

## 2021 Kansas Statutes

74-4952. **Definitions.** As used in K.S.A. 74-4951 et seq., and amendments thereto:

- (1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to the member's account with interest allowed thereon after June 30, 1982.
- (2) "Disability" means the total inability to perform permanently the duties of the position of a policeman or fireman.
- (3) "Eligible employer" means any city, county, township or other political subdivision of the state employing one or more employees as firemen or policemen.
- (4) "Employee" means any policeman or fireman employed by a participating employer whose employment for police or fireman purposes is not seasonal or temporary and requires at least 1,000 hours of work per year.
- (5) "Entry date" means the date as of which an eligible employer joins the system; the first entry date pursuant to this act is January 1, 1967.
- (6) "Final average salary" means:
  - (a) For members who are first hired as an employee, as defined in subsection (4), before July 1, 1993, the average highest annual compensation paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual compensation paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12;
  - (b) for members who are first hired as an employee, as defined in subsection (4), on and after July 1, 1993, the average highest annual salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12;
  - (c) for purposes of subparagraphs (a) and (b) of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system; and
  - (d) for any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or who will have contributions deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919, and amendments thereto, or will begin paying to the system a lump-sum amount for such member's purchase or repurchase, and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications.

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

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

(8) "Normal retirement date" means the date on or after which a member may retire with eligibility for retirement benefits for age and service as provided in K.S.A. 74-4957(1) and (3), and amendments thereto.

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

(10) "Service-connected" means: With regard to a death or any physical or mental disability, any such death or disability resulting from external force, violence or disease occasioned by an act of duty as a policeman or fireman and, for any member after five years of credited service, there shall be a rebuttable presumption, that any death or disability resulting from a heart disease, contraction of a bloodborne pathogen as provided in this subsection or disease of the lung or respiratory tract or cancer, including, but not limited to, cancer of the brain, skin, digestive system, hematological system or genitourinary system as provided in this subsection, except that in the event that the member ceases to be a contributing member by reason of a service-connected disability for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from a heart disease, contraction of a bloodborne pathogen as provided in this subsection, disease of the lung or respiratory tract or cancer as provided in this subsection shall not apply until such member has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease, contraction of a bloodborne pathogen as provided in this subsection, disease of the lung or respiratory tract or cancer as provided in this subsection was in fact occasioned by an act of duty as a policeman or fireman. If the retirement system receives evidence to the contrary of such presumption, the burden of proof shall be on the member or other party to present evidence that such death or disability was service-connected. The provisions of this subsection relating to the presumption that the death or disability resulting from cancer was service-connected shall only apply if the condition that caused the death or disability is a type of cancer which may, in general, result from exposure to heat, radiation or a known carcinogen. For purposes of this subsection, "bloodborne pathogen" includes any disease that is present in human blood and is designated as infectious or contagious by the secretary of health and environment through rules and regulations adopted pursuant to K.S.A. 65-128, and amendments thereto.

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

(12) Prior to July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department and engaged in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies; who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and is certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto; and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. "Police," "policeman" or "policemen" who have been assigned to the police department, whose duties have included engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, who have been certified pursuant to K.S.A. 74-5607a, and amendments thereto, who have been designated as "police," "policeman" or "policemen" as provided in this subsection and for whom required contributions have been made to the Kansas police and firemen's retirement system shall not be denied benefits due to a temporary or full-time assignment to a jail, adult detention center or other correctional facility by the state or any of its political subdivisions, and this provision shall be applied retroactively to July 1, 1999, to any member meeting such requirements as provided in this enactment.

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

**History:** L. 1965, ch. 447, § 2; L. 1967, ch. 431, § 1; L. 1982, ch. 319, § 33; L. 1984, ch. 289, § 13; L. 1993, ch. 289, § 5; L. 1994, ch. 347, § 2; L. 1995, ch. 267, § 20; L. 1998, ch. 64, § 65; L. 1998, ch. 201, § 33; L. 2005, ch. 196, § 13; L. 2015, ch. 41, § 1; L. 2019, ch. 50, § 1; July 1.