

HOUSE BILL No. 2076

By Joint Committee on Pensions, Investments and Benefits

1-17

9 AN ACT concerning the Kansas police and firemen's retirement system;
10 relating to earnings limitation for certain members receiving disability
11 benefits; amending K.S.A. 2006 Supp. 74-4960a and repealing the ex-
12 isting section.
13

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

15 Section 1. K.S.A. 2006 Supp. 74-4960a is hereby amended to read
16 as follows: 74-4960a. (1) If any active contributing member who is ap-
17 pointed or employed on or after July 1, 1989, or who makes an election
18 pursuant to K.S.A. 74-4955a and amendments thereto to be covered by
19 the provisions of this act becomes disabled as defined in subsection (2),
20 such member shall receive a monthly benefit equal to 50% of the mem-
21 ber's final average salary at the time such member was disabled payable
22 in monthly installments, accruing from the first day upon which the mem-
23 ber ceases to draw compensation, if a report of the disability in such form
24 and manner as the board shall prescribe is filed in the office of the ex-
25 ecutive director of the board within 220 days after the date of the com-
26 mencement of such disability and if an application for such benefit in
27 such form and manner as the board shall prescribe is filed in the office
28 of the executive director of the board within two years of the date of the
29 commencement of such disability, except that the board may waive such
30 two-year requirement, if the board is presented with evidence that clearly
31 warrants such a waiver.

32 (2) For the purposes of this section, "disabled" means total inability
33 to perform permanently the duties of the position of policeman or
34 fireman.

35 (3) In the event a member who is disabled and entitled to such ben-
36 efits as provided in subsection (1) dies after the date of such disability,
37 the following benefits shall be payable:

38 (i) Pursuant to the provisions of K.S.A. 74-49,128, and amendments
39 thereto, to the member's spouse, if lawfully wedded to the member at
40 the time of the member's death, and if no benefits are payable under
41 subsection (3) of K.S.A. 74-4958a, and amendments thereto, a lump-sum
42 benefit equal to 50% of the member's final average salary at the time
43 such member was disabled.

1 (ii) To the member's spouse, if lawfully wedded to the member at
2 the time of the member's death, an annual benefit equal to 50% of the
3 member's benefit payable in monthly installments, to accrue from the
4 first day of the month following the member's date of death and ending
5 on the last day of the month in which the spouse dies. Commencing on
6 the effective date of this act, any surviving spouse, who was receiving
7 benefits pursuant to this section and who had such benefits terminated
8 by reason of such spouse's remarriage, shall be entitled to once again
9 receive benefits pursuant to this section, except that such surviving spouse
10 shall not be entitled to recover any benefits not received after the ter-
11 mination of benefits by reason of such surviving spouse's remarriage but
12 before the effective date of this act. If there is no surviving spouse, or if
13 after the death of the spouse there remain one or more children under
14 the age of 18 years or one or more children under the age of 23 years
15 who is a full-time student as provided in K.S.A. 74-49,117 and amend-
16 ments thereto, the spouse's benefit shall be payable, subject to the pro-
17 visions of K.S.A. 74-49,123 and amendments thereto, in equal shares to
18 such children and each child's share shall end on the last day of the month
19 in which such child attains the age of 18 years or dies, whichever occurs
20 earlier or in which such child attains the age of 23 years, if such child is
21 a full-time student as provided in K.S.A. 74-49,117 and amendments
22 thereto. Commencing on the effective date of this act, any child who was
23 receiving benefits pursuant to this section and who had such benefits
24 terminated by reason of such child's marriage, shall be entitled to once
25 again receive benefits pursuant to this section subject to the limitations
26 contained in this section, except that such child shall not be entitled to
27 recover any benefits not received after the termination of benefits by
28 reason of such child's marriage but before the effective date of this act.

29 (4) Any member who was employed for compensation by an em-
30 ployer other than the member's participating employer and whose disa-
31 bility was incurred in the course of such other employment shall not be
32 eligible for any of the benefits provided in subsection (1) or (3).

33 (5) If a member becomes totally and permanently disabled and no
34 benefits are payable under subsection (1), the sum of the member's ac-
35 cumulated contributions shall be paid to the member.

36 (6) Any member receiving benefits under this section shall submit to
37 medical examination, not more frequent than annually, by one or more
38 physicians or any other practitioners of the healing arts holding a valid
39 license issued by the state board of healing arts to practice a branch of
40 the healing arts, as the board of trustees may direct. If upon such medical
41 examination, the examiner's report to the board states that the member
42 is physically able and capable of resuming employment with the same or
43 a different participating employer, the disability benefits shall terminate.

1 A member who has been receiving benefits under the provisions of this
2 section and who returns to employment, as defined in subsection (4) of
3 K.S.A. 74-4952 and amendments thereto, of a participating employer shall
4 immediately commence accruing service credit which shall be added to
5 that which has been accrued by virtue of previous service.

6 (7) Any member who has been receiving benefits under the provi-
7 sions of this section for a period of five years shall be deemed permanent
8 and shall not be subject to further medical examinations, except that if
9 the board of trustees shall have reasonable grounds to question whether
10 the member remains totally and permanently disabled, a further medical
11 examination or examinations may be required.

12 (8) Refusal or neglect to submit to examination as provided in sub-
13 section (6) shall be sufficient cause for suspending or discontinuing ben-
14 efit payments under this section and if such refusal or neglect shall con-
15 tinue for a period of one year, the member's rights in and to all benefits
16 under this system may be revoked by the board.

17 (9) In the event that a member becomes disabled and is eligible for
18 benefits provided in this section, such member shall be given participating
19 service credit for the entire period of such disability.

20 (10) Any member who is receiving benefits pursuant to this section
21 shall file annually a statement of earnings for the previous year in such
22 form and manner as the board shall prescribe. Any disability benefit paid
23 to a member entitled to such benefit pursuant to this section shall be
24 reduced by the board in an amount equal to a \$1 reduction in such benefit
25 for every \$2 of earnings of such member which were earned during the
26 previous year while such member was disabled. Such reduction shall ap-
27 ply only to a member's earnings which exceed \$10,000, *or commencing*
28 *in calendar year 2007, and all calendar years thereafter, a member's earn-*
29 *ings which exceed \$20,000.*

30 (11) Any benefits provided pursuant to this section and any partici-
31 pating service credit given pursuant to subsection (9) shall terminate upon
32 the earliest date such member is eligible for retirement upon attainment
33 of the normal retirement date as provided in K.S.A. 74-4964a and amend-
34 ments thereto.

35 (12) Any member who has received benefits under the provisions of
36 this section for a period of five years or more immediately preceding
37 retirement shall have such member's final average salary adjusted upon
38 retirement by the actuarial salary assumption rates in existence during
39 such period. Effective July 1, 1993, each member's current annual rate
40 shall be adjusted upon retirement by 5% for each year of disability after
41 July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such mem-
42 ber's current annual rate shall be adjusted upon retirement by an amount
43 equal to the lesser of: (1) The percentage increase in the consumer price

1 index for all urban consumers as published by the bureau of labor statistics
2 of the United States department of labor minus one percent; or (2) four
3 percent per annum, measured from the member's last day on the payroll
4 to the month that is two months prior to the month of retirement, for
5 each year of disability after July 1, 1998.

6 (13) All payments due under this section to a minor shall be made to
7 a legally appointed conservator of such minor.

8 (14) The provisions of this section shall be effective on and after July
9 1, 1989 and shall apply only to members who were appointed or employed
10 prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-
11 4955a and amendments thereto; and persons appointed or employed on
12 or after July 1, 1989.

13 (15) Any member who has been receiving benefits under the provi-
14 sions of this section and who returns to employment with the same or
15 different participating employer in the system shall no longer be deemed
16 disabled under the provisions of this section.

17 (16) Upon the death of a member who has been receiving benefits
18 under the provisions of this section, if no further benefits are payable,
19 the excess, if any, of the member's accumulated contributions over the
20 sum of all benefits paid shall be paid to the member's beneficiary.

21 Sec. 2. K.S.A. 2006 Supp. 74-4960a is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.