitted, none of the applicants possessed
12 the appropriate licensure, certification or other necessary credentials for
13 the position.

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

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

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

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

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

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

35 ~~(8)(7)~~ (a) Except as provided in ~~subsection (8)(b)~~ *paragraph (b)*, if
36 determined by the retirement system that a retirant entered into a
37 prearranged agreement for employment with a participating employer
38 prior to such retirant's retirement and prior to the end of the subsequent 60-
39 day waiting period, or the 180-day waiting period under ~~subsection (10)~~
40 *(9)*, the monthly retirement benefit of such retirant shall be suspended
41 during the period that begins on the month in which the retirant is re-
42 employed and ends six months after the retirant's termination of such
43 employment. The retirant shall repay to the retirement system all monthly

1 retirement benefits paid to the retirant by the retirement system that the
2 retirant received after such employment began. The participating employer
3 which hired such retirant shall be required to pay to the system any fees,
4 fines, penalties or any other cost imposed by the internal revenue service
5 and indemnify the system for any cost incurred by the system to defend
6 any action brought by the internal revenue service based on in-service
7 distributions which are a result of any determined prearranged agreement
8 and for any cost incurred by the system to collect any monthly retirement
9 benefit required to be repaid by such retirant pursuant to this subsection.

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

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

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

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

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

41 ~~(9)~~(8) For the purposes of this section a prearranged agreement for
42 employment may be determined by whether the facts and circumstances of
43 the situation indicate that the employer and employee reasonably

1 anticipated that further services would be performed after the employee's
2 retirement.

3 ~~(10)~~(9) (a) Notwithstanding the provisions of subsection ~~(5) or (7)~~ (6)
4 to the contrary, commencing January 1, 2018, any retirant who is retired
5 more than 60 days, if such retirant's age on the date of retirement is 62 or
6 older, or is retired more than 180 days, if such retirant's age on the date of
7 retirement is less than 62, and who is subsequently hired without any
8 prearranged agreement with the participating employer in a covered
9 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
10 independent contractor or a third-party entity who contracts service to fill
11 such covered position shall not be subject to an earnings limitation that
12 when met or exceeded requires that the retirant not receive a retirement
13 benefit for any month for which such retirant serves in such covered
14 position. The participating employer of such retirant shall pay to the
15 system the statutorily prescribed employer contribution rate on the first
16 ~~\$25,000~~ **\$27,500** of such retirant's compensation in a calendar year and a
17 30% employer contribution on any compensation in excess of ~~\$25,000~~
18 **\$27,500** in a calendar year during any such period of employment. If a
19 retirant is employed by more than one participating employer or
20 performing duties in more than one position, contributions shall be made
21 on compensation from all such employment for that calendar year.

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

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

1 employer and the hired retirant. Upon request of the executive director of
2 the system, the participating employer shall provide such information as
3 may be needed by the executive director to carry out the provisions of this
4 subsection. No retirant shall make contributions to the system or receive
5 credit for service while employed under the provisions of this subsection.

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

12 (e) *Notwithstanding any provision of subsection (6) or this subsection*
13 *to the contrary, for the period commencing on the effective date of this act*
14 *and ending June 30, 2023, a participating employer may hire a retirant if*
15 *such retirant is not hired prior to* ~~30~~ **60** *days after such retirant's*
16 *retirement date, if such retirant is 62 years of age or older, or is hired*
17 **not prior to 180 days after such retirant's retirement date, if such**
18 **retirant's age on the date of retirement is less than 62, and without any**
19 *prearranged agreement with such participating employer. For any*
20 **retirant who has been retired for one year or more when hired by the**
21 **participating employer under the provisions of this paragraph, the**
22 **participating employer of such retirant shall pay to the system the**
23 **statutorily prescribed employer contribution rate on all compensation**
24 **earned by such retirant in a calendar year. Such retirant shall not be**
25 *subject to an earnings limitation that when met or exceeded requires that*
26 *the retirant not receive a retirement benefit for any month for which such*
27 *retirant serves in such covered position. The provisions of this paragraph*
28 *shall expire on July 1, 2023.*

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

32 Sec. 2. K.S.A. 74-4937 is hereby amended to read as follows: 74-
33 4937. (1) The normal retirement date of a member of the system who is in
34 school employment and who is subject to K.S.A. 74-4940, and
35 amendments thereto, shall be the first day of the month coinciding with or
36 following termination of employment not followed by employment with
37 any participating employer within 60 days, or 180 days as provided in
38 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and without any
39 prearranged agreement for employment with any participating employer,
40 and the attainment of age 65 or, commencing July 1, 1986, age 65 or age
41 60 with the completion of 35 years of credited service or at any age with
42 the completion of 40 years of credited service, or commencing July 1,
43 1993, any alternative normal retirement date already prescribed by law or

1 age 62 with the completion of 10 years of credited service or the first day
2 of the month coinciding with or following the date that the total of the
3 number of years of credited service and the number of years of attained
4 age of the member is equal to or more than 85. Each member upon giving
5 prior notice to the appointing authority and the retirement system may
6 retire on the normal retirement date or the first day of any month
7 thereafter. Such member's application for retirement shall contain a
8 certification by the member that the member will not be employed with
9 any participating employer within 60 days, or 180 days as provided in
10 K.S.A. 74-4914(~~10~~)(9), and amendments thereto, of retirement and the
11 member has not entered into a prearranged agreement for employment
12 with any participating employer.

13 (2) Any member who is in school employment and who is subject to
14 K.S.A. 74-4940, and amendments thereto, may retire before such
15 member's normal retirement date on the first day of the month coinciding
16 with or following termination of employment not followed by employment
17 with any participating employer within 60 days, or 180 days as provided in
18 K.S.A. 74-4914(~~10~~)(9), and amendments thereto, and the attainment of age
19 55 with the completion of 10 years of credited service, upon the filing with
20 the office of the retirement system of an application for retirement in such
21 form and manner as the board shall prescribe. The member's application
22 for retirement shall contain a certification by the member that the member
23 will not be employed with any participating employer within 60 days, or
24 180 days as provided in K.S.A. 74-4914(~~10~~)(9), and amendments thereto,
25 of retirement and the member has not entered into a prearranged
26 agreement for employment with any participating employer.

27 (3) (a) The provisions of K.S.A. 74-4914(~~5~~), (~~7~~) and (~~10~~)(6) and (9),
28 and amendments thereto, which relate to an earnings limitation which
29 when met or exceeded requires that the retirant not receive a retirement
30 benefit for any month for which such retirant serves in a position as
31 described herein shall not apply to retirants who either retired under the
32 provisions of K.S.A. 74-4914(1), and amendments thereto, related to
33 normal retirement, or, if they retired under the provisions of K.S.A. 74-
34 4914(4), and amendments thereto, related to early retirement, and are
35 subsequently hired in a position that requires a license under K.S.A. 72-
36 2157, and amendments thereto, or other provision of law. The provisions
37 of this subsection shall only apply to retirants who retired prior to January
38 1, 2018. Except as otherwise provided, when a retirant is employed by the
39 same school district or a different school district with which such retirant
40 was employed during the final two years of such retirant's participation or
41 employed as an independent contractor or by a third-party entity who
42 contracts services with a school district to fill a position as described in
43 this subsection, the participating employer of such retirant shall pay to the

1 system the actuarially determined employer contribution based on the
2 retiree's compensation during any such period of employment plus 8%.
3 Commencing January 1, 2018, if a retiree is employed in a covered
4 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
5 participating employer shall pay to the system the statutorily prescribed
6 employer contribution rate on the first ~~\$25,000~~ **\$27,500** of such retiree's
7 compensation in a calendar year and a 30% employer contribution on any
8 compensation in excess of ~~\$25,000~~ **\$27,500** in a calendar year during any
9 such period of employment. If a retiree is employed by more than one
10 participating employer or performing duties in more than one position,
11 contributions shall be made on compensation from all such employment
12 for that calendar year. If a retiree is employed in a non-covered position,
13 no employer contribution shall be paid to the system. The participating
14 employer shall enroll all retirees and report to the system when
15 compensation is paid to a retiree as provided in this subsection. Such
16 notice shall contain a certification by the appointing authority of the
17 participating employer that any hired retiree has not been employed by
18 the participating employer within 60 days of such retiree's retirement and
19 that there was no prearranged agreement for employment between the
20 participating employer and the hired retiree. Upon request of the
21 executive director of the system, the participating employer shall provide
22 such information as may be needed by the executive director to carry out
23 the provisions of this subsection. The provisions of this subsection shall
24 not apply to retirees employed as substitute teachers without a contract.
25 ~~The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be~~
26 ~~applicable to retirees employed as described in this subsection, except as~~
27 ~~specifically provided in this subsection.~~ Nothing in this subsection shall be
28 construed to create any right, or to authorize the creation of any right,
29 ~~which~~ *that* is not subject to amendment or nullification by act of the
30 legislature.

31 (4) (a) ~~On and after July 1, 2016, a school district may hire a retired~~
32 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~
33 ~~72-3404, and amendments thereto, if such retiree is hired not prior to 60~~
34 ~~days after such retiree's retirement date without any prearrangement with~~
35 ~~such school district in the manner prescribed in this subsection. The~~
36 ~~participating employer shall enroll all retirees and report to the system~~
37 ~~when compensation is paid to a retiree as provided in this subsection.~~
38 ~~Such notice shall contain a certification by the appointing authority of the~~
39 ~~participating employer that any hired retiree has not been employed by~~
40 ~~the participating employer within 60 days of such retiree's retirement and~~
41 ~~that there was no prearranged agreement for employment between the~~
42 ~~participating employer and the hired retiree. 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.

3 ~~(b) A retirant hired under the provisions of this subsection may~~
4 ~~continue to receive such retirant's full retirement benefit for a period not to~~
5 ~~exceed three school years or 36 months, whichever is less, and shall not be~~
6 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~
7 ~~which relate to a compensation limitation which when met or exceeded~~
8 ~~requires that the retirant not receive a retirement benefit for any month for~~
9 ~~which such retirant serves in a position as described herein. Such retirant~~
10 ~~may be employed by such employer for some or all of a school year, and~~
11 ~~in subsequent school years if the employer is unable to permanently fill the~~
12 ~~position with active members, so long as the retirant's total term of~~
13 ~~employment with all employers under this subsection does not exceed 36~~
14 ~~months or three school years, whichever is less. After such period, the~~
15 ~~retirant shall be subject to the provisions of K.S.A. 74-4914(7), and~~
16 ~~amendments thereto, which relate to a compensation limitation which~~
17 ~~when met or exceeded requires that the retirant not receive a retirement~~
18 ~~benefit for any month for which such retirant serves in a position as~~
19 ~~described herein. The participating employer of such retirant shall pay to~~
20 ~~the system a 30% employer contribution based on the retirant's~~
21 ~~compensation during any such period of employment. The provisions of~~
22 ~~this subsection shall not apply to retirants employed as substitute teachers~~
23 ~~without a contract. The provisions of K.S.A. 74-4914(5), and amendments~~
24 ~~thereto, shall be applicable to retirants employed as special teachers,~~
25 ~~except as specifically provided in this subsection.~~

26 ~~(c) Each school district that uses the provisions of this subsection to~~
27 ~~hire retirants shall maintain documentation describing their reeruiting~~
28 ~~efforts to obtain non-retirant employees to fill the special teacher positions.~~
29 ~~Upon request of the joint committee on pensions, investments and~~
30 ~~benefits, an employer shall provide such documentation to the committee.~~
31 ~~If the committee finds that an employer has not made sufficient efforts to~~
32 ~~hire a non-retirant for the position or if the committee finds evidence of~~
33 ~~prearrangement in violation of this section, the three-year exemption~~
34 ~~provided pursuant to this subsection may be revoked. The committee shall~~
35 ~~notify the executive director of the system that a retirant's exemption has~~
36 ~~been revoked within 30 days of making such a determination.~~

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

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

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

4 ~~(iii) if applications were submitted, none of the applicants possessed~~
5 ~~an appropriate teaching license for the state of Kansas or possessed the~~
6 ~~appropriate credentials to receive any type of teaching license from the~~
7 ~~state of Kansas.~~

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

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

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

27 ~~(b) The state board of education shall annually certify the top five~~
28 ~~types of licensed positions that are hard to fill. A school district may hire a~~
29 ~~retirant to fill a hard-to-fill position for some or all of a school year and in~~
30 ~~subsequent school years if the employer is unable to permanently fill the~~
31 ~~position with an active member. A retirant first hired under the provisions~~
32 ~~of this subsection may be retained by an employer even if such retirant's~~
33 ~~type of position is no longer one of the five types of positions certified by~~
34 ~~the state board of education. A retirant hired under the provisions of this~~
35 ~~subsection may continue to receive such retirant's full retirement benefit~~
36 ~~for a period not to exceed three school years or 36 months, whichever is~~
37 ~~less, and shall not be subject to the provisions of K.S.A. 74-4914(5), 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. Such retirant may be employed by such employer for~~
42 ~~some or all of a school year, and in subsequent school years if the~~
43 ~~employer is unable to permanently fill the position with active members,~~

1 so long as the retirant's total term of employment with all employers under
2 this subsection does not exceed 36 months or three school years,
3 whichever is less. After such period, the retirant shall be subject to the
4 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to
5 a compensation limitation which when met or exceeded requires that the
6 retirant not receive a retirement benefit for any month for which such
7 retirant serves in a position as described herein. The participating
8 employer of such retirant shall pay to the system a 30% employer
9 contribution based on the retirant's compensation during any such period
10 of employment. The provisions of this subsection shall not apply to
11 retirants employed as substitute teachers without a contract. The provisions
12 of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
13 retirants employed as described in this subsection, except as specifically
14 provided in this subsection.

15 (e) Each school district that uses the provisions of this subsection to
16 hire retirants for hard-to-fill positions shall maintain documentation
17 describing their recruiting efforts to obtain non-retirant employees to fill
18 the hard-to-fill positions. Upon request of the joint committee on pensions,
19 investments and benefits, a school district shall provide such
20 documentation to the committee. If the committee finds that a school
21 district has not made sufficient efforts to hire a non-retirant for the position
22 or if the committee finds evidence of prearrangement in violation of this
23 section, the three-year exemption provided pursuant to this subsection may
24 be revoked. The committee shall notify the executive director of the
25 system that a retirant's exemption has been revoked within 30 days of
26 making such a determination.

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

34 (i) No applications were submitted for the position;
35 (ii) if applications were submitted, none of the applicants met the
36 reference screening criteria of the employer; or
37 (iii) if applications were submitted, none of the applicants possessed
38 an appropriate teaching license for the state of Kansas or possessed the
39 appropriate credentials to receive any type of teaching license from the
40 state of Kansas.

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

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

2 ~~(6)(b)~~ *Notwithstanding any provision of K.S.A. 74-4914, and*
3 *amendments thereto, or this section to the contrary, for the period*
4 *commencing on the effective date of this act and ending on June 30, 2023,*
5 *a participating employer may hire a retirant if such retirant is hired not*
6 *prior to—30* **60 days after such retirant's retirement date, if such retirant is**
7 **62 years of age or older, or is hired not prior to 180 days after such**
8 **retirant's retirement date, if such retirant's age on the date of**
9 **retirement is less than 62, and without any prearranged agreement with**
10 *such participating employer. For any retirant who has been retired for*
11 *one year or more when hired by the participating employer under the*
12 *provisions of this paragraph, the participating employer of such*
13 *retirant shall pay to the system the statutorily prescribed employer*
14 *contribution rate on all compensation earned by such retirant in a*
15 *calendar year. Such retirant shall not be subject to an earnings limitation*
16 *that when met or exceeded requires that the retirant not receive a*
17 *retirement benefit for any month for which such retirant serves in such*
18 *covered position. Nothing in this paragraph shall be construed to create*
19 *any right or to authorize the creation of any right that is not subject to*
20 *amendment or nullification by act of the legislature. The provisions of this*
21 *paragraph shall expire on July 1, 2023.*

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

24 ~~(7)~~(5) For the purposes of this section a prearranged agreement for
25 employment may be determined by whether the facts and circumstances of
26 the situation indicate that the employer and employee reasonably
27 anticipated that further services would be performed after the employee's
28 retirement.

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

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