

SENATE BILL No. 388

By Committee on Financial Institutions and Insurance

1-24

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; increasing
3 the amount of retirant compensation subject to the statutory employer
4 contribution rate; amending K.S.A. 74-4937 and K.S.A. 2023 Supp. 74-
5 4914 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2023 Supp. 74-4914 is hereby amended to read as
9 follows: 74-4914.(1) The normal retirement date for a member of the
10 system shall be the first day of the month coinciding with or following
11 termination of employment with any participating employer not followed
12 by employment with any participating employer within 60 days, or 180
13 days as provided in subsection ~~(10)~~ (9), and without any prearranged
14 agreement for employment with any participating employer, and the
15 attainment of age 65 or, commencing July 1, 1993, age 62 with the
16 completion of 10 years of credited service or the first day of the month
17 coinciding with or following the date that the total of the number of years
18 of credited service and the number of years of attained age of the member
19 is equal to or more than 85. In no event shall a normal retirement date for a
20 member be before six months after the entry date of the participating
21 employer by whom such member is employed. A member may retire on
22 the normal retirement date or on the first day of any month thereafter upon
23 the filing with the office of the retirement system of an application in such
24 form and manner as the board shall prescribe. Such application shall
25 contain a certification by the member that the member will not be
26 employed with any participating employer within 60 days, or 180 days as
27 provided in subsection ~~(10)~~ (9), of retirement and the member has not
28 entered into a prearranged agreement for employment with any
29 participating employer. Nothing herein shall prevent any person, member
30 or retirant from being employed, appointed or elected as an employee,
31 appointee, officer or member of the legislature. Elected officers may retire
32 from the system on any date on or after the attainment of the normal
33 retirement date, but no retirement benefits payable under this act shall be
34 paid until the member has terminated such member's office.

35 (2) No retirant shall make contributions to the system or receive
36 service credit for any service after the date of retirement.

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

7 (4) Any member may retire before such member's normal retirement
8 date on the first day of any month coinciding with or following
9 termination of employment with any participating employer not followed
10 by employment with any participating employer within 60 days, or 180
11 days as provided in subsection ~~(10)~~ (9), and the attainment of age 55 with
12 the completion of 10 years of credited service, but in no event before six
13 months after the entry date, upon the filing with the office of the retirement
14 system of an application for retirement in such form and manner as the
15 board shall prescribe. The member's application for retirement shall
16 contain a certification by the member that the member will not be
17 employed with any participating employer within 60 days, or 180 days as
18 provided in subsection ~~(10)~~ (9), of retirement and the member has not
19 entered into a prearranged agreement for employment with any
20 participating employer.

21 ~~(5) Except as provided in subsections (7) and (10), on or after July 1,~~
22 ~~2006, through December 31, 2017, for any retiree who is first employed or~~
23 ~~appointed in or to any position or office by a participating employer~~
24 ~~other than a participating employer for which such retiree was employed~~
25 ~~or appointed during the final two years of such retiree's participation, and,~~
26 ~~on or after April 1, 2009, for any retiree who is employed by a third-party~~
27 ~~entity who contracts services with a participating employer other than a~~
28 ~~participating employer for which such retiree was employed or appointed~~
29 ~~during the final two years of such retiree's participation to fill a position~~
30 ~~covered under K.S.A. 72-2215(a), and amendments thereto, with such~~
31 ~~retiree, such participating employer shall pay to the system the actuarially~~
32 ~~determined employer contribution and the statutorily prescribed employee~~
33 ~~contribution based on the retiree's compensation during any such period~~
34 ~~of employment or appointment. If a retiree is employed or appointed in or~~
35 ~~to any position or office for which compensation for service is paid in an~~
36 ~~amount equal to \$25,000 or more in any one calendar year between July 1,~~
37 ~~2016, and January 1, 2018, by any participating employer for which such~~
38 ~~retiree was employed or appointed during the final two years of such~~
39 ~~retiree's participation, and, on or after April 1, 2009, by any third-party~~
40 ~~entity who contracts services to fill a position covered under K.S.A. 72-~~
41 ~~2215(a), and amendments thereto, with such retiree with a participating~~
42 ~~employer for which such retiree was employed or appointed during the~~
43 ~~final two years of such retiree's participation, such retiree shall not~~

1 receive any retirement benefit for any month for which such retirant serves
2 in such position or office. The participating employer who employs such
3 retirant whether by contract directly with the retirant or through an
4 arrangement with a third-party entity shall report to the system within 30
5 days of when the compensation paid to the retirant is equal to or exceeds
6 any limitation provided by this section. Any participating employer who
7 contracts services with any such third-party entity to fill a position covered
8 under K.S.A. 72-2215(a), and amendments thereto, shall include in such
9 contract a provision or condition which requires the third-party entity to
10 provide the participating employer with the necessary compensation paid
11 information related to any such position filled by the third-party entity
12 with a retirant to enable the participating employer to comply with
13 provisions of this subsection relating to the payment of contributions and
14 reporting requirements. The provisions and requirements provided for in
15 amendments made in this act which relate to positions filled with a retirant
16 or employment of a retirant by a third-party entity shall not apply to any
17 contract for services entered into prior to April 1, 2009, between a
18 participating employer and third-party entity as described in this
19 subsection. Any retirant employed by a participating employer or a third-
20 party entity as provided in this subsection shall not make contributions nor
21 receive additional credit under such system for such service except as
22 provided by this section. Upon request of the executive director of the
23 system, the secretary of revenue shall provide such information as may be
24 needed by the executive director to carry out the provisions of this act. The
25 provisions of this subsection shall not apply to retirants employed as
26 substitute teachers without a contract or officers, employees or appointees
27 of the legislature. The provisions of this subsection shall not apply to
28 members of the legislature. The provisions of this subsection shall not
29 apply to any other elected officials. Commencing July 1, 2005, the
30 provisions of this subsection shall not apply to retirants who either retired
31 under the provisions of subsection (1), or, if they retired under the
32 provisions of subsection (4), were retired more than 30 days prior to the
33 effective date of this act and are licensed professional nurses or licensed
34 practical nurses employed by the state of Kansas in an institution as
35 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments
36 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
37 in this subsection shall be construed to create any right, or to authorize the
38 creation of any right, which is not subject to amendment or nullification by
39 act of the legislature. The participating employer of such retirant shall pay
40 to the system the actuarially determined employer contribution based on
41 the retirant's compensation during any such period of employment. The
42 provisions of the subsection shall expire on January 1, 2018.

43 (6) For purposes of this section, any employee of a local

1 governmental unit ~~which~~ *that* has its own pension plan who becomes an
2 employee of a participating employer as a result of a merger or
3 consolidation of services provided by local governmental units, ~~which~~ *that*
4 occurred on January 1, 1994, may count service with such local
5 governmental unit in determining whether such employee has met the
6 years of credited service requirements contained in this section.

7 ~~(7)(6) (a) (i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and~~
8 ~~amendments thereto, and the provisions of this subsection, commencing~~
9 ~~July 1, 2016, and ending January 1, 2018, any retirant who is employed or~~
10 ~~appointed in or to any position by a participating employer, an independent~~
11 ~~contractor or a third-party entity who contracts services with a~~
12 ~~participating employer to fill a position, without any prearranged~~
13 ~~agreement with such participating employer and not prior to 60 days after~~
14 ~~such retirant's retirement date, shall not receive any retirement benefit for~~
15 ~~any month in any calendar year in which the retirant receives~~
16 ~~compensation in an amount equal to \$25,000 or more, pursuant to this~~
17 ~~subsection. Any participating employer who hires a retirant covered by this~~
18 ~~subsection shall pay to the system the statutorily prescribed employer~~
19 ~~contribution rate for such retirant, without regard to whether the retirant is~~
20 ~~receiving benefits.~~

21 (ii) Commencing January 1, 2018, for all retirements that occurred
22 prior to such date, any retirant who is employed or appointed in or to any
23 position by a participating employer, an independent contractor or a third-
24 party entity who contracts services with a participating employer to fill a
25 position, without any prearranged agreement with such participating
26 employer and not prior to 60 days after such retirant's retirement date, shall
27 not be subject to an earnings limitation that when met or exceeded requires
28 that the retirant not receive a retirement benefit for any month for which
29 such retirant serves in such position. If a retirant is employed in a covered
30 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
31 participating employer of such retirant shall pay to the system the
32 statutorily prescribed employer contribution rate on the first ~~\$25,000-~~
33 ~~\$40,000~~ of such retirant's compensation in a calendar year and a 30%
34 employer contribution on any compensation in excess of ~~\$25,000~~ ~~\$40,000~~
35 in a calendar year during any such period of employment. If a retirant is
36 employed by more than one participating employer or performing duties in
37 more than one position, contributions shall be made on compensation from
38 all such employment for that calendar year. If a retirant is employed in a
39 non-covered position, no employer contribution shall be paid to the
40 system.

41 (b) The provisions of this subsection shall not apply, except as
42 specifically provided in this subsection, to retirants who are:

43 (i) Licensed professional nurses or licensed practical nurses

- 1 employed by the state of Kansas in an institution as defined in K.S.A. 76-
2 12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers'
3 home or the Kansas veterans' home. The participating employer of such
4 retirant shall pay to the system the actuarially determined employer
5 contribution based on the retirant's compensation and the statutorily
6 prescribed employee contribution during any such period of employment;
- 7 (ii) employed by a school district in a position as provided in K.S.A.
8 74-4937(3), ~~(4) or (5)~~, and amendments thereto;
- 9 (iii) certified law enforcement officers employed by the law
10 enforcement training center. Such law enforcement officers shall receive
11 their benefits notwithstanding this subsection. The law enforcement
12 training center shall pay to the system the actuarially determined employer
13 contribution and the statutorily prescribed employee contribution based on
14 the retirant's compensation during any such period of employment;
- 15 (iv) members of the Kansas police and firemen's retirement system
16 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of
17 the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
18 amendments thereto, or members of the state board of regents retirement
19 plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;
- 20 (v) employed as substitute teachers without a contract or officers,
21 employees or appointees of the legislature;
- 22 (vi) a poll worker hired to work an election day for a county election
23 officer responsible for conducting all official elections held in the county;
- 24 (vii) employed by, or have accepted employment from, a participating
25 employer prior to May 1, 2015. Any break in continuous employment by a
26 retirant or move to a different position by a retirant during the effective
27 period of this subsection shall be deemed new employment and shall
28 subject the retirant to the provisions of this subsection. Commencing
29 January 1, 2018, the participating employer of a retirant described in this
30 subsection ~~(7)(b)(vii) subparagraph~~ who is employed in a covered
31 position, as defined in K.S.A. 74-49,202, and amendments thereto, shall
32 pay to the system the statutorily prescribed employer contribution rate on
33 the first ~~\$25,000~~ \$40,000 of such retirant's compensation in a calendar year
34 and a 30% employer contribution on any compensation in excess of
35 ~~\$25,000~~ \$40,000 in a calendar year during any such period of
36 employment. If a retirant is employed by more than one participating
37 employer or performing duties in more than one position, contributions
38 shall be made on compensation from all such employment for that
39 calendar year. If a retirant is employed in a non-covered position, no
40 employer contribution shall be paid to the system;
- 41 (viii) state or local elected officials. A retirant shall not be employed
42 in an elected office within 30 days of such retirant's retirement, except that
43 if a retirant is filling a vacant elected office, no waiting period shall be

1 required; or

2 (ix) employed by the Kansas academies of the United States
3 department of defense STARBASE program.

4 (c) The participating employer shall enroll all retirants, including
5 retirants under subsection ~~(7)(b)(i)~~ (6)(b)(i), (ii), (iii), (vii) and (viii), and
6 report to the system when compensation is paid to a retirant as provided in
7 this subsection. Such report shall contain a certification by the appointing
8 authority of the participating employer that any hired retirant has not been
9 employed by the participating employer within 60 days of such retirant's
10 retirement and that there was no prearranged agreement for employment
11 between the participating employer and the hired retirant. Upon request of
12 the executive director of the system, the participating employer shall
13 provide such information as may be needed by the executive director to
14 carry out the provisions of this subsection. No retirant shall make
15 contributions to the system or receive credit for service while employed
16 under the provisions of this subsection.

17 ~~(d) A participating employer may employ a retirant without regard to~~
18 ~~the compensation limitation in this subsection for a period of one calendar~~
19 ~~year or one school year, as the case may be, if the following requirements~~
20 ~~are met:~~

21 ~~(i) The employer certifies to the board that the position being filled~~
22 ~~has been vacated due to an unexpected emergency or the employer has~~
23 ~~been unsuccessful in filling the position;~~

24 ~~(ii) the employer pays to the system a 30% employer contribution~~
25 ~~based on the retirant's compensation during any such period of~~
26 ~~employment; and~~

27 ~~(iii) the employer maintains documentation of its efforts to fill the~~
28 ~~position with a non-retirant and provides such documentation to the joint~~
29 ~~committee on pensions, investments and benefits upon request of the~~
30 ~~committee.~~

31 The provisions of this paragraph shall expire on January 1, 2018.

32 ~~(e) An employer may submit a written assurance protocol to the~~
33 ~~system to extend the exception provided for in subsection (7)(d) by one-~~
34 ~~year increments for a total extension not to exceed three years. A written~~
35 ~~assurance protocol shall be submitted to the system for each one-year~~
36 ~~increment extension. If a school district submits a written assurance~~
37 ~~protocol, such written assurance protocol shall be signed by the~~
38 ~~superintendent and the board president of such school district. If a~~
39 ~~municipality, as defined in K.S.A. 75-1117, and amendments thereto, other~~
40 ~~than a school district, submits a written assurance protocol, such written~~
41 ~~assurance protocol shall be signed by the governing body or such~~
42 ~~governing body's designee for such municipality. Such written assurance~~
43 ~~protocol shall state that the position was advertised on multiple platforms~~

1 for a minimum of 30 calendar days and that at least one of the following
2 conditions occurred:

- 3 (i) ~~No applications were submitted for the position;~~
4 (ii) ~~if applications were submitted, none of the applicants met the~~
5 ~~reference screening criteria of the employer; or~~
6 (iii) ~~if applications were submitted, none of the applicants possessed~~
7 ~~the appropriate licensure, certification or other necessary credentials for~~
8 ~~the position.~~

9 The provisions of this paragraph shall expire on January 1, 2018.

10 (f) Retirants who are independent contractors or employees of third-
11 party entities who contract with a participating employer, shall not be
12 subject to the compensation limitation or employer contribution
13 requirements in this subsection or the requirements of ~~subsection (7)(e)~~
14 ~~paragraph (c)~~ regarding enrollment and reporting to the system, so long as
15 all of the following apply:

16 (A) The contractual relationship was not created to allow the retirant
17 to continue employment with the participating employer after retirement in
18 a position similar to the one such retirant held prior to retirement;

19 (B) the activities performed by the independent contractor or third-
20 party entity are not normally performed exclusively by employees of that
21 participating employer; and

22 (C) the retirant meets the classification of independent contractor as
23 provided in K.S.A. 44-768, and amendments thereto, or activities
24 performed by the third-party entity that employs the retirant are performed
25 on a limited-term basis and the third-party entity is not a participating
26 employer in the system.

27 ~~(g)(e)~~ Nothing in this subsection shall be construed to create any
28 right, or to authorize the creation of any right, which is not subject to
29 amendment or nullification by act of the legislature.

30 ~~(8)(7)~~ (a) Except as provided in ~~subsection (8)(b) paragraph (b)~~, if
31 determined by the retirement system that a retirant entered into a
32 prearranged agreement for employment with a participating employer
33 prior to such retirant's retirement and prior to the end of the subsequent 60-
34 day waiting period, or the 180-day waiting period under ~~subsection (10)~~
35 ~~(9)~~, the monthly retirement benefit of such retirant shall be suspended
36 during the period that begins on the month in which the retirant is re-
37 employed and ends six months after the retirant's termination of such
38 employment. The retirant shall repay to the retirement system all monthly
39 retirement benefits paid to the retirant by the retirement system that the
40 retirant received after such employment began. The participating employer
41 which hired such retirant shall be required to pay to the system any fees,
42 fines, penalties or any other cost imposed by the internal revenue service
43 and indemnify the system for any cost incurred by the system to defend

1 any action brought by the internal revenue service based on in-service
2 distributions which are a result of any determined prearranged agreement
3 and for any cost incurred by the system to collect any monthly retirement
4 benefit required to be repaid by such retirant pursuant to this subsection.

5 (b) For members who retired on and after July 1, 2016, and on or
6 before July 1, 2019, if determined by the retirement system that a retirant
7 entered into a prearranged agreement for employment with a participating
8 employer prior to such retirant's retirement date and the subsequent 60-day
9 waiting period, or the 180-day waiting period under subsection ~~(10)~~ (9),
10 and upon being notified of the violation, the retirant terminated such
11 employment, the provisions of ~~subsection~~ *paragraph* (a) shall not apply. If
12 any retirant had benefits suspended prior to July 1, 2019, such benefits
13 shall be reimbursed by the retirement system, if the retirant terminated
14 such prearranged employment in accordance with the provisions of this
15 act. On and after July 1, 2019, the executive director may waive such
16 penalties under this subsection if it is determined by the retirement system
17 that any of the following conditions were satisfied:

18 (i) The retirant's total length of reemployment was less than 21
19 calendar days;

20 (ii) the retirant's total compensation during the total length of
21 reemployment was less than 10% of the amount of such retirant's
22 retirement benefit that would be suspended pursuant to this subsection; or

23 (iii) other facts and circumstances indicated that the retirant would
24 not have been reemployed but for an error on the part of the participating
25 employer or the retirement system in verifying the retirement status of
26 such retirant and such retirant immediately terminated employment upon
27 being notified of the violation.

28 (c) On or before the first day of each regular session of the
29 legislature, beginning with the 2020 regular session, the executive director
30 shall submit an annual report on the number of waivers granted pursuant to
31 ~~subsection (8)(b)~~ *paragraph* (b) in the prior calendar year to the joint
32 committee on pensions, investments and benefits, the house of
33 representatives standing committee on financial institutions and pensions
34 and the senate standing committee on financial institutions and insurance,
35 or the successors of such committees.

36 ~~(9)(8)~~ For the purposes of this section a prearranged agreement for
37 employment may be determined by whether the facts and circumstances of
38 the situation indicate that the employer and employee reasonably
39 anticipated that further services would be performed after the employee's
40 retirement.

41 ~~(10)(9)~~ (a) Notwithstanding the provisions of subsection ~~(5) or (7)~~ (6)
42 to the contrary, commencing January 1, 2018, any retirant who is retired
43 more than 60 days, if such retirant's age on the date of retirement is 62 or

1 older, or is retired more than 180 days, if such retirant's age on the date of
2 retirement is less than 62, and who is subsequently hired without any
3 prearranged agreement with the participating employer in a covered
4 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
5 independent contractor or a third-party entity who contracts service to fill
6 such covered position shall not be subject to an earnings limitation that
7 when met or exceeded requires that the retirant not receive a retirement
8 benefit for any month for which such retirant serves in such covered
9 position. The participating employer of such retirant shall pay to the
10 system the statutorily prescribed employer contribution rate on the first
11 ~~\$25,000~~ \$40,000 of such retirant's compensation in a calendar year and a
12 30% employer contribution on any compensation in excess of ~~\$25,000~~
13 \$40,000 in a calendar year during any such period of employment. If a
14 retirant is employed by more than one participating employer or
15 performing duties in more than one position, contributions shall be made
16 on compensation from all such employment for that calendar year.

17 (b) Notwithstanding the provisions of subsection ~~(5) or (7)~~ (6) to the
18 contrary, commencing January 1, 2018, any retirant who is retired more
19 than 60 days, if such retirant's age on the date of retirement is 62 or older,
20 or is retired more than 180 days, if such retirant's age on the date of
21 retirement is less than 62, and who is subsequently hired without any
22 prearranged agreement with the participating employer in a non-covered
23 position, or an independent contractor or a third-party entity who contracts
24 service to fill such non-covered position, shall not be subject to an
25 earnings limitation that when met or exceeded requires that the retirant not
26 receive a retirement benefit for any month for which such retirant serves in
27 such non-covered position. No employer contribution shall be paid to the
28 system on compensation paid to a retirant hired in a non-covered position.

29 (c) The participating employer shall enroll all retirants, including
30 retirants under subsection ~~(7)(b)(i)~~ (6)(b)(i), (ii), (iii), (vii) and (viii), and
31 report to the system when compensation is paid to a retirant as provided in
32 this subsection. Such report shall contain a certification by the appointing
33 authority of the participating employer that any hired retirant has not been
34 employed by the participating employer within 60 days of such retirant's
35 retirement in the case of a retirant whose age on the date of retirement is
36 62 or older, or within 180 days of such retirant's retirement in the case of a
37 retirant whose age on the date of retirement is less than 62, and that there
38 was no prearranged agreement for employment between the participating
39 employer and the hired retirant. Upon request of the executive director of
40 the system, the participating employer shall provide such information as
41 may be needed by the executive director to carry out the provisions of this
42 subsection. No retirant shall make contributions to the system or receive
43 credit for service while employed under the provisions of this subsection.

1 (d) The provisions of this subsection relating to an earnings limitation
2 and employer contributions shall not apply to any retirant described in
3 subsection ~~(7)(b)~~ (6)(b) or to retirants who are independent contractors or
4 employees of third-party entities who contract with a participating
5 employer as described in subsection ~~(7)(f)~~ (6)(d), except as specifically
6 provided in this subsection.

7 (e) Nothing in this subsection shall be construed to create any right,
8 or to authorize the creation of any right that is not subject to amendment or
9 nullification by act of the legislature.

10 Sec. 2. K.S.A. 74-4937 is hereby amended to read as follows: 74-
11 4937. (1) The normal retirement date of a member of the system who is in
12 school employment and who is subject to K.S.A. 74-4940, and
13 amendments thereto, shall be the first day of the month coinciding with or
14 following termination of employment not followed by employment with
15 any participating employer within 60 days, or 180 days as provided in
16 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and without any
17 prearranged agreement for employment with any participating employer,
18 and the attainment of age 65 or, commencing July 1, 1986, age 65 or age
19 60 with the completion of 35 years of credited service or at any age with
20 the completion of 40 years of credited service, or commencing July 1,
21 1993, any alternative normal retirement date already prescribed by law or
22 age 62 with the completion of 10 years of credited service or the first day
23 of the month coinciding with or following the date that the total of the
24 number of years of credited service and the number of years of attained
25 age of the member is equal to or more than 85. Each member upon giving
26 prior notice to the appointing authority and the retirement system may
27 retire on the normal retirement date or the first day of any month
28 thereafter. Such member's application for retirement shall contain a
29 certification by the member that the member will not be employed with
30 any participating employer within 60 days, or 180 days as provided in
31 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, of retirement and the
32 member has not entered into a prearranged agreement for employment
33 with any participating employer.

34 (2) Any member who is in school employment and who is subject to
35 K.S.A. 74-4940, and amendments thereto, may retire before such
36 member's normal retirement date on the first day of the month coinciding
37 with or following termination of employment not followed by employment
38 with any participating employer within 60 days, or 180 days as provided in
39 K.S.A. 74-4914~~(10)~~(9), and amendments thereto, and the attainment of age
40 55 with the completion of 10 years of credited service, upon the filing with
41 the office of the retirement system of an application for retirement in such
42 form and manner as the board shall prescribe. The member's application
43 for retirement shall contain a certification by the member that the member

1 will not be employed with any participating employer within 60 days, or
2 180 days as provided in K.S.A. 74-4914(10)(9), and amendments thereto,
3 of retirement and the member has not entered into a prearranged
4 agreement for employment with any participating employer.

5 (3) (a) The provisions of K.S.A. 74-4914(5), (7) and (10)(6) and (9),
6 and amendments thereto, ~~which~~ *that* relate to an earnings limitation which
7 when met or exceeded requires that the retirant not receive a retirement
8 benefit for any month ~~for~~ *during* which such retirant serves in a position as
9 described herein shall not apply to retirants who either retired under the
10 provisions of K.S.A. 74-4914(1), and amendments thereto, related to
11 normal retirement, or, if they retired under the provisions of K.S.A. 74-
12 4914(4), and amendments thereto, related to early retirement, and are
13 subsequently hired in a position that requires a license under K.S.A. 72-
14 2157, and amendments thereto, or other provision of law. The provisions
15 of this subsection shall only apply to retirants who retired prior to January
16 1, 2018. Except as otherwise provided, when a retirant is employed by the
17 same school district or a different school district with which such retirant
18 was employed during the final two years of such retirant's participation or
19 employed as an independent contractor or by a third-party entity who
20 contracts services with a school district to fill a position as described in
21 this subsection, the participating employer of such retirant shall pay to the
22 system the actuarially determined employer contribution based on the
23 retirant's compensation during any such period of employment plus 8%.
24 Commencing January 1, 2018, if a retirant is employed in a covered
25 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
26 participating employer shall pay to the system the statutorily prescribed
27 employer contribution rate on the first ~~\$25,000~~ \$40,000 of such retirant's
28 compensation in a calendar year and a 30% employer contribution on any
29 compensation in excess of ~~\$25,000~~ \$40,000 in a calendar year during any
30 such period of employment. If a retirant is employed by more than one
31 participating employer or performing duties in more than one position,
32 contributions shall be made on compensation from all such employment
33 for that calendar year. If a retirant is employed in a non-covered position,
34 no employer contribution shall be paid to the system. The participating
35 employer shall enroll all retirants and report to the system when
36 compensation is paid to a retirant as provided in this subsection. Such
37 notice shall contain a certification by the appointing authority of the
38 participating employer that any hired retirant has not been employed by
39 the participating employer within 60 days of such retirant's retirement and
40 that there was no prearranged agreement for employment between the
41 participating employer and the hired retirant. Upon request of the
42 executive director of the system, the participating employer shall provide
43 such information as may be needed by the executive director to carry out

1 the provisions of this subsection. The provisions of this subsection shall
2 not apply to retirants employed as substitute teachers without a contract.
3 ~~The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be~~
4 ~~applicable to retirants employed as described in this subsection, except as~~
5 ~~specifically provided in this subsection.~~ Nothing in this subsection shall be
6 construed to create any right, or to authorize the creation of any right,
7 ~~which that~~ is not subject to amendment or nullification by act of the
8 legislature.

9 (4) (a) ~~On and after July 1, 2016, a school district may hire a retired~~
10 ~~licensed professional to fill a special teacher position as defined in K.S.A.~~
11 ~~72-3404, and amendments thereto, if such retirant is hired not prior to 60~~
12 ~~days after such retirant's retirement date without any prearrangement with~~
13 ~~such school district in the manner prescribed in this subsection. The~~
14 ~~participating employer shall enroll all retirants and report to the system~~
15 ~~when compensation is paid to a retirant as provided in this subsection.~~
16 ~~Such notice shall contain a certification by the appointing authority of the~~
17 ~~participating employer that any hired retirant has not been employed by~~
18 ~~the participating employer within 60 days of such retirant's retirement and~~
19 ~~that there was no prearranged agreement for employment between the~~
20 ~~participating employer and the hired retirant. Upon request of the~~
21 ~~executive director of the system, the participating employer shall provide~~
22 ~~such information as may be needed by the executive director to carry out~~
23 ~~the provisions of this subsection.~~

24 (b) ~~A retirant hired under the provisions of this subsection may~~
25 ~~continue to receive such retirant's full retirement benefit for a period not to~~
26 ~~exceed three school years or 36 months, whichever is less, and shall not be~~
27 ~~subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,~~
28 ~~which relate to a compensation limitation which when met or exceeded~~
29 ~~requires that the retirant not receive a retirement benefit for any month for~~
30 ~~which such retirant serves in a position as described herein. Such retirant~~
31 ~~may be employed by such employer for some or all of a school year, and~~
32 ~~in subsequent school years if the employer is unable to permanently fill the~~
33 ~~position with active members, so long as the retirant's total term of~~
34 ~~employment with all employers under this subsection does not exceed 36~~
35 ~~months or three school years, whichever is less. After such period, the~~
36 ~~retirant shall be subject to the provisions of K.S.A. 74-4914(7), and~~
37 ~~amendments thereto, which relate to a compensation limitation which~~
38 ~~when met or exceeded requires that the retirant not receive a retirement~~
39 ~~benefit for any month for which such retirant serves in a position as~~
40 ~~described herein. The participating employer of such retirant shall pay to~~
41 ~~the system a 30% employer contribution based on the retirant's~~
42 ~~compensation during any such period of employment. The provisions of~~
43 ~~this subsection shall not apply to retirants employed as substitute teachers~~

1 without a contract. The provisions of K.S.A. 74-4914(5), and amendments
2 thereto, shall be applicable to retirants employed as special teachers,
3 except as specifically provided in this subsection.

4 (e) ~~Each school district that uses the provisions of this subsection to
5 hire retirants shall maintain documentation describing their recruiting
6 efforts to obtain non-retirant employees to fill the special teacher positions.
7 Upon request of the joint committee on pensions, investments and
8 benefits, an employer shall provide such documentation to the committee.
9 If the committee finds that an employer has not made sufficient efforts to
10 hire a non-retirant for the position or if the committee finds evidence of
11 prearrangement in violation of this section, the three-year exemption
12 provided pursuant to this subsection may be revoked. The committee shall
13 notify the executive director of the system that a retirant's exemption has
14 been revoked within 30 days of making such a determination.~~

15 (d) ~~An employer may submit a written assurance protocol to the
16 system to make a one-time extension to the exception provided for in this
17 subsection by one year. Such written assurance protocol shall be signed by
18 the superintendent and the board president of the school district. Such
19 written assurance protocol shall state that the position was advertised on
20 multiple platforms for a minimum of 30 calendar days and that at least one
21 of the following conditions occurred:~~

22 (i) ~~No applications were submitted for the position;~~

23 (ii) ~~if applications were submitted, none of the applicants met the
24 reference screening criteria of the employer; or~~

25 (iii) ~~if applications were submitted, none of the applicants possessed
26 an appropriate teaching license for the state of Kansas or possessed the
27 appropriate credentials to receive any type of teaching license from the
28 state of Kansas.~~

29 (e) ~~Nothing in this subsection shall be construed to create any right,
30 or to authorize the creation of any right, which is not subject to
31 amendment or nullification by act of the legislature.~~

32 (f) ~~The provisions of this subsection shall expire on January 1, 2018.~~

33 (5) (a) ~~On and after July 1, 2016, a school district may hire a retired
34 licensed professional to fill a non-special teacher position if such retirant is
35 hired not prior to 60 days after such retirant's retirement date without any
36 prearrangement with such school district, and if such school district hires a
37 retirant for a hard-to-fill position in the manner prescribed in this
38 subsection. The participating employer shall enroll all retirants and report
39 to the system when compensation is paid to a retirant as provided in this
40 subsection. Such notice shall contain a certification by the appointing
41 authority of the participating employer that any hired retirant has not been
42 employed by the participating employer within 60 days of such retirant's
43 retirement and that there was no prearranged agreement for employment~~

1 between the participating employer and the hired retirant. Upon request of
2 the executive director of the system, the participating employer shall
3 provide such information as may be needed by the executive director to
4 carry out the provisions of this subsection.

5 ~~(b) The state board of education shall annually certify the top five~~
6 ~~types of licensed positions that are hard to fill. A school district may hire a~~
7 ~~retirant to fill a hard-to-fill position for some or all of a school year and in~~
8 ~~subsequent school years if the employer is unable to permanently fill the~~
9 ~~position with an active member. A retirant first hired under the provisions~~
10 ~~of this subsection may be retained by an employer even if such retirant's~~
11 ~~type of position is no longer one of the five types of positions certified by~~
12 ~~the state board of education. A retirant hired under the provisions of this~~
13 ~~subsection may continue to receive such retirant's full retirement benefit~~
14 ~~for a period not to exceed three school years or 36 months, whichever is~~
15 ~~less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and~~
16 ~~amendments thereto, which relate to a compensation limitation which~~
17 ~~when met or exceeded requires that the retirant not receive a retirement~~
18 ~~benefit for any month for which such retirant serves in a position as~~
19 ~~described herein. Such retirant may be employed by such employer for~~
20 ~~some or all of a school year, and in subsequent school years if the~~
21 ~~employer is unable to permanently fill the position with active members,~~
22 ~~so long as the retirant's total term of employment with all employers under~~
23 ~~this subsection does not exceed 36 months or three school years,~~
24 ~~whichever is less. After such period, the retirant shall be subject to the~~
25 ~~provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to~~
26 ~~a compensation limitation which when met or exceeded requires that the~~
27 ~~retirant not receive a retirement benefit for any month for which such~~
28 ~~retirant serves in a position as described herein. The participating~~
29 ~~employer of such retirant shall pay to the system a 30% employer~~
30 ~~contribution based on the retirant's compensation during any such period~~
31 ~~of employment. The provisions of this subsection shall not apply to~~
32 ~~retirants employed as substitute teachers without a contract. The provisions~~
33 ~~of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to~~
34 ~~retirants employed as described in this subsection, except as specifically~~
35 ~~provided in this subsection.~~

36 ~~(c) Each school district that uses the provisions of this subsection to~~
37 ~~hire retirants for hard-to-fill positions shall maintain documentation~~
38 ~~describing their recruiting efforts to obtain non-retirant employees to fill~~
39 ~~the hard-to-fill positions. Upon request of the joint committee on pensions,~~
40 ~~investments and benefits, a school district shall provide such~~
41 ~~documentation to the committee. If the committee finds that a school~~
42 ~~district has not made sufficient efforts to hire a non-retirant for the position~~
43 ~~or if the committee finds evidence of prearrangement in violation of this~~

1 section, the three-year exemption provided pursuant to this subsection may
2 be revoked. The committee shall notify the executive director of the
3 system that a retirant's exemption has been revoked within 30 days of
4 making such a determination.

5 ~~(d) An employer may submit a written assurance protocol to the~~
6 ~~system to make a one-time extension to the exception provided for in this~~
7 ~~subsection by one year. Such written assurance protocol shall be signed by~~
8 ~~the superintendent and the board president of the school district. Such~~
9 ~~written assurance protocol shall state that the position was advertised on~~
10 ~~multiple platforms for a minimum of 30 calendar days and that at least one~~
11 ~~of the following conditions occurred:~~

12 ~~(i) No applications were submitted for the position;~~

13 ~~(ii) if applications were submitted, none of the applicants met the~~
14 ~~reference screening criteria of the employer; or~~

15 ~~(iii) if applications were submitted, none of the applicants possessed~~
16 ~~an appropriate teaching license for the state of Kansas or possessed the~~
17 ~~appropriate credentials to receive any type of teaching license from the~~
18 ~~state of Kansas.~~

19 ~~(e) Nothing in this subsection shall be construed to create any right,~~
20 ~~or to authorize the creation of any right, which is not subject to~~
21 ~~amendment or nullification by act of the legislature.~~

22 ~~(f) The provisions of this subsection shall expire on January 1, 2018.~~

23 ~~(6)(4) The provisions of K.S.A. 74-4914(8)(7), and amendments~~
24 ~~thereto, shall apply to retirants under the provisions of this section.~~

25 ~~(7)(5) For the purposes of this section a prearranged agreement for~~
26 ~~employment may be determined by whether the facts and circumstances of~~
27 ~~the situation indicate that the employer and employee reasonably~~
28 ~~anticipated that further services would be performed after the employee's~~
29 ~~retirement.~~

30 Sec. 3. K.S.A. 74-4937 and K.S.A. 2023 Supp. 74-4914 are hereby
31 repealed.

32 Sec. 4. This act shall take effect and be in force from and after its
33 publication in the statute book.