

HOUSE BILL No. 2428

By Representative Otto

2-7

9 AN ACT concerning retirement and pensions; relating to members of
10 legislature; vesting; benefits and contributions, determination; rate of
11 compensation; amending K.S.A. 74-4917 and K.S.A. 2006 Supp. 74-
12 4992 and 74-4995 and repealing the existing sections.
13

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

15 Section 1. K.S.A. 74-4917 is hereby amended to read as follows: 74-
16 4917. (1) Upon termination of employment with a participating employer,
17 not followed by employment with such participating employer or another
18 participating employer within 30 days of such termination, the member
19 shall be paid an amount equal to the member's accumulated contributions
20 then on deposit with the system after making application in such form as
21 may be prescribed by the board, except that the system shall have a rea-
22 sonable time to process the application for withdrawal. The participating
23 employer shall, upon giving a terminated employee a withdrawal appli-
24 cation, certify to the system all member contributions which have not
25 been reported previously. In the case of a death of an active member, the
26 participating employer shall certify to the system all member contribu-
27 tions which have not been reported previously and remit such contribu-
28 tions if the participating employer has not submitted a monthly remit-
29 tance for the terminating quarter. The participating employer shall be
30 responsible to the system for any overpayment or underpayment of mem-
31 ber contributions made by the system relating to a withdrawal of accu-
32 mulated contributions or a death of an active member which is due to an
33 inaccurate certification of all member contributions which have not been
34 reported to the system as required by this section made by the partici-
35 pating employer. A leave of absence, a period of total disability or military
36 service shall not be considered a termination of employment unless the
37 member withdraws accumulated contributions.

38 (2) Except as otherwise provided by this subsection, if such member
39 has completed 10 years of credited service at date of termination, *or on*
40 *and after July 1, 2007, if such member who is an elected official has*
41 *completed five years of credited service at the date of termination*, such
42 member automatically shall be granted a vested retirement benefit in the
43 system, except that at any time prior to the commencement of retirement

1 benefit payments the member may withdraw accumulated contributions,
2 whereupon no other benefits shall be payable for such member's prior
3 and participating service credit. For purposes of this subsection, any em-
4 ployee of a local governmental unit which has its own pension plan who
5 becomes an employee of a participating employer as a result of a merger
6 or consolidation of services provided by local governmental units, which
7 occurred on January 1, 1994, may count service with such local govern-
8 mental unit in determining whether such employee has met the 10 years
9 of credited service for vesting requirement contained in this subsection.
10 Eligibility of such member for retirement benefits and procedures for
11 making application for retirement benefits shall be in accordance with
12 K.S.A. 74-4914 and amendments thereto. Such member shall make ap-
13 plication for retirement in such form as may be prescribed by the board
14 and retirement benefits shall accrue from the first day of the month fol-
15 lowing receipt of such application. The amount of the retirement benefit
16 shall be determined as provided in K.S.A. 74-4915 and amendments
17 thereto.

18 (3) Termination of employment of a member, followed by employ-
19 ment with a participating employer within five years after such termina-
20 tion, does not constitute a break in continuous employment if such mem-
21 ber has not withdrawn accumulated contributions. Such period while not
22 employed shall not be credited.

23 (4) If, after the expiration of five years following the termination of
24 employment, a former member becomes an employee of such former
25 member's former participating employer, or another participating em-
26 ployer, such former member shall be deemed to be a new employee. If
27 a member, who has a vested benefit again becomes an employee of a
28 participating employer, any credited service such member subsequently
29 accrues shall be added to that which had been vested by virtue of previous
30 service. Eligibility of such member for retirement benefits and proce-
31 dures for making application for retirement benefits shall be in accord-
32 ance with K.S.A. 74-4914 and amendments thereto.

33 Sec. 2. K.S.A. 2006 Supp. 74-4992 is hereby amended to read as
34 follows: 74-4992. (a) Any such member of the legislature or former mem-
35 ber of the legislature as described in K.S.A. 74-4991 and amendments
36 thereto shall become a member on entry date or upon filing with the
37 board an irrevocable election to become or not to become a member of
38 the system. In the event that any such member of the legislature or former
39 member of the legislature fails to file the election to become a member
40 of the retirement system, it shall be presumed that such member of the
41 legislature or former member of the legislature has elected not to become
42 a member. The election to participate shall become effective immediately
43 upon making such election, if such election is made within 14 days of

1 taking the oath of office or, otherwise, on the first day of the first payroll
2 period of the first quarter following receipt of the election in the office
3 of the retirement system. On and after July 1, 2006, all members of the
4 legislature shall also make the election required by the provisions of *sub-*
5 *section (a) of K.S.A. 74-4995*, and amendments thereto, related to the
6 rate of compensation at which such members shall participate for pur-
7 poses of K.S.A. 74-4991 et seq., and amendments thereto, *except that no*
8 *member of the legislature first appointed or elected on and after July 1,*
9 *2007, shall be eligible to make such election related to the rate of com-*
10 *penetration at which such member shall participate, and such member's*
11 *rate of compensation shall be as provided in subsection (b) of K.S.A. 74-*
12 *4995, and amendments thereto.*

13 (b) Any member of the legislature who had attained membership in
14 the Kansas public employees retirement system prior to taking the oath
15 of office as a member of the legislature may elect not to participate in
16 the Kansas public employees retirement system for the purpose of service
17 as a member of the legislature. This election, which is irrevocable, must
18 be filed within the offices of the system. Any member of the legislature
19 who is a member of the retirement system on the effective date of this
20 act and was a member of the retirement system at the time of taking the
21 oath of office may elect not to participate in the retirement system for
22 service as a member of the legislature if such irrevocable election is filed
23 within the offices of the system.

24 (c) Subject to the provisions of K.S.A. 74-49,123, and amendments
25 thereto, any member of the legislature who elected not to participate in
26 the retirement system, and who is not a contributing member with any
27 other participating employer, may purchase such participating service by
28 making a single lump-sum payment in an amount determined by the
29 actuary using the then current rate of compensation and the actuarial
30 assumptions and tables currently in use by the system.

31 (d) Subject to the provisions of K.S.A. 74-49,123, and amendments
32 thereto, except as otherwise provided in this section, any member of the
33 retirement system may purchase participating service credit for employ-
34 ment service as described in this section, if first commenced prior to
35 January 1, 1996, by electing to effect such purchase by means of having
36 employee contributions as provided in K.S.A. 74-4919 and amendments
37 thereto deducted from such member's compensation at a percentage rate
38 equal to two times or three times the employee's rate of contribution as
39 provided in K.S.A. 74-4919 and amendments thereto for such periods of
40 service in lieu of a lump-sum amount as provided in this section. Such
41 deductions shall commence at the beginning of the quarter following such
42 election and shall remain in effect until all quarters of such service have
43 been purchased. Any person may make any such purchase as described

1 in this section, if first commenced in calendar year 1996 or thereafter, at
2 an additional rate of contribution, in addition to the employee's rate of
3 contribution as provided in K.S.A. 74-4919 and amendments thereto,
4 based upon the member's attained age at the time of purchase and using
5 actuarial assumptions and tables in use by the retirement system at such
6 time of purchase, for such periods of service, in lieu of a lump-sum
7 amount as provided in this section. Such additional rate of contribution
8 shall commence at the beginning of the quarter following such election
9 and shall remain in effect until all quarters of such service have been
10 purchased.

11 Sec. 3. K.S.A. 2006 Supp. 74-4995 is hereby amended to read as
12 follows: 74-4995. (a) *For the purposes of this subsection and subsection*
13 *(b)*, employer and employee contributions shall be governed by the pro-
14 visions of K.S.A. 74-4919 and 74-4920 and amendments thereto. *Except*
15 *as provided in subsection (b)*, for purposes of contributions to and benefits
16 under the Kansas public employees retirement system, compensation of
17 a member of the legislature under this act shall be a monthly amount
18 equal to: (1) The compensation to which the member was entitled for
19 services as a member of the legislature during the period January 15 to
20 February 14, inclusive, of the most recent session in which the member
21 has served; and (2) any amount to which the member makes an election
22 pursuant to this subsection. In addition to the provisions of subsection
23 (a)(1), a member of the legislature may elect to participate with a rate of
24 compensation that includes: (A) For service as a member after July 18,
25 1982, a monthly amount equal to $\frac{1}{12}$ of the annualized amount received
26 for monthly allowance under subsection (c) of K.S.A. 46-137a, and
27 amendments thereto; (B) a monthly amount equal to $\frac{1}{12}$ of the annualized
28 amount received for expenses allowance under subsection (b) of K.S.A.
29 46-137a, and amendments thereto; or (C) an amount equal to the com-
30 bined amounts provided for in subsections (2)(A) and (2)(B). A member
31 of the legislature who has filed an election to become a member of the
32 system pursuant to the provisions of K.S.A. 74-4992, and amendments
33 thereto, prior to July 1, 2006, shall file an election with the system to
34 include any amounts specified in subsection (2)(A), (2)(B) or (2)(C) prior
35 to August 1, 2006, except that nothing contained in this act shall be con-
36 strued to permit a member of the legislature who has made an election
37 pursuant to this section prior to the effective date of this act to revoke
38 any such election previously made by such member. In the event that any
39 such member fails to file such election prior to August 1, 2006, it shall
40 be presumed that such member has elected to not include any amounts
41 specified in subsection (2)(A), (2)(B) or (2)(C), and participate at a rate
42 of compensation that includes only the amount provided in subsection
43 (a)(1). A member of the legislature who files an election to become a

1 member of the system pursuant to the provisions of K.S.A. 74-4992, and
2 amendments thereto, on and after July 1, 2006, shall file an election with
3 the system to include any amounts specified in subsection (2)(A), (2)(B)
4 or (2)(C) at the same time that such member files the election to become
5 a member of the system. In the event that any such member fails to file
6 such election, it shall be presumed that such member has elected to not
7 include any amounts specified in subsection (2)(A), (2)(B) or (2)(C), and
8 participate at a rate of compensation that includes only the amount pro-
9 vided in subsection (a)(1).

10 (b) *For purposes of contributions to and benefits under the Kansas*
11 *public employees retirement system, compensation of a member of the*
12 *legislature first appointed or elected on or after July 1, 2007, shall be as*
13 *defined in subsection (9) of K.S.A. 74-4902, and amendments thereto.*

14 (c) *For a member first appointed or elected prior to July 1, 2007, the*
15 *employee rate of contribution shall be applied to any amounts to which*
16 *such member has elected pursuant to the provisions of subsection (a)(2).*
17 *For a member first appointed or elected on or after July 1, 2007, the*
18 *employee rate of contribution shall be applied to such member's compen-*
19 *sation as defined in subsection (9) of K.S.A. 74-4902, and amendments*
20 *thereto.* The employee and employer contributions shall be remitted to
21 the system quarterly with a report of such contributions as may be re-
22 quired by the board. Any changes in a member's rate of compensation
23 and contributions as a result of any election mandated by this section for
24 a member of the legislature who had filed an election to become a mem-
25 ber of the system prior to July 1, 2006, shall be effective on October 1,
26 2006. All such elections pursuant to this section shall be in the form and
27 manner prescribed by the board of trustees.

28 ~~(c)~~ (d) Any member of the legislature making the election pursuant
29 to subsection (a)(2) may not revoke such election while they remain a
30 participating employee for service as a member of the legislature.

31 Sec. 4. K.S.A. 74-4917 and K.S.A. 2006 Supp. 74-4992 and 74-4995
32 are hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.