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6 **SENATE BILL No. 638**

7  
8 By Committee on Ways and Means

9  
10 2-28

11  
12 AN ACT concerning retirement; relating to certain school retirants; em-  
13 ployment after retirement; requiring certain duties of state board of  
14 education *and legislative educational planning committee*; amend-  
15 ing K.S.A. 2001 Supp. **46-1208a**, **72-5437**, 72-5445, 72-7513 and 74-  
16 4914 and repealing the existing sections.

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

19 Section 1. K.S.A. 2001 Supp. 72-5445 is hereby amended to read as  
20 follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the  
21 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,  
22 apply only to: (A) Teachers who have completed not less than three con-  
23 secutive years of employment, and been offered a fourth contract, in the  
24 school district, area vocational-technical school or community college by  
25 which any such teacher is currently employed; and (B) teachers who have  
26 completed not less than two consecutive years of employment, and been  
27 offered a third contract, in the school district, area vocational-technical  
28 school or community college by which any such teacher is currently em-  
29 ployed if at any time prior to the current employment the teacher has  
30 completed the years of employment requirement of subpart (A) in any  
31 school district, area vocational-technical school or community college in  
32 this state.

33 (2) Any board may waive, at any time, the years of employment  
34 requirements of provision (1) for any teachers employed by it.

35 (3) The provisions of this subsection are subject to the provisions of  
36 K.S.A. 72-5446, and amendments thereto.

37 (b) The provisions of K.S.A. 72-5438 through 72-5443, and amend-  
38 ments thereto, do not apply to any teacher whose certificate has been  
39 nonrenewed or revoked by the state board of education for the reason  
40 that the teacher: (1) Has been convicted of a felony under the uniform  
41 controlled substances act; (2) has been convicted of a felony described in  
42 any section of article 34 of chapter 21 of the Kansas Statutes Annotated  
43 or an act described in K.S.A. 21-3412 or K.S.A. 2001 Supp. 21-3412a,

1 and amendments thereto, if the victim is a minor or student; (3) has been  
2 convicted of a felony described in any section of article 35 of chapter 21  
3 of the Kansas Statutes Annotated, or has been convicted of an act de-  
4 scribed in K.S.A. 21-3517 and amendments thereto, if the victim is a  
5 minor or student; (4) has been convicted of any act described in any  
6 section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5)  
7 has been convicted of a felony described in article 37 of chapter 21 of  
8 the Kansas Statutes Annotated; (6) has been convicted of an attempt  
9 under K.S.A. 21-3301, and amendments thereto, to commit any act spec-  
10 ified in this subsection; (7) has been convicted of any act which is de-  
11 scribed in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments  
12 thereto; (8) has been convicted in another state or by the federal govern-  
13 ment of an act similar to any act described in this subsection; or (9) has  
14 entered into a criminal diversion agreement after having been charged  
15 with any offense described in this subsection.

16 *(c) The provisions of K.S.A. 72-5438 through 72-5443, and amend-*  
17 *ments thereto, do not apply to any teacher who is a retirant from school*  
18 *employment of the Kansas public employees retirement system **to whom***  
19 ***the provisions of subsection (5) of K.S.A. 74-4914, and amendments***  
20 ***thereto, do not apply.***

21 Sec. 2. K.S.A. 2001 Supp. 72-7513 is hereby amended to read as  
22 follows: 72-7513. In general, but not by way of limitation, consonant with  
23 other applicable statutory provisions, the state board of education shall:

24 (a) Adopt and maintain standards, criteria, guidelines or rules and  
25 regulations for the following:

26 (1) School libraries and other educational materials with the excep-  
27 tion of textbooks;

28 (2) courses of study and curriculum;

29 (3) accreditation of schools including elementary and secondary, pub-  
30 lic and nonpublic;

31 (4) certification of administrators, teachers, counselors, school nurses  
32 and supervisors of school districts and of the state department of edu-  
33 cation and of teachers and administrators of nonpublic schools; ~~and~~

34 (b) administer the laws of this state concerning the matters named in  
35 this section and all other matters relating to general supervision of the  
36 public schools and institutions under supervision of the state board of  
37 education; *and*

38 ~~*(c) determine and make available a list of hard-to-fill teaching disci-*~~  
39 ~~*plines and underserved areas in which there is a critical shortage of teach-*~~  
40 ~~*ers as required by K.S.A. 74-4914, and amendments thereto. The board*~~  
41 ~~*shall promulgate rules and regulations, if necessary, to carry out the pro-*~~  
42 ~~*visions of employment after retirement of teachers in hard-to-fill teaching*~~  
43 ~~*disciplines and underserved areas as provided in K.S.A. 74-4914, and*~~

1 ~~amendments thereto.~~

2 (c) **for the purposes of subsection (5) of K.S.A. ~~74-4919~~ [74-**  
3 **4914], and amendments thereto, determine and make available a**  
4 **list of hard-to-fill teaching disciplines in which there is a critical**  
5 **shortage of teachers. Each year, the board shall review and, if nec-**  
6 **essary, revise such list. Upon request of a school district, the board**  
7 **may designate a vacant position for a teacher in such district which**  
8 **is not listed as a hard-to-fill [teaching] discipline as a position in a**  
9 **hard-to-fill teaching discipline for such district. After review of the**  
10 **school district's request and any supporting documentation re-**  
11 **quired by the board, the board may designate such position as a**  
12 **hard-to-fill teaching discipline for such school district. The board**  
13 **shall promulgate rules and regulations, if necessary, to implement**  
14 **the provisions of this subsection and subsection (5) of K.S.A. 74-**  
15 **4914, and amendments thereto, relating to the employment after**  
16 **retirement of teachers in a hard-to-fill teaching discipline.**

17 Sec. 3. K.S.A. 2001 Supp. 74-4914 is hereby amended to read as  
18 follows: 74-4914. (1) The normal retirement date for a member of the  
19 system shall be the first day of the month coinciding with or following  
20 termination of employment with any participating employer not followed  
21 by employment with any participating employer within 30 days and the  
22 attainment of age 65 or, commencing July 1, 1993, age 62 with the com-  
23 pletion of 10 years of credited service or the first day of the month co-  
24 inciding with or following the date that the total of the number of years  
25 of credited service and the number of years of attained age of the member  
26 is equal to or more than 85. In no event shall a normal retirement date  
27 for a member be before six months after the entry date of the participating  
28 employer by whom such member is employed. A member may retire on  
29 the normal retirement date or on the first day of any month thereafter  
30 upon the filing with the office of the retirement system of an application  
31 in such form and manner as the board shall prescribe. Nothing herein  
32 shall prevent any person, member or retirant from being employed, ap-  
33 pointed or elected as an employee, appointee, officer or member of the  
34 legislature. Elected officers may retire from the system on any date on  
35 or after the attainment of the normal retirement date, but no retirement  
36 benefits payable under this act shall be paid until the member has ter-  
37 minated such member's office.

38 (2) No retirant shall make contributions to the system or receive serv-  
39 ice credit for any service after the date of retirement.

40 (3) Any member who is an employee of an affiliating employer pur-  
41 suant to K.S.A. 74-4954b and amendments thereto and has not withdrawn  
42 such member's accumulated contributions from the Kansas police and  
43 firemen's retirement system may retire before such member's normal

1 retirement date on the first day of any month coinciding with or following  
2 the attainment of age 55.

3 (4) Any member may retire before such member's normal retirement  
4 date on the first day of any month coinciding with or following termination  
5 of employment with any participating employer not followed by employ-  
6 ment with any participating employer within 30 days and the attainment  
7 of age 55 with the completion of 10 years of credited service, but in no  
8 event before six months after the entry date, upon the filing with the  
9 office of the retirement system of an application for retirement in such  
10 form and manner as the board shall prescribe.

11 (5) If a retirant who retired on or after July 1, 1988, is employed or  
12 appointed in or to any position or office for which compensation for serv-  
13 ice is paid in an amount equal to \$15,000 or more in any one such calendar  
14 year, by any participating employer for which such retirant was employed  
15 or appointed during the final two years of such retirant's participation,  
16 such retirant shall not receive any retirement benefit for any month for  
17 which such retirant serves in such position or office. The participating  
18 employer shall report to the system within 30 days of when the compen-  
19 sation paid to the retirant is equal to or exceeds any limitation provided  
20 by this section. Any retirant employed by a participating employer shall  
21 not make contributions nor receive additional credit under such system  
22 for such service except as provided by this section. Upon request of the  
23 executive director of the system, the secretary of revenue shall provide  
24 such information as may be needed by the executive director to carry out  
25 the provisions of this act. The provisions of this subsection shall not apply  
26 to retirants employed as ~~teachers in a hard-to-fill teaching discipline or~~  
27 ~~teaching in an underserved area~~, substitute teachers or officers, employ-  
28 ees or appointees of the legislature. **Commencing July 1, 2002, and**  
29 **ending June 30, 2006, the provisions of this subsection shall not**  
30 **apply to retirants who either retired under the provisions of sub-**  
31 **section (1), or, if such retirant retired under the provisions of sub-**  
32 **section (4) were retired more than 30 days prior to July 1, 2002,**  
33 **and who were employed as teachers in a hard-to-fill teaching dis-**  
34 **cipline during such period pursuant to the provisions of this act,**  
35 **except that the provisions of this act may continue to apply after**  
36 **June 30, 2006, to any such retirant still determined by such retir-**  
37 **ant's participating employer to be teaching in a hard-to-fill teaching**  
38 **discipline. For purposes of this subsection: (a) "Hard-to-fill teaching dis-**  
39 **cipline" means a teaching discipline in which there is a critical shortage**  
40 **of teachers as determined and specified by the state board of education;**  
41 **(b) "underserved area" means a geographic area of the state in which**  
42 **there is a critical shortage of teachers as determined and specified by the**  
43 **state board of education. Determination of whether an individual teacher**

1 *is teaching in a hard-to-fill teaching discipline or in an underserved area*  
2 **and whether the provisions of this act shall not apply to such indi-**  
3 **vidual teacher shall be made by the participating employer of such**  
4 *teacher in conformity with the determination made by the state board of*  
5 *education as provided in K.S.A. 72-7513, and amendments thereto and*  
6 **nothing contained in this act provides a continuing contractual**  
7 **right beyond the term of the contract pursuant to this subsection or**  
8 **a vested right in any retirement benefit or other benefit provided**  
9 **in this subsection.** The provisions of this subsection shall not apply to  
10 members of the legislature prior to January 8, 2000. The provisions of  
11 this subsection shall not apply to any other elected officials prior to the  
12 term of office of such elected official which commences on or after July  
13 1, 2000. The provisions of this subsection shall apply to any other elected  
14 official on and after the term of office of such other elected official which  
15 commences on or after July 1, 2000. Except as otherwise provided, com-  
16 mencing January 8, 2001, the provisions of this subsection shall apply to  
17 members of the legislature. For determination of the amount of com-  
18 pensation paid pursuant to this subsection, for members of the legislature,  
19 compensation shall include any amount paid as provided pursuant to sub-  
20 sections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto,  
21 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstand-  
22 ing any provision of law to the contrary, when a member of the legislature  
23 is paid an amount of compensation of \$15,000 or more in any one calendar  
24 year, the member may continue to receive any amount provided in sub-  
25 sections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still  
26 be entitled to receive such member's retirement benefit.

27 (6) For purposes of this section, any employee of a local governmental  
28 unit which has its own pension plan who becomes an employee of a  
29 participating employer as a result of a merger or consolidation of services  
30 provided by local governmental units, which occurred on January 1, 1994,  
31 may count service with such local governmental unit in determining  
32 whether such employee has met the years of credited service require-  
33 ments contained in this section.

34 **Sec. 4. K.S.A. 2001 Supp. 72-5437 is hereby amended to read**  
35 **as follows: 72-5437. (a) All contracts of employment of teachers, as**  
36 **defined in K.S.A. 72-5436, and amendments thereto, except con-**  
37 **tracts entered into under the provisions of K.S.A. 72-5412a, and**  
38 **amendments thereto, and contracts with retirants to whom the provi-**  
39 **sions of subsection (5) of K.S.A. 74-4914, and amendments thereto, do not**  
40 **apply shall be deemed to continue for the next succeeding school**  
41 **year unless written notice of termination or nonrenewal is served**  
42 **as provided in this subsection. Except as provided by subsection (c),**  
43 **written notice to terminate a contract may be served by a board**

1 *upon any teacher prior to the time the contract has been completed,*  
2 *and written notice of intention to nonrenew a contract shall be*  
3 *served by a board upon any teacher on or before May 1. A teacher*  
4 *shall give written notice to a board that the teacher does not desire*  
5 *continuation of a contract on or before May 15 or, if applicable,*  
6 *not later than 15 days after final action is taken by the board upon*  
7 *termination of professional negotiation absent a binding agreement*  
8 *under article 54 of chapter 72 of Kansas Statutes Annotated, which-*  
9 *ever is the later date.*

10 *(b) Terms of a contract may be changed at any time by mutual*  
11 *consent of both a teacher and a board.*

12 *(c) During school year 2001-2002, written notice to terminate a con-*  
13 *tract may be served by a board upon any teacher prior to the time the*  
14 *contract has been completed, and written notice of intention to nonrenew*  
15 *a contract shall be served by a board upon any teacher on or before May*  
16 *15. A teacher shall give written notice to a board that the teacher does*  
17 *not desire continuation of a contract on or before May 30 or, if applicable,*  
18 *not later than 15 days after final action is taken by the board upon ter-*  
19 *mination of professional negotiation absent a binding agreement under*  
20 *article 54 of chapter 72 of Kansas Statutes Annotated, whichever is the*  
21 *later date.*

22 **Sec. 5. K.S.A. 2001 Supp. 46-1208a is hereby amended to read**  
23 **as follows: 46-1208a. (a) The legislative educational planning com-**  
24 **mittee is hereby established and shall be composed of 13 members,**  
25 **seven of whom shall be members of the house of representatives and**  
26 **six of whom shall be senators. Members of the legislative educa-**  
27 **tional planning committee shall be appointed by the legislative co-**  
28 **ordinating council. The legislative coordinating council shall deter-**  
29 **mine the number of members of the committee who shall be**  
30 **members of the majority party and the number of members of the**  
31 **committee who shall be members of the minority party. The com-**  
32 **mittee shall be permanent with membership changing from time to**  
33 **time as the legislative coordinating council shall determine.**

34 *(b) The legislative educational planning committee shall plan*  
35 *for public and private postsecondary education in Kansas, includ-*  
36 *ing vocational and technical education; explore, study and make*  
37 *recommendations concerning preschool and K-12 education in Kan-*  
38 *sas; review implementation of legislation relating to educational*  
39 *matters; and consider such other matters as the legislative coordi-*  
40 *nating council may assign. The committee shall annually make a*  
41 *report and recommendations to the legislature and the governor and*  
42 *may cause the same to be published separately from other docu-*  
43 *ments which are required by law to be submitted to the legislative*

1 **coordinating council. The reports and recommendations of the com-**  
2 **mittee shall include a developmental schedule for implementation**  
3 **of educational goals established by the committee. The committee**  
4 **shall from time to time update such schedule as new or additional**  
5 **information is developed or refined. During the 2005 summer interim,**  
6 **the committee shall conduct a review of the utilization of retirants em-**  
7 **ployed as teachers in hard-to-fill teaching disciplines pursuant to the pro-**  
8 **visions of subsection (5) of K.S.A. 74-4914, and amendments thereto, and**  
9 **submit as a part of the committee's annual report and recommendations**  
10 **to the legislature, such findings and recommendations as to the continued**  
11 **utilization of such retirants as teachers not subject to the provisions of**  
12 **subsection (5) of K.S.A. 74-4914, and amendments thereto.**

13 **(c) The provisions of the acts contained in article 12 of chapter**  
14 **46 of the Kansas Statutes Annotated, and amendments thereto, ap-**  
15 **licable to special committees shall apply to the legislative educa-**  
16 **tional planning committee to the extent that the same do not conflict**  
17 **with the specific provisions of this act applicable to the committee.**

18 **(d) Upon request of the legislative educational planning com-**  
19 **mittee, the state board of regents and the state board of education**  
20 **shall provide consultants from the faculties and staffs of institutions**  
21 **and agencies under the respective control and jurisdiction thereof.**

22 **(e) The legislative educational planning committee shall meet**  
23 **upon call of its chairperson and may introduce such legislation as**  
24 **it deems necessary in performing its functions.**

25 **Sec. 4-6.** K.S.A. 2001 Supp. **46-1208a, 72-5437, 72-5445, 72-7513**  
26 **and 74-4914 are hereby repealed.**

27 **Sec. 5-7.** This act shall take effect and be in force from and after its  
28 publication in the ~~statute book~~ **Kansas register.**

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