

HOUSE BILL No. 2251

By Representative Otto

2-2

9 AN ACT concerning retirement and pensions; relating to the Kansas
10 public employees retirement system and systems thereunder; employ-
11 ment after retirement; requiring certain duties of state board of edu-
12 cation; amending K.S.A. 72-5437, 72-5445, 72-7513, 74-4914, 74-4922
13 and 74-4939 and repealing the existing sections.
14

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

16 Section 1. K.S.A. 72-5437 is hereby amended to read as follows: 72-
17 5437. (a) All contracts of employment of teachers, as defined in K.S.A.
18 72-5436, and amendments thereto, except contracts entered into under
19 the provisions of K.S.A. 72-5412a, and amendments thereto, *and con-*
20 *tracts with retirants to whom the provisions of subsection (5)(d) of K.S.A.*
21 *74-4914, and amendments thereto, do not apply*, shall be deemed to con-
22 tinue for the next succeeding school year unless written notice of termi-
23 nation or nonrenewal is served as provided in this subsection. Written
24 notice to terminate a contract may be served by a board upon any teacher
25 prior to the time the contract has been completed, and written notice of
26 intention to nonrenew a contract shall be served by a board upon any
27 teacher on or before May 1. A teacher shall give written notice to a board
28 that the teacher does not desire continuation of a contract on or before
29 May 15 or, if applicable, not later than 15 days after final action is taken
30 by the board upon termination of professional negotiation absent a bind-
31 ing agreement under article 54 of chapter 72 of Kansas Statutes Anno-
32 tated, whichever is the later date.

33 (b) Terms of a contract may be changed at any time by mutual con-
34 sent of both a teacher and a board.

35 Sec. 2. K.S.A. 72-5445 is hereby amended to read as follows: 72-
36 5445. (a) (1) Subject to the provisions of subsection (b), the provisions of
37 K.S.A. 72-5438 through 72-5443, and amendments thereto, apply only to:
38 (A) Teachers who have completed not less than three consecutive years
39 of employment, and been offered a fourth contract, in the school district,
40 area vocational-technical school or community college by which any such
41 teacher is currently employed; and (B) teachers who have completed not
42 less than two consecutive years of employment, and been offered a third
43 contract, in the school district, area vocational-technical school or com-

1 munity college by which any such teacher is currently employed if at any
2 time prior to the current employment the teacher has completed the years
3 of employment requirement of subpart (A) in any school district, area
4 vocational-technical school or community college in this state.

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

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

9 (b) The provisions of K.S.A. 72-5438 through 72-5443, and amend-
10 ments thereto, do not apply to any teacher whose certificate has been
11 nonrenewed or revoked by the state board of education for the reason
12 that the teacher: (1) Has been convicted of a felony under the uniform
13 controlled substances act; (2) has been convicted of a felony described in
14 any section of article 34 of chapter 21 of the Kansas Statutes Annotated
15 or an act described in K.S.A. 21-3412 or K.S.A. 2001 Supp. 21-3412a,
16 and amendments thereto, if the victim is a minor or student; (3) has been
17 convicted of a felony described in any section of article 35 of chapter 21
18 of the Kansas Statutes Annotated, or has been convicted of an act de-
19 scribed in K.S.A. 21-3517 and amendments thereto, if the victim is a
20 minor or student; (4) has been convicted of any act described in any
21 section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5)
22 has been convicted of a felony described in article 37 of chapter 21 of
23 the Kansas Statutes Annotated; (6) has been convicted of an attempt
24 under K.S.A. 21-3301, and amendments thereto, to commit any act spec-
25 ified in this subsection; (7) has been convicted of any act which is de-
26 scribed in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments
27 thereto; (8) has been convicted in another state or by the federal govern-
28 ment of an act similar to any act described in this subsection; or (9) has
29 entered into a criminal diversion agreement after having been charged
30 with any offense described in this subsection.

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

36 Sec. 3. K.S.A. 72-7513 is hereby amended to read as follows: 72-
37 7513. In general, but not by way of limitation, consonant with other ap-
38 plicable statutory provisions, the state board of education shall:

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

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

43 (2) courses of study and curriculum;

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

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

6 (b) administer the laws of this state concerning the matters named in
7 this section and all other matters relating to general supervision of the
8 public schools and institutions under supervision of the state board of
9 education; *and*

10 (c) *for the purposes of subsection (5)(d) of K.S.A. 74-4914, and*
11 *amendments thereto, determine and make available a list of hard-to-fill*
12 *teaching disciplines in which there is a critical shortage of teachers. On*
13 *or before July 1 of each year, the board shall review and, if necessary,*
14 *revise such list. Upon request of a school district, the board may designate*
15 *a vacant position for a teacher in such district which is not listed as a*
16 *hard-to-fill teaching discipline as a position in a hard-to-fill teaching dis-*
17 *cipline for such district. After review of the school district's request and*
18 *any supporting documentation required by the board, the board may*
19 *designate such position as a hard-to-fill teaching discipline for such school*
20 *district. The board shall promulgate rules and regulations, if necessary,*
21 *to implement the provisions of this subsection and subsection (5)(d) of*
22 *K.S.A. 74-4914, and amendments thereto, relating to the employment af-*
23 *ter retirement of teachers in hard-to-fill teaching disciplines.*

24 Sec. 4. K.S.A. 74-4914 is hereby amended to read as follows: 74-
25 4914. (1) The normal retirement date for a member of the system shall
26 be the first day of the month coinciding with or following termination of
27 employment with any participating employer not followed by employ-
28 ment with any participating employer within 30 days and the attainment
29 of age 65 or, commencing July 1, 1993, age 62 with the completion of 10
30 years of credited service or the first day of the month coinciding with or
31 following the date that the total of the number of years of credited service
32 and the number of years of attained age of the member is equal to or
33 more than 85. In no event shall a normal retirement date for a member
34 be before six months after the entry date of the participating employer
35 by whom such member is employed. A member may retire on the normal
36 retirement date or on the first day of any month thereafter upon the filing
37 with the office of the retirement system of an application in such form
38 and manner as the board shall prescribe. Nothing herein shall prevent
39 any person, member or retirant from being employed, appointed or
40 elected as an employee, appointee, officer or member of the legislature.
41 Elected officers may retire from the system on any date on or after the
42 attainment of the normal retirement date, but no retirement benefits
43 payable under this act shall be paid until the member has terminated

1 such member's office.

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

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

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

18 (5) (a) If a retirant who retired on or after July 1, 1988, is employed
19 or appointed in or to any position or office for which compensation for
20 service is paid in an amount equal to \$15,000 or more in any one such
21 calendar year, by any participating employer for which such retirant was
22 employed or appointed during the final two years of such retirant's par-
23 ticipation, such retirant shall not receive any retirement benefit for any
24 month for which such retirant serves in such position or office. The par-
25 ticipating employer shall report to the system within 30 days of when the
26 compensation paid to the retirant is equal to or exceeds any limitation
27 provided by this section. Any retirant employed by a participating em-
28 ployer shall not make contributions nor receive additional credit under
29 such system for such service except as provided by this section. Upon
30 request of the executive director of the system, the secretary of revenue
31 shall provide such information as may be needed by the executive director
32 to carry out the provisions of this act.

33 (b) The provisions of ~~this~~ subsection (5)(a) shall not apply to retirants
34 employed as substitute teachers or officers, employees or appointees of
35 the legislature.

36 (c) The provisions of ~~this~~ subsection (5)(a) shall not apply to members
37 of the legislature prior to January 8, 2000. The provisions of this subsec-
38 tion shall not apply to any other elected officials prior to the term of office
39 of such elected official which commences on or after July 1, 2000. The
40 provisions of this subsection shall apply to any other elected official on
41 and after the term of office of such other elected official which com-
42 mences on or after July 1, 2000. Except as otherwise provided, com-
43 mencing January 8, 2001, the provisions of this subsection shall apply to

1 members of the legislature. For determination of the amount of com-
2 pensation paid pursuant to this subsection, for members of the legislature,
3 compensation shall include any amount paid as provided pursuant to sub-
4 sections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto,
5 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstand-
6 ing any provision of law to the contrary, when a member of the legislature
7 is paid an amount of compensation of \$15,000 or more in any one calendar
8 year, the member may continue to receive any amount provided in sub-
9 sections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still
10 be entitled to receive such member's retirement benefit.

11 *(d) Commencing July 1, 2005, and ending June 30, 2008, except as*
12 *otherwise provided, the provisions of subsection (5)(a) shall not apply to:*
13 *(A) Retirants who either retired under the provisions of subsection (1),*
14 *or, if such retirant retired under the provisions of subsection (4) were*
15 *retired more than 30 days prior to July 1, 2004; and who were employed*
16 *as teachers in a hard-to-fill teaching discipline during such period pur-*
17 *suant to this act; and (B) licensed professional nurses and licensed prac-*
18 *tical nurses with participating employers. Except that the provisions of*
19 *this act may continue to apply after June 30, 2008, to any such retirant*
20 *still determined by such retirant's participating employer to be teaching*
21 *in a hard-to-fill teaching discipline. For purposes of this subsection:*
22 *"Hard-to-fill teaching discipline" means a teaching discipline in which*
23 *there is a critical shortage of teachers as determined and specified by the*
24 *state board of education. Determination of whether an individual teacher*
25 *is teaching in a hard-to-fill teaching discipline and whether the provisions*
26 *of subsection (5)(a) shall not apply to such individual teacher shall be*
27 *made by the participating employer of such teacher in conformity with*
28 *the determination made by the state board of education as provided in*
29 *K.S.A. 72-7513, and amendments thereto. Nothing contained in this act*
30 *provides a vested right in any retirement benefit or other benefit provided*
31 *in this subsection. The participating employer of such retirant shall pay*
32 *to the system the actuarially determined employer contribution and the*
33 *employee contributions based on the retirant's compensation during any*
34 *such period of employment. No such employee shall pay all or any part*
35 *of such contributions. All such contributions shall be credited to the re-*
36 *retirement benefit accumulation reserve and shall not be credited to a re-*
37 *serve maintained for an individual retirant. The employer's obligation*
38 *pursuant to this subsection related to a retirant employed as a teacher*
39 *shall be paid by the participating employer pursuant to the provisions of*
40 *subsections (2) and (3) of K.S.A. 74-4939, and amendments thereto, and*
41 *K.S.A. 2004 Supp. 74-4929a, and amendments thereto. A retired teacher's*
42 *initial compensation shall not exceed the salary of a newly hired teacher*
43 *in the school district with similar college hours and academic degrees, and*

1 *the school district may opt to make applicable all probationary periods*
2 *and other requirements that are applicable to new personnel.*

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

10 Sec. 5. K.S.A. 74-4922 is hereby amended to read as follows: 74-
11 4922. The executive director shall maintain such records as are necessary
12 to determine the following reserves.

13 (a) *Member's accumulated contribution reserve.* This reserve shall be
14 maintained within the fund for each member and for each member having
15 a vested benefit. Each such reserve account shall be credited with the
16 employee's contributions upon receipt thereof and shall be credited on
17 June 30 each year with interest: (1) At the actuarial assumption rate
18 adopted by the board on the balance in the employee's account as of the
19 preceding December 31 for those who first became members prior to
20 July 1, 1993; and (2) 4% for those who first became members on and
21 after July 1, 1993. For the purposes of crediting interest upon accumu-
22 lated contributions, the term member shall include the beneficiary of a
23 member during the twelve-month period following the death of a mem-
24 ber and the beneficiary of a member pursuant to subsection (6) of K.S.A.
25 74-4918 and amendments thereto during any period commencing on the
26 date of death of such member and ending on the date that the member
27 would have attained retirement age. Refunds of employee's accumulated
28 contributions prior to retirement shall be made from this reserve. Upon
29 commencement of payments of the retirement benefit, the amount in
30 this reserve account for the retiring member or members, shall be trans-
31 ferred to the retirement benefit payment reserve.

32 (b) *Retirement benefit accumulation reserve.* This reserve within the
33 fund shall be credited with the portion of employer contributions for
34 retirement benefits both for prior service and for participating service,
35 *employer and employee contributions as provided in subsection (5)(d) of*
36 *K.S.A. 74-4914 and amendments thereto* and with income of the fund not
37 otherwise directed by law to a different reserve. The board shall credit
38 interest to all other reserves and reserve accounts as provided by law at
39 rates determined by the board. Interest so credited shall be transferred
40 from the retirement benefit accumulation reserve. Separate reserve ac-
41 counts shall not be maintained for each participating employer joining
42 the system on the first entry date. The board shall determine whether or
43 not separate reserve accounts shall be maintained for each participating

1 employer joining the system after the first entry date.

2 (c) *Retirement benefit payment reserve.* (i) This reserve within the
3 fund will be credited with the amount transferred from the member's
4 accumulated contributions reserve and from the retirement benefit ac-
5 cumulation reserve and with interest allocated to this reserve at the rate
6 determined each year by the board. This reserve shall be charged with
7 payments of retirement benefits including payments upon death of the
8 excess of member's accumulated contributions over retirement benefit
9 payments paid to date of death. Annually, upon receipt of the actuarial
10 valuation as of the end of the previous fiscal year the board shall cause
11 certain adjustments to be made which shall be made prior to the end of
12 the fiscal year immediately following the fiscal year for which the actuarial
13 valuation is applicable.

14 (ii) The amount of these adjustments shall be the difference between
15 the amount required by the current actuarial valuation and the amount
16 required by the previous year's actuarial valuation plus amounts trans-
17 ferred to this reserve less amounts paid out of this reserve during the
18 fiscal year to be adjusted. Such adjustments required to maintain this
19 reserve on an actuarial reserve basis as of June 30 of the previous fiscal
20 year shall be accomplished by transfers to or from, as applicable, the
21 retirement benefit accumulation reserve.

22 (d) *Expense reserve.* This reserve within the fund shall be credited
23 with interest allocated to this reserve at the rate determined each year by
24 the board. It shall be charged with payments of all expenses incurred in
25 connection with the administration of the system.

26 Sec. 6. K.S.A. 74-4939 is hereby amended to read as follows: 74-
27 4939. (1) Except as otherwise provided in this section, the provisions of
28 K.S.A. 74-4919 and 74-4920, and amendments thereto, shall apply to
29 employee and employer contributions and obligations.

30 (2) The employer contribution rate for participating employers who
31 are eligible employers as specified in subsections (1), (2) and (3) of K.S.A.
32 74-4931 and amendments thereto shall be as certified by the board. Par-
33 ticipating employers shall certify to the state board of education before
34 September 15 of each year the anticipated total compensation to be paid
35 during the next fiscal year to employees who are or are to become mem-
36 bers. The state board of education shall transmit the information neces-
37 sary to the division of the budget and the governor who shall include in
38 the budget and budget document each year thereafter provisions for the
39 transfer from the state general fund of sufficient sums to satisfy the par-
40 ticipating employer's obligation under this act. The director of accounts
41 and reports shall make a transfer therefor to the system quarterly, at the
42 same time such employee contributions are remitted by such participating
43 employers. Such transfer from the general fund of sufficient sums to

1 satisfy the participating employer's obligation shall not include any ad-
2 justments for individual employee's service in prior periods and any re-
3 quired payment by a participating employer pursuant to ~~K.S.A. subsection~~
4 ~~(5)(d) of K.S.A. 74-4914, and K.S.A. 74-4990 and amendments thereto~~
5 and ~~K.S.A. 74-49,126, and amendments thereto~~. The employer's obliga-
6 tion for such adjustments shall be paid by the participating employer.
7 Transfers required by this subsection shall be provided for annually by
8 act of the legislature.

9 (3) Participating employers who are eligible employers as specified
10 in subsection (4) of K.S.A. 74-4931 and amendments thereto shall pay to
11 the system employer contributions at a rate of contribution as certified
12 by the board.

13 (4) Upon the effective date of this act, the transfers for the employer's
14 obligation pursuant to subsection (2) for the quarter commencing on Jan-
15 uary 1, 1987, shall be made on July 1, 1987, together with interest thereon
16 at the rate of 6.72% per annum from the date the payment would have
17 been made as provided in this section immediately prior to this amend-
18 ment until the date paid.

19 Sec. 7. K.S.A. 72-5437, 72-5445, 72-7513, 74-4914, 74-4922 and 74-
20 4939 are hereby repealed.

21 Sec. 8. This act shall take effect and be in force from and after its
22 publication in the statute book.