

## 2012 Kansas Statutes

**74-4905. Board of trustees; membership; qualifications; terms; vacancies; substantial interests prohibited, disclosure; investigations by KBI or other agency, confidentiality.** (a) On July 1, 1993, the board of trustees of the Kansas public employees retirement system, as such board existed on June 30, 1993, is hereby abolished. On July 1, 1993, there is hereby established a new board of trustees of the Kansas public employees retirement system. Such board established on July 1, 1993, shall consist of nine members, as follows:

(1) Six appointed members, four appointed by the governor subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto, one appointed by the president of the senate and one appointed by the speaker of the house of representatives. Except as provided by K.S.A. 46-2601, no person appointed to the board whose appointment is subject to confirmation, shall exercise any power, duty or function as a member of the board until confirmed by the senate. No more than two members of the board whose appointment is subject to confirmation shall be from the same political party;

(2) two retirement system members elected by the members and retirants of the system as provided in subsection (12) of K.S.A. 74-4909 and amendments thereto. As provided in this subsection, only active and retired members of the system shall be eligible to be elected to the board and only active and retired members of the system shall be eligible to elect the two retirement system members pursuant to this subsection. Inactive members shall not be eligible to be elected to the board nor to elect the two retirement system members elected pursuant to this subsection. If a member elected to the board as provided in this subsection becomes inactive, such member is disqualified from service on the board and such member's board position shall be vacant and such vacancy shall be filled as provided in subsection (b)(1). Of the two retirement system members elected pursuant to this subsection, one shall be a member of the retirement system who is in school employment as provided in K.S.A. 74-4931et seq. and amendments thereto and one shall be a member of the retirement system other than a member who is in school employment. For purposes of this subsection, retirement system means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges; and

(3) the state treasurer.

(b) (1) Except as provided by this paragraph and paragraph (2), all members of the board as provided in subsection (a)(1) and (a)(2) shall serve four-year terms, except that of the members first appointed by the governor, two shall be appointed for two-year terms and the member appointed by the speaker of the house of representatives shall be appointed for a two-year term. The governor shall designate the term for which each of the members first appointed shall serve. All members appointed to fill vacancies in the membership of the board and all members appointed to succeed members appointed to membership on the board shall be appointed in like manner as that provided for the original appointment of the member succeeded. All members appointed to fill vacancies of a member of the board appointed by the governor, the president of the senate or the speaker of the house of representatives shall be appointed to fill the unexpired term of such member. All vacancies on the board by a member elected by the members and retirants of the system shall be filled by the board as provided by rules and regulations adopted as provided in subsection (12) of K.S.A. 74-4909 and amendments thereto.

(2) Except as provided in K.S.A. 46-2601, no person appointed to the board by the governor shall exercise any power, duty or function as a member of the board until confirmed by the senate. The terms of members appointed by the governor who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(c) The board shall elect a chairperson of the board at the first regular meeting held on or after July 1, 1993, and at each annual meeting thereafter from the members of the board. The chairperson shall preside over meetings of the board and perform such other duties as required by the board.

(d) The chairperson shall appoint another board member as vice-chairperson, and the vice-chairperson shall perform the duties of chairperson in the absence of the chairperson or upon the chairperson's inability or refusal to act.

(e) The six members appointed pursuant to subsection (a)(1) shall have demonstrated experience in the financial affairs of a public or private organization or entity which employs 100 or more employees or had at least five years' experience in the field of investment management or analysis, actuarial analysis or administration of an employee benefit plan.

(f) No person shall serve on the board if such person has knowingly acquired a substantial interest in any nonpublicly traded investment made with moneys of the fund. Any such person who knowingly acquires such an interest shall vacate such member's position on the board and shall be guilty of a class A misdemeanor. For purposes of this subsection, "substantial interest" means any of the following:

(1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(3) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(4) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

(5) If an individual or an individual's spouse has received a loan from or received financing from any bank, savings and loan, credit union or any other financial institution in an amount which exceeds \$2,000, the individual has a substantial interest in that financial institution.

As used in this subsection, "client or customer" means a business or combination of businesses.

Any person who serves on the board shall fully disclose any substantial interest that such person has in any publicly traded investment made with moneys of the fund.

(g) No person who serves on the board shall be employed for a period of two years commencing on the date the person no longer serves on the board and ending two years after such date with any organization in which moneys of the fund were invested, except that the employment limitation contained in this subsection shall not apply if such person's employment is with an organization whose stock or other evidences of ownership are traded on the public stock or bond exchanges.

(h) All members of the board named, appointed or elected to the board shall be subject to an investigation by the Kansas bureau of investigation or other criminal justice agencies. Information to be obtained during such investigation shall include criminal history record information, including arrest and conviction data, criminal intelligence information and information relating to criminal and background investigations as necessary to determine qualifications of such member. Such information shall be forwarded to the senate committee specified by the president of the senate for such committee's consideration and other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the committee as necessary to determine qualifications of such member. The committee, in accordance with K.S.A. 75-4319 and amendments thereto shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection.

(i) All of the powers, duties and functions of the board of trustees of the Kansas public employees retirement system as such board existed prior to July 1, 1993, are hereby transferred to and conferred and imposed upon the board of trustees established pursuant to this act. The board of trustees of the Kansas public employees retirement system established pursuant to this act shall be the successor in every way of the powers, duties and functions of the board of trustees existing prior to July 1, 1993, in which the same were vested prior to July 1, 1993.

**History:** L. 1961, ch. 427, § 5; L. 1982, ch. 347, § 42; L. 1992, ch. 218, § 1; L. 1993, ch. 289, § 1; L. 1995, ch. 241, § 13; L. 1996, ch. 266, § 5; L. 1998, ch. 201, § 11; July 1.