

HOUSE BILL No. 2031

By Joint Committee on Pensions, Investments, and Benefits

1-14

1 AN ACT concerning retirement and pensions; relating to the Kansas police
2 and firemen's retirement system; definition of service-connected;
3 amending K.S.A. 74-4952 and repealing the existing section.
4

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

6 Section 1. K.S.A. 74-4952 is hereby amended to read as follows: 74-
7 4952. As used in K.S.A. 74-4951 et seq., and amendments thereto:

8 (1) "Accumulated contributions" means the sum of all contributions
9 by a member to the system which shall be credited to the member's
10 account with interest allowed thereon after June 30, 1982.

11 (2) "Disability" means the total inability to perform permanently the
12 duties of the position of a policeman or fireman.

13 (3) "Eligible employer" means any city, county, township or other
14 political subdivision of the state employing one or more employees as
15 firemen or policemen.

16 (4) "Employee" means any policeman or fireman employed by a
17 participating employer whose employment for police or fireman purposes
18 is not seasonal or temporary and requires at least 1,000 hours of work per
19 year.

20 (5) "Entry date" means the date as of which an eligible employer
21 joins the system; the first entry date pursuant to this act is January 1, 1967.

22 (6) "Final average salary" means:

23 (a) For members who are first hired as an employee, as defined in
24 subsection (4), before July 1, 1993, the average highest annual
25 compensation paid to a member for any three of the last five years of
26 participating service immediately preceding retirement or termination of
27 employment, or if participating service is less than three years, then the
28 average annual compensation paid to the member during the full period of
29 participating service, or if a member has less than one calendar year of
30 participating service, then the member's final average salary shall be
31 computed by multiplying the member's highest monthly salary received in
32 that year by 12;

33 (b) for members who are first hired as an employee, as defined in
34 subsection (4), on and after July 1, 1993, the average highest annual salary,

1 as defined in K.S.A. 74-4902(33), and amendments thereto, paid to a
2 member for any three of the last five years of participating service
3 immediately preceding retirement or termination of employment, or if
4 participating service is less than three years, then the average annual
5 salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to
6 the member during the full period of participating service, or if a member
7 has less than one calendar year of participating service, then the member's
8 final average salary shall be computed by multiplying the member's
9 highest monthly salary received in that year by 12;

10 (c) for purposes of subparagraphs (a) and (b) of this subsection, the
11 date that such member is first hired as an employee for members who are
12 employees of employers that elected to participate in the system on or after
13 January 1, 1994, shall be the date that such employee's employer elected to
14 participate in the system; and

15 (d) for any application to purchase or repurchase service credit for a
16 certain period of service as provided by law received by the system after
17 May 17, 1994, for any member who will have contributions deducted from
18 such member's compensation at a percentage rate equal to two or three
19 times the employee's rate of contribution or who will have contributions
20 deducted from such member's compensation at an additional rate of
21 contribution, in addition to the employee's rate of contribution as provided
22 in K.S.A. 74-4919, and amendments thereto, or will begin paying to the
23 system a lump-sum amount for such member's purchase or repurchase, and
24 such deductions or lump-sum payment commences after the
25 commencement of the first payroll period in the third quarter, "final
26 average salary" shall not include any amount of compensation or salary
27 which is based on such member's purchase or repurchase. Any application
28 to purchase or repurchase multiple periods of service shall be treated as
29 multiple applications.

30 (e) Notwithstanding any other provision of this section, for purposes
31 of applying limits as provided by the federal internal revenue code, salary
32 shall have the meaning as determined pursuant to K.S.A. 74-49,123, and
33 amendments thereto.

34 (7) "Retirement benefit" means a monthly income or the actuarial
35 equivalent thereof paid in such manner as specified by the member as
36 provided under the system or as otherwise allowed to be paid at the
37 discretion of the board, with benefits accruing from the first day of the
38 month coinciding with or following retirement and ending on the last day
39 of the month in which death occurs. Upon proper identification such
40 surviving spouse may negotiate the warrant issued in the name of the
41 retiree.

42 (8) "Normal retirement date" means the date on or after which a
43 member may retire with eligibility for retirement benefits for age and

1 service as provided in K.S.A. 74-4957(1) and (3), and amendments
2 thereto.

3 (9) "Retirement system" or "system" means the Kansas police and
4 firemen's retirement system as established by this act and as it may be
5 hereafter amended.

6 (10) "Service-connected" means:

7 (a) With regard to a death or any physical or mental disability, any
8 such death or disability resulting from external force, violence or disease
9 occasioned by an act of duty as a policeman or fireman and, for any
10 member after five years of credited service, there shall be a rebuttable
11 presumption, that any death or disability resulting from ~~any of the~~
12 ~~following:~~

13 ~~(i) A heart disease or;~~

14 ~~(ii) a disease of the lung or respiratory tract or;~~

15 ~~(iii) contraction of a bloodborne pathogen as provided in this~~
16 ~~subsection; or~~

17 ~~(iv) cancer of the brain, skin, digestive system, hematological system~~
18 ~~or genitourinary system as provided in this subsection, except that-~~

19 (b) In the event that the member ceases to be a contributing member
20 by reason of a service-connected disability for a period of six months or
21 more and then again becomes a contributing member, the provision
22 relating to death or disability resulting from ~~any of the following:~~

23 ~~(i) A heart disease,;~~

24 ~~(ii) a disease of the lung or respiratory tract or;~~

25 ~~(iii) contraction of a bloodborne pathogen as provided in this~~
26 ~~subsection; or~~

27 ~~(iv) cancer of the brain, skin, digestive system, hematological system~~
28 ~~or genitourinary system as provided in this subsection shall not apply until~~
29 ~~such member has again become a contributing member for a period of not~~
30 ~~less than two years or unless clear and precise evidence is presented that~~
31 ~~the heart disease, disease of the lung or respiratory tract, contraction of a~~
32 ~~bloodborne pathogen as provided in this subsection or cancer as provided~~
33 ~~in this subsection was in fact occasioned by an act of duty as a policeman~~
34 ~~or fireman. If the retirement system receives evidence to the contrary of~~
35 ~~such presumption, the burden of proof shall be on the member or other~~
36 ~~party to present evidence that such death or disability was service-~~
37 ~~connected.~~

38 (c) ~~The provisions of this subsection relating to the presumption that~~
39 ~~the death or disability resulting from the contraction of a bloodborne~~
40 ~~pathogen is serviced-connected shall only apply if all of the following~~
41 ~~conditions are satisfied:~~

42 (i) ~~A baseline test is provided by the employer to be performed within~~
43 ~~five days after the member reports the on-the-job exposure. The member~~

1 ~~must report the exposure within two days after the member knew or~~
2 ~~reasonably should have known of the exposure;~~

3 ~~(ii) the baseline test establishes that the employee was not inflected~~
4 ~~with a bloodborne pathogen at the time of the on-the-job exposure;~~

5 ~~(iii) the member complies with reasonable and necessary medical~~
6 ~~procedures; and~~

7 ~~(iv) the member is determined to have a bloodborne pathogen within~~
8 ~~24 months after the on-the-job exposure to the known or possible source.~~

9 ~~(d) The provisions of this section subsection relating to the~~
10 ~~presumption that the death or disability resulting from cancer of the brain,~~
11 ~~skin, digestive system, hematological system or genitourinary system is~~
12 ~~service-connected shall only apply if the condition that caused the death or~~
13 ~~disability is a type of cancer which may, in general, result from exposure~~
14 ~~to heat, radiation or a known carcinogen, at the time of becoming a~~
15 ~~policeman or fireman, or thereafter, the policeman or fireman underwent a~~
16 ~~physical examination that failed to reveal substantial evidence of such~~
17 ~~cancer that preexisted such policeman's or fireman's employment as a~~
18 ~~policeman or fireman a heart disease, contraction of a bloodborne~~
19 **pathogen as provided in this subsection or disease of the lung or**
20 **respiratory tract or cancer, including, but not limited to, cancer of the**
21 **brain, skin, digestive system, hematological system or genitourinary**
22 **system as provided in this subsection, except that in the event that the**
23 **member ceases to be a contributing member by reason of a service-**
24 **connected disability for a period of six months or more and then again**
25 **becomes a contributing member, the provision relating to death or**
26 **disability resulting from a heart disease, contraction of a bloodborne**
27 **pathogen as provided in this subsection, disease of the lung or**
28 **respiratory tract or cancer as provided in this subsection shall not**
29 **apply until such member has again become a contributing member for**
30 **a period of not less than two years or unless clear and precise evidence**
31 **is presented that the heart disease, contraction of a bloodborne**
32 **pathogen as provided in this subsection, disease of the lung or**
33 **respiratory tract or cancer as provided in this subsection was in fact**
34 **occasioned by an act of duty as a policeman or fireman. If the**
35 **retirement system receives evidence to the contrary of such**
36 **presumption, the burden of proof shall be on the member or other**
37 **party to present evidence that such death or disability was service-**
38 **connected. The provisions of this section relating to the presumption**
39 **that the death or disability resulting from cancer was service-**
40 **connected shall only apply if the condition that caused the death or**
41 **disability is a type of cancer that may, in general, result from exposure**
42 **to heat, radiation or a known carcinogen. For purposes of this**
43 **subsection, "bloodborne pathogen" includes any disease that is**

1 **present in human blood and is designated as infectious or contagious**
2 **by the secretary of health and environment through rules and**
3 **regulations adopted pursuant to K.S.A. 65-128, and amendments**
4 **thereto.**

5 (11) Prior to July 1, 1998, "fireman" or "firemen" means an employee
6 assigned to the fire department and engaged in the fighting and
7 extinguishment of fires and the protection of life and property therefrom or
8 in support thereof and who is specifically designated, appointed,
9 commissioned or styled as such by the governing body or city manager of
10 the participating employer and certified to the retirement system as such.
11 On and after July 1, 1998, "fireman" or "firemen" means an employee
12 assigned to the fire department whose principal duties are engagement in
13 the fighting and extinguishment of fires and the protection of life and
14 property therefrom and who is specifically designated, appointed,
15 commissioned or styled as such by the governing body or city manager of
16 the participating employer and certified to the retirement system as such.

17 (12) Prior to July 1, 1998, "police," "policeman" or "policemen"
18 means an employee assigned to the police department and engaged in the
19 enforcement of law and maintenance of order within the state and its
20 political subdivisions, including sheriffs and sheriffs' deputies, or in
21 support thereof and who is specifically designated, appointed,
22 commissioned or styled as such by the governing body or city manager of
23 the participating employer and certified to the retirement system as such.
24 On and after July 1, 1998, "police," "policeman" or "policemen" means an
25 employee assigned to the police department whose principal duties are
26 engagement in the enforcement of law and maintenance of order within the
27 state and its political subdivisions, including sheriffs and sheriffs' deputies;
28 who has successfully completed the required course of instruction for law
29 enforcement officers approved by the Kansas law enforcement training
30 center and is certified pursuant to the provisions of K.S.A. 74-5607a, and
31 amendments thereto; and who is specifically designated, appointed,
32 commissioned or styled as such by the governing body or city manager of
33 the participating employer and certified to the retirement system as such.
34 "Police," "policeman" or "policemen" who have been assigned to the
35 police department, whose duties have included engagement in the
36 enforcement of law and maintenance of order within the state and its
37 political subdivisions, who have been certified pursuant to K.S.A. 74-
38 5607a, and amendments thereto, who have been designated as "police,"
39 "policeman" or "policemen" as provided in this subsection and for whom
40 required contributions have been made to the Kansas police and firemen's
41 retirement system shall not be denied benefits due to a temporary or full-
42 time assignment to a jail, adult detention center or other correctional
43 facility by the state or any of its political subdivisions, and this provision

1 shall be applied retroactively to July 1, 1999, to any member meeting such
2 requirements as provided in this enactment.

3 (13) Except as otherwise defined in this act, words and phrases used
4 in K.S.A. 74-4951 et seq., and amendments thereto, shall have the same
5 meanings ascribed to them as are defined in K.S.A. 74-4902, and
6 amendments thereto.

7 Sec. 2. K.S.A. 74-4952 is hereby repealed.

8 Sec. 3. This act shall take effect and be in force from and after its
9 publication in the ~~statute book~~ ***Kansas register***.