

SENATE BILL No. 237

By Committee on Federal and State Affairs

3-14

1 AN ACT concerning the Kansas public employee retirement system;
2 dealing with military service; amending K.S.A. 2012 Supp. 74-4902
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 74-4902 is hereby amended to read as
7 follows: 74-4902. As used in articles 49 and 49a of chapter 74, and
8 amendments thereto, unless otherwise provided or the context otherwise
9 requires:

10 (1) "Accumulated contributions" means the sum of all contributions
11 by a member to the system which are credited to the member's account,
12 with interest allowed thereon;

13 (2) "acts" means the provisions of articles 49 and 49a of the Kansas
14 Statutes Annotated, and amendments thereto;

15 (3) "actuarial equivalent" means an annuity or benefit of equal value
16 to the accumulated contributions, annuity or benefit, when computed upon
17 the basis of the actuarial tables in use by the system. Whenever the amount
18 of any benefit is to be determined on the basis of actuarial assumptions,
19 the assumptions shall be specified in a way that precludes employer
20 discretion;

21 (4) "actuarial tables" means the actuarial tables approved and in use
22 by the board at any given time;

23 (5) "actuary" means the actuary or firm of actuaries employed or
24 retained by the board at any given time;

25 (6) "agent" means the individual designated by each participating
26 employer through whom system transactions and communication are
27 directed;

28 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,
29 and amendments thereto, any natural person or persons, estate or trust, or
30 any combination thereof, named by a member to receive any benefits as
31 provided for by this act. Designations of beneficiaries by a member who is
32 a member of more than one retirement system made on or after July 1,
33 1987, shall be the basis of any benefits payable under all systems unless
34 otherwise provided by law. Except as otherwise provided by subsection
35 (33) of this section, if there is no named beneficiary living at *the* time of
36 *the* member's death, any benefits provided for by this act shall be paid to:

1 (A) The member's surviving spouse; (B) the member's dependent child or
2 children; (C) the member's dependent parent or parents; (D) the member's
3 nondependent child or children; (E) the member's nondependent parent or
4 parents; (F) the estate of the deceased member; in the order of preference
5 as specified in this subsection;

6 (8) "board of trustees," "board" or "trustees" means the managing
7 body of the system which is known as the Kansas public employees
8 retirement system board of trustees;

9 (9) "compensation" means, except as otherwise provided, all salary,
10 wages and other remuneration payable to a member for personal services
11 performed for a participating employer, including maintenance or any
12 allowance in lieu thereof provided a member as part of compensation, but
13 not including reimbursement for travel or moving expenses or on and after
14 July 1, 1994, payment pursuant to an early retirement incentive program
15 made prior to the retirement of the member. Beginning with the employer's
16 fiscal year which begins in calendar year 1991 or for employers other than
17 the state of Kansas, beginning with the fiscal year which begins in
18 calendar year 1992, when the compensation of a member who remains in
19 substantially the same position during any two consecutive years of
20 participating service used in calculating final average salary is increased
21 by an amount which exceeds 15%, then the amount of such increase which
22 exceeds 15% shall not be included in compensation, except that: (A) Any
23 amount of compensation for accumulated sick leave or vacation or annual
24 leave paid to the member; (B) any increase in compensation for any
25 member due to a reclassification or reallocation of such member's position
26 or a reassignment of such member's job classification to a higher range or
27 level; and (C) any increase in compensation as provided in any contract
28 entered into prior to January 1, 1991, and still in force on the effective date
29 of this act, pursuant to an early retirement incentive program as provided
30 in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in
31 the amount of compensation of such member used in determining such
32 member's final average salary and shall not be subject to the 15%
33 limitation provided in this subsection. Any contributions by such member
34 on the amount of such increase which exceeds 15% which is not included
35 in compensation shall be returned to the member. Unless otherwise
36 provided by law, beginning with the employer's fiscal year coinciding with
37 or following July 1, 1985, compensation shall include any amounts for tax
38 sheltered annuities or deferred compensation plans. Beginning with the
39 employer's fiscal year which begins in calendar year 1991, compensation
40 shall include amounts under sections 403b, 457 and 125 of the federal
41 internal revenue code of 1986 and, as the board deems appropriate, any
42 other section of the federal internal revenue code of 1986 which defers or
43 excludes amounts from inclusion in income. For purposes of applying

1 limits under the federal internal revenue code "compensation" shall have
2 the meaning as provided in K.S.A. 74-49,123, and amendments thereto.
3 For purposes of this subsection and application to the provisions of
4 subsection (4) of K.S.A. 74-4927, and amendments thereto,
5 "compensation" shall not include any payments made by the state board of
6 regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a,
7 and amendments thereto, to a member of the faculty or other person
8 defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto;

9 (10) "credited service" means the sum of participating service and
10 prior service and in no event shall credited service include any service
11 which is credited under another retirement plan authorized under any law
12 of this state;

13 (11) "dependent" means a parent or child of a member who is
14 dependent upon the member for at least $\frac{1}{2}$ of such parent or child's
15 support;

16 (12) "effective date" means the date upon which the system becomes
17 effective by operation of law;

18 (13) "eligible employer" means the state of Kansas, and any county,
19 city, township, special district or any instrumentality of any one or several
20 of the aforementioned or any noncommercial public television or radio
21 station located in this state which receives state funds allocated by the
22 Kansas public broadcasting commission whose employees are covered by
23 social security. If a class or several classes of employees of any above
24 defined employer are not covered by social security, such employer shall
25 be deemed an eligible employer only with respect to such class or those
26 classes of employees who are covered by social security;

27 (14) "employee" means any appointed or elective officer or employee
28 of a participating employer whose employment is not seasonal or
29 temporary and whose employment requires at least 1,000 hours of work
30 per year, and any such officer or employee who is concurrently employed
31 performing similar or related tasks by two or more participating
32 employers, who each remit employer and employee contributions on
33 behalf of such officer or employee to the system, and whose combined
34 employment is not seasonal or temporary, and whose combined
35 employment requires at least 1,000 hours of work per year, but not
36 including: (A) Any employee who is a contributing member of the United
37 States civil service retirement system; (B) any employee who is a
38 contributing member of the federal employees retirement system; (C) any
39 employee who is a leased employee as provided in section 414 of the
40 federal internal revenue code of a participating employer; and (D) any
41 employee or class of employees specifically exempted by law. After June
42 30, 1975, no person who is otherwise eligible for membership in the
43 Kansas public employees retirement system shall be barred from such

1 membership by reason of coverage by, eligibility for or future eligibility
2 for a retirement annuity under the provisions of K.S.A. 74-4925, and
3 amendments thereto, except that no person shall receive service credit
4 under the Kansas public employees retirement system for any period of
5 service for which benefits accrue or are granted under a retirement annuity
6 plan under the provisions of K.S.A. 74-4925, and amendments thereto.
7 After June 30, 1982, no person who is otherwise eligible for membership
8 in the Kansas public employees retirement system shall be barred from
9 such membership by reason of coverage by, eligibility for or future
10 eligibility for any benefit under another retirement plan authorized under
11 any law of this state, except that no such person shall receive service credit
12 under the Kansas public employees retirement system for any period of
13 service for which any benefit accrues or is granted under any such
14 retirement plan. Employee shall include persons who are in training at or
15 employed by, or both, a sheltered workshop for the blind operated by the
16 secretary of social and rehabilitation services. The entry date for such
17 persons shall be the beginning of the first pay period of the fiscal year
18 commencing in calendar year 1986. Such persons shall be granted prior
19 service credit in accordance with K.S.A. 74-4913, and amendments
20 thereto. However, such persons classified as home industry employees
21 shall not be covered by the retirement system. Employees shall include
22 any member of a board of county commissioners of any county and any
23 council member or commissioner of a city whose compensation is equal to
24 or exceeds \$5,000 per year;

25 (15) "entry date" means the date as of which an eligible employer
26 joins the system. The first entry date pursuant to this act is January 1,
27 1962;

28 (16) "executive director" means the managing officer of the system
29 employed by the board under this act;

30 (17) "final average salary" means in the case of a member who retires
31 prior to January 1, 1977, and in the case of a member who retires after
32 January 1, 1977, and who has less than five years of participating service
33 after January 1, 1967, the average highest annual compensation paid to
34 such member for any five years of the last 10 years of participating service
35 immediately preceding retirement or termination of employment, or in the
36 case of a member who retires on or after January 1, 1977, and who has five
37 or more years of participating service after January 1, 1967, the average
38 highest annual compensation paid to such member on or after January 1,
39 1967, for any five years of participating service preceding retirement or
40 termination of employment, or, in any case, if participating service is less
41 than five years, then the average annual compensation paid to the member
42 during the full period of participating service, or, in any case, if the
43 member has less than one calendar year of participating service such

1 member's final average salary shall be computed by multiplying such
2 member's highest monthly salary received in that year by 12; in the case of
3 a member who became a member under subsection (3) of K.S.A. 74-4925,
4 and amendments thereto, or who became a member with a participating
5 employer as defined in subsection (3) of K.S.A. 74-4931, and amendments
6 thereto, and who elects to have compensation paid in other than 12 equal
7 installments, such compensation shall be annualized as if the member had
8 elected to receive 12 equal installments for any such periods preceding
9 retirement; in the case of a member who retires after July 1, 1987, the
10 average highest annual compensation paid to such member for any four
11 years of participating service preceding retirement or termination of
12 employment; in the case of a member who retires on or after July 1, 1993,
13 whose date of membership in the system is prior to July 1, 1993, and any
14 member who is in such member's membership waiting period on July 1,
15 1993, and whose date of membership in the system is on or after July 1,
16 1993, the average highest annual compensation, as defined in subsection
17 (9), paid to such member for any four years of participating service
18 preceding retirement or termination of employment or the average highest
19 annual salary, as defined in subsection (34), paid to such member for any
20 three years of participating service preceding retirement or termination of
21 employment, whichever is greater; and in the case of a member who retires
22 on or after July 1, 1993, and whose date of membership in the system is on
23 or after July 1, 1993, the average highest annual salary, as defined in
24 subsection (34), paid to such member for any three years of participating
25 service preceding retirement or termination of employment. Final average
26 salary shall not include any purchase of participating service credit by a
27 member as provided in subsection (2) of K.S.A. 74-4919h, and
28 amendments thereto, which is completed within five years of retirement.
29 For any application to purchase or repurchase service credit for a certain
30 period of service as provided by law received by the system after May 17,
31 1994, for any member who will have contributions deducted from such
32 member's compensation at a percentage rate equal to two or three times the
33 employee's rate of contribution or will begin paying to the system a lump-
34 sum amount for such member's purchase or repurchase and such
35 deductions or lump-sum payment commences after the commencement of
36 the first payroll period in the third quarter, "final average salary" shall not
37 include any amount of compensation or salary which is based on such
38 member's purchase or repurchase. Any application to purchase or
39 repurchase multiple periods of service shall be treated as multiple
40 applications. For purposes of this subsection, the date that such member is
41 first hired as an employee for members who are employees of employers
42 that elected to participate in the system on or after January 1, 1994, shall
43 be the date that such employee's employer elected to participate in the

1 system. In the case of any former member who was eligible for assistance
2 pursuant to K.S.A. 74-4925, and amendments thereto, prior to July 1,
3 1998, for the purpose of calculating final average salary of such member,
4 such member's final average salary shall be based on such member's salary
5 while a member of the system or while eligible for assistance pursuant to
6 K.S.A. 74-4925, and amendments thereto, whichever is greater;

7 (18) "fiscal year" means, for the Kansas public employees retirement
8 system, the period commencing July 1 of any year and ending June 30 of
9 the next;

10 (19) "Kansas public employees retirement fund" means the fund
11 created by this act for payment of expenses and benefits under the system
12 and referred to as the fund;

13 (20) "leave of absence" means a period of absence from employment
14 without pay, authorized and approved by the employer, and which after the
15 effective date does not exceed one year;

16 (21) "member" means an eligible employee who is in the system and
17 is making the required employee contributions; any former employee who
18 has made the required contributions to the system and has not received a
19 refund if such member is within five years of termination of employment
20 with a participating employer; or any former employee who has made the
21 required contributions to the system, has not yet received a refund and has
22 been granted a vested benefit;

23 (22) "military service" means service in the uniformed forces of the
24 United States, for which retirement benefit credit must be given under the
25 provisions of USERRA or service in the armed forces of the United States
26 or in the commissioned corps of the United States public health service,
27 which service is immediately preceded by a period of employment as an
28 employee or by the entering into of an employment contract with a
29 participating employer and is followed by return to employment as an
30 employee with the same or another participating employer within ~~12~~ 24
31 months immediately following discharge from such military service,
32 except that if the board determines that such return within ~~12~~ 24 months
33 was made impossible by reason of a service-connected disability, the
34 period within which the employee must return to employment with a
35 participating employer shall be extended not more than ~~two~~ three years
36 from the date of discharge or separation from military service;

37 (23) "normal retirement date" means the date on or after which a
38 member may retire with full retirement benefits pursuant to K.S.A. 74-
39 4914, and amendments thereto;

40 (24) "participating employer" means an eligible employer who has
41 agreed to make contributions to the system on behalf of its employees;

42 (25) "participating service" means the period of employment after the
43 entry date for which credit is granted a member;

1 (26) "prior service" means the period of employment of a member
2 prior to the entry date for which credit is granted a member under this act;

3 (27) "prior service annual salary" means the highest annual salary, not
4 including any amounts received as payment for overtime or as
5 reimbursement for travel or moving expense, received for personal
6 services by the member from the current employer in any one of the three
7 calendar years immediately preceding January 1, 1962, or the entry date of
8 the employer, whichever is later, except that if a member entered the
9 employment of the state during the calendar year 1961, the prior service
10 annual salary shall be computed by multiplying such member's highest
11 monthly salary received in that year by 12;

12 (28) "retirant" means a member who has retired under this system;

13 (29) "retirement benefit" means a monthly income or the actuarial
14 equivalent thereof paid in such manner as specified by the member
15 pursuant to this act or as otherwise allowed to be paid at the discretion of
16 the board, with benefits accruing from the first day of the month
17 coinciding with or following retirement and ending on the last day of the
18 month in which death occurs. Upon proper identification a surviving
19 spouse may negotiate the warrant issued in the name of the retirant. If
20 there is no surviving spouse, the last warrant shall be payable to the
21 designated beneficiary;

22 (30) "retirement system" or "system" means the Kansas public
23 employees retirement system as established by this act and as it may be
24 amended;

25 (31) "social security" means the old age, survivors and disability
26 insurance section of the federal social security act;

27 (32) "trust" means an express trust, created by a trust instrument,
28 including a will, designated by a member to receive payment of the
29 insured death benefit under K.S.A. 74-4927, and amendments thereto, and
30 payment of the member's accumulated contributions under subsection (1)
31 of K.S.A. 74-4916, and amendments thereto. A designation of a trust shall
32 be filed with the board. If no will is admitted to probate within six months
33 after the death of the member or no trustee qualifies within such six
34 months or if the designated trust fails, for any reason whatsoever, the
35 insured death benefit under K.S.A. 74-4927, and amendments thereto, and
36 the member's accumulated contributions under subsection (1) of K.S.A.
37 74-4916, and amendments thereto, shall be paid in accordance with the
38 provisions of subsection (7) of this section as in other cases where there is
39 no named beneficiary living at the time of the member's death and any
40 payments so made shall be a full discharge and release to the system from
41 any further claims;

42 (33) "salary" means all salary and wages payable to a member for
43 personal services performed for a participating employer, including

1 maintenance or any allowance in lieu thereof provided a member as part of
2 salary. Salary shall not include reimbursement for travel or moving
3 expenses, payment for accumulated sick leave or vacation or annual leave,
4 severance pay or any other payments to the member determined by the
5 board to not be payments for personal services performed for a
6 participating employer constituting salary or on and after July 1, 1994,
7 payment pursuant to an early retirement incentive program made prior to
8 the retirement of the member. When the salary of a member who remains
9 in substantially the same position during any two consecutive years of
10 participating service used in calculating final average salary is increased
11 by an amount which exceeds 15%, then the amount of such increase which
12 exceeds 15% shall not be included in salary. Any contributions by such
13 member on the amount of such increase which exceeds 15% which is not
14 included in compensation shall be returned to the member. Unless
15 otherwise provided by law, salary shall include any amounts for tax
16 sheltered annuities or deferred compensation plans. Salary shall include
17 amounts under sections 403b, 457 and 125 of the federal internal revenue
18 code of 1986 and, as the board deems appropriate, any other section of the
19 federal internal revenue code of 1986 which defers or excludes amounts
20 from inclusion in income. For purposes of applying limits under the
21 federal internal revenue code "salary" shall have the meaning as provided
22 in K.S.A. 74-49,123, and amendments thereto. In any case, if participating
23 service is less than three years, then the average annual salary paid to the
24 member during the full period of participating service, or, in any case, if
25 the member has less than one calendar year of participating service such
26 member's final average salary shall be computed by multiplying such
27 member's highest monthly salary received in that year by 12;

28 (34) "federal internal revenue code" means the federal internal
29 revenue code of 1954 or 1986, as in effect on July 1, 2008, and as
30 applicable to a governmental plan; and

31 (35) "USERRA" means the federal uniformed services employment
32 and reemployment rights act of 1994 as in effect on July 1, 2008.

33 Sec. 2. K.S.A. 2012 Supp. 74-4902 is hereby repealed.

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