

HOUSE BILL No. 2426

By Committee on Appropriations

5-1

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; calculation of
3 members' benefits; limiting accumulation of vacation leave for certain
4 employees; amending K.S.A. 75-5517 and K.S.A. 2014 Supp. 74-4902
5 and repealing the existing sections.
6

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

8 New Section 1. (a) On and after July 1, 2015, no employee who is
9 employed by any participating employer defined in K.S.A. 74-4902 and
10 74-4931, and amendments thereto, including, but not limited to, the state
11 of Kansas, cities, counties and school districts, shall accumulate vacation
12 leave in an amount of more than 240 hours. Any employee with less than
13 240 hours of vacation leave shall be able to accumulate up to 240 hours.
14 On July 1, 2015, any employee with more than 240 hours of vacation leave
15 accumulated shall be able to use such accumulated vacation leave in the
16 amount above 240 hours as of July 1, 2015, as a portion of compensation
17 as defined in K.S.A. 74-4902, and amendments thereto, upon such
18 employee's retirement.

19 (b) On and after July 1, 2015, any employee who is employed by any
20 participating employer as defined in K.S.A. 74-4902 and 74-4931, and
21 amendments thereto, shall be able to use accumulated sick leave no more
22 than the amount accumulated as of July 1, 2015, for proportionate pay out
23 in accordance with the applicable statute, rules and regulations or policies,
24 as a portion of compensation as defined in K.S.A. 74-4902, and
25 amendments thereto, upon such employee's retirement. Any employee may
26 accumulate sick leave over the amount as of July 1, 2015, but such
27 additional amount of sick leave shall not be included in the calculation of
28 such employee's compensation for retirement.

29 Sec. 2. K.S.A. 2014 Supp. 74-4902 is hereby amended to read as
30 follows: 74-4902. As used in articles 49 and 49a of chapter 74 of the
31 Kansas Statutes Annotated, and amendments thereto, unless otherwise
32 provided or the context otherwise requires:

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

36 (2) "acts" means the provisions of articles 49 and 49a of the Kansas

1 Statutes Annotated, and amendments thereto;

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

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

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

12 (6) "agent" means the individual designated by each participating
13 employer through whom system transactions and communication are
14 directed;

15 (7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927,
16 and amendments thereto, any natural person or persons, estate or trust, or
17 any combination thereof, named by a member to receive any benefits as
18 provided for by this act. Designations of beneficiaries by a member who is
19 a member of more than one retirement system made on or after July 1,
20 1987, shall be the basis of any benefits payable under all systems unless
21 otherwise provided by law. Except as otherwise provided by subsection
22 (33) of this section, if there is no named beneficiary living at the time of
23 the member's death, any benefits provided for by this act shall be paid to:
24 (A) The member's surviving spouse; (B) the member's dependent child or
25 children; (C) the member's dependent parent or parents; (D) the member's
26 nondependent child or children; (E) the member's nondependent parent or
27 parents; *or* (F) the estate of the deceased member; in the order of
28 preference as specified in this subsection;

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

32 (9) "compensation" means, except as otherwise provided, all salary,
33 wages and other remuneration payable to a member for personal services
34 performed for a participating employer, including maintenance or any
35 allowance in lieu thereof provided a member as part of compensation, but
36 not including reimbursement for travel or moving expenses or on and after
37 July 1, 1994, payment pursuant to an early retirement incentive program
38 made prior to the retirement of the member. Beginning with the employer's
39 fiscal year which begins in calendar year 1991 or for employers other than
40 the state of Kansas, beginning with the fiscal year which begins in
41 calendar year 1992, when the compensation of a member who remains in
42 substantially the same position during any two consecutive years of
43 participating service used in calculating final average salary is increased

1 by an amount which exceeds 15%, then the amount of such increase which
2 exceeds 15% shall not be included in compensation, except that: (A) Any
3 amount of compensation for accumulated sick leave or vacation or annual
4 leave paid to the member; (B) any increase in compensation for any
5 member due to a reclassification or reallocation of such member's position
6 or a reassignment of such member's job classification to a higher range or
7 level; and (C) any increase in compensation as provided in any contract
8 entered into prior to January 1, 1991, and still in force on the effective date
9 of this act, pursuant to an early retirement incentive program as provided
10 in K.S.A. 72-5395 et seq., and amendments thereto, shall be included in
11 the amount of compensation of such member used in determining such
12 member's final average salary and shall not be subject to the 15%
13 limitation provided in this subsection. Any contributions by such member
14 on the amount of such increase which exceeds 15% which is not included
15 in compensation shall be returned to the member. Unless otherwise
16 provided by law, beginning with the employer's fiscal year coinciding with
17 or following July 1, 1985, compensation shall include any amounts for tax
18 sheltered annuities or deferred compensation plans. Beginning with the
19 employer's fiscal year which begins in calendar year 1991, compensation
20 shall include amounts under sections 403b, 457 and 125 of the federal
21 internal revenue code of 1986 and, as the board deems appropriate, any
22 other section of the federal internal revenue code of 1986 which defers or
23 excludes amounts from inclusion in income. For purposes of applying
24 limits under the federal internal revenue code "compensation" shall have
25 the meaning as provided in K.S.A. 74-49,123, and amendments thereto.
26 For purposes of this subsection and application to the provisions of
27 ~~subsection (4) of K.S.A. 74-4927(4), and amendments thereto,~~
28 "compensation" shall not include any payments made by the state board of
29 regents pursuant to the provisions of ~~subsection (5) of K.S.A. 74-4927a(5),~~
30 and amendments thereto, to a member of the faculty or other person
31 defined in ~~subsection (1)(a) of K.S.A. 74-4925(1)(a), and amendments~~
32 ~~thereto;~~

33 *No employee shall increase the amount of compensation during the*
34 *four-year period immediately prior to the retirement of such employee by*
35 *adding any portion of compensation that was earned by such employee but*
36 *not paid to such employee during the period of employment prior to the*
37 *four years before the retirement.*

38 *For purposes of this subsection and application to the provisions of*
39 *subsection (17), "compensation" shall include any payment for*
40 *accumulated sick leave, vacation or annual leave paid to the member at*
41 *the salary pay rates of such member as of July 1, 2015;*

42 (10) "credited service" means the sum of participating service and
43 prior service and in no event shall credited service include any service

1 which is credited under another retirement plan authorized under any law
2 of this state;

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

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

8 (13) "eligible employer" means the state of Kansas, and any county,
9 city, township, special district or any instrumentality of any one or several
10 of the aforementioned or any noncommercial public television or radio
11 station located in this state which receives state funds allocated by the
12 Kansas public broadcasting commission whose employees are covered by
13 social security. If a class or several classes of employees of any above
14 defined employer are not covered by social security, such employer shall
15 be deemed an eligible employer only with respect to such class or those
16 classes of employees who are covered by social security;

17 (14) "employee" means any appointed or elective officer or employee
18 of a participating employer whose employment is not seasonal or
19 temporary and whose employment requires at least 1,000 hours of work
20 per year, and any such officer or employee who is concurrently employed
21 performing similar or related tasks by two or more participating
22 employers, who each remit employer and employee contributions on
23 behalf of such officer or employee to the system, and whose combined
24 employment is not seasonal or temporary, and whose combined
25 employment requires at least 1,000 hours of work per year, but not
26 including: (A) Any employee who is a contributing member of the United
27 States civil service retirement system; (B) any employee who is a
28 contributing member of the federal employees retirement system; (C) any
29 employee who is a leased employee as provided in section 414 of the
30 federal internal revenue code of a participating employer; and (D) any
31 employee or class of employees specifically exempted by law. After June
32 30, 1975, no person who is otherwise eligible for membership in the
33 Kansas public employees retirement system shall be barred from such
34 membership by reason of coverage by, eligibility for or future eligibility
35 for a retirement annuity under the provisions of K.S.A. 74-4925, and
36 amendments thereto, except that no person shall receive service credit
37 under the Kansas public employees retirement system for any period of
38 service for which benefits accrue or are granted under a retirement annuity
39 plan under the provisions of K.S.A. 74-4925, and amendments thereto.
40 After June 30, 1982, no person who is otherwise eligible for membership
41 in the Kansas public employees retirement system shall be barred from
42 such membership by reason of coverage by, eligibility for or future
43 eligibility for any benefit under another retirement plan authorized under

1 any law of this state, except that no such person shall receive service credit
2 under the Kansas public employees retirement system for any period of
3 service for which any benefit accrues or is granted under any such
4 retirement plan. Employee shall include persons who are in training at or
5 employed by, or both, a sheltered workshop for the blind operated by the
6 secretary for children and families. The entry date for such persons shall
7 be the beginning of the first pay period of the fiscal year commencing in
8 calendar year 1986. Such persons shall be granted prior service credit in
9 accordance with K.S.A. 74-4913, and amendments thereto. However, such
10 persons classified as home industry employees shall not be covered by the
11 retirement system. Employees shall include any member of a board of
12 county commissioners of any county and any council member or
13 commissioner of a city whose compensation is equal to or exceeds \$5,000
14 per year;

15 (15) "entry date" means the date as of which an eligible employer
16 joins the system. The first entry date pursuant to this act is January 1,
17 1962;

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

20 (17) "final average salary" means in the case of a member who retires
21 prior to January 1, 1977, and in the case of a member who retires after
22 January 1, 1977, and who has less than five years of participating service
23 after January 1, 1967, the average highest annual compensation paid to
24 such member for any five years of the last 10 years of participating service
25 immediately preceding retirement or termination of employment, or in the
26 case of a member who retires on or after January 1, 1977, and who has five
27 or more years of participating service after January 1, 1967, the average
28 highest annual compensation paid to such member on or after January 1,
29 1967, for any five years of participating service preceding retirement or
30 termination of employment, or, in any case, if participating service is less
31 than five years, then the average annual compensation paid to the member
32 during the full period of participating service, or, in any case, if the
33 member has less than one calendar year of participating service such
34 member's final average salary shall be computed by multiplying such
35 member's highest monthly salary received in that year by 12; in the case of
36 a member who became a member under ~~subsection (3) of~~ K.S.A. 74-
37 4925(3), and amendments thereto, or who became a member with a
38 participating employer as defined in ~~subsection (3) of~~ K.S.A. 74-4931(3),
39 and amendments thereto, and who elects to have compensation paid in
40 other than 12 equal installments, such compensation shall be annualized as
41 if the member had elected to receive 12 equal installments for any such
42 periods preceding retirement; in the case of a member who retires after
43 July 1, 1987, the average highest annual compensation paid to such

1 member for any four years of participating service preceding retirement or
2 termination of employment; in the case of a member who retires on or
3 after July 1, 1993, whose date of membership in the system is prior to July
4 1, 1993, and any member who is in such member's membership waiting
5 period on July 1, 1993, and whose date of membership in the system is on
6 or after July 1, 1993, the average highest annual compensation, as defined
7 in subsection (9), paid to such member for any four years of participating
8 service preceding retirement or termination of employment or the average
9 highest annual salary, as defined in subsection ~~(34)~~ (33), paid to such
10 member for any three years of participating service preceding retirement
11 or termination of employment, whichever is greater; and in the case of a
12 member who retires on or after July 1, 1993, and whose date of
13 membership in the system is on or after July 1, 1993, the average highest
14 annual salary, as defined in subsection ~~(34)~~ (33), paid to such member for
15 any three years of participating service preceding retirement or termination
16 of employment. Final average salary shall not include any purchase of
17 participating service credit by a member as provided in ~~subsection (2) of~~
18 K.S.A. 74-4919h(2), and amendments thereto, which is completed within
19 five years of retirement. For any application to purchase or repurchase
20 service credit for a certain period of service as provided by law received
21 by the system after May 17, 1994, for any member who will have
22 contributions deducted from such member's compensation at a percentage
23 rate equal to two or three times the employee's rate of contribution or will
24 begin paying to the system a lump-sum amount for such member's
25 purchase or repurchase and such deductions or lump-sum payment
26 commences after the commencement of the first payroll period in the third
27 quarter, "final average salary" shall not include any amount of
28 compensation or salary which is based on such member's purchase or
29 repurchase. Any application to purchase or repurchase multiple periods of
30 service shall be treated as multiple applications. For purposes of this
31 subsection, the date that such member is first hired as an employee for
32 members who are employees of employers that elected to participate in the
33 system on or after January 1, 1994, shall be the date that such employee's
34 employer elected to participate in the system. In the case of any former
35 member who was eligible for assistance pursuant to K.S.A. 74-4925, and
36 amendments thereto, prior to July 1, 1998, for the purpose of calculating
37 final average salary of such member, such member's final average salary
38 shall be based on such member's salary while a member of the system or
39 while eligible for assistance pursuant to K.S.A. 74-4925, and amendments
40 thereto, whichever is greater;

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

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

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

7 (21) "member" means an eligible employee who is in the system and
8 is making the required employee contributions; any former employee who
9 has made the required contributions to the system and has not received a
10 refund if such member is within five years of termination of employment
11 with a participating employer; or any former employee who has made the
12 required contributions to the system, has not yet received a refund and has
13 been granted a vested benefit;

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

28 (23) "normal retirement date" means the date on or after which a
29 member may retire with full retirement benefits pursuant to K.S.A. 74-
30 4914, and amendments thereto;

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

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

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

37 (27) "prior service annual salary" means the highest annual salary, not
38 including any amounts received as payment for overtime or as
39 reimbursement for travel or moving expense, received for personal
40 services by the member from the current employer in any one of the three
41 calendar years immediately preceding January 1, 1962, or the entry date of
42 the employer, whichever is later, except that if a member entered the
43 employment of the state during the calendar year 1961, the prior service

1 annual salary shall be computed by multiplying such member's highest
2 monthly salary received in that year by 12;

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

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

13 (30) "retirement system" or "system" means the Kansas public
14 employees retirement system as established by this act and as it may be
15 amended;

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

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

33 (33) "salary" means all salary and wages payable to a member for
34 personal services performed for a participating employer, including
35 maintenance or any allowance in lieu thereof provided a member as part of
36 salary. Salary shall not include reimbursement for travel or moving
37 expenses, payment for accumulated sick leave or vacation or annual leave,
38 severance pay or any other payments to the member determined by the
39 board to not be payments for personal services performed for a
40 participating employer constituting salary or on and after July 1, 1994,
41 payment pursuant to an early retirement incentive program made prior to
42 the retirement of the member. When the salary of a member who remains
43 in substantially the same position during any two consecutive years of

1 participating service used in calculating final average salary is increased
2 by an amount which exceeds 15%, then the amount of such increase which
3 exceeds 15% shall not be included in salary. Any contributions by such
4 member on the amount of such increase which exceeds 15% which is not
5 included in compensation shall be returned to the member. Unless
6 otherwise provided by law, salary shall include any amounts for tax
7 sheltered annuities or deferred compensation plans. Salary shall include
8 amounts under sections 403b, 457 and 125 of the federal internal revenue
9 code of 1986 and, as the board deems appropriate, any other section of the
10 federal internal revenue code of 1986 which defers or excludes amounts
11 from inclusion in income. For purposes of applying limits under the
12 federal internal revenue code "salary" shall have the meaning as provided
13 in K.S.A. 74-49,123, and amendments thereto. In any case, if participating
14 service is less than three years, then the average annual salary paid to the
15 member during the full period of participating service, or, in any case, if
16 the member has less than one calendar year of participating service such
17 member's final average salary shall be computed by multiplying such
18 member's highest monthly salary received in that year by 12;

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

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

24 Sec. 3. K.S.A. 75-5517 is hereby amended to read as follows: 75-
25 5517. (a) Each person retiring from the classified or unclassified service of
26 the state of Kansas who has accumulated ~~one hundred (100)~~ 100 days or
27 more of sick leave *as of July 1, 2015*, shall receive at the time of
28 retirement, compensation for their accumulated sick leave as follows:

29 (1) Compensation for not more than ~~thirty (30)~~ 30 days, if such
30 person has completed eight or more years of such service and has
31 accumulated at least ~~one hundred (100)~~ 100 but less than ~~one hundred~~
32 ~~twenty-five (125)~~ 125 days of sick leave;

33 (2) compensation for not more than ~~forty-five (45)~~ 45 days, if such
34 person has completed ~~fifteen (15)~~ 15 or more years of such service and has
35 accumulated at least ~~one hundred twenty-five (125)~~ 125 but less than ~~one~~
36 ~~hundred fifty (150)~~ 150 days of sick leave; and

37 (3) compensation for not more than ~~sixty (60)~~ 60 days, if such person
38 has completed ~~twenty-five (25)~~ 25 or more years of such service and has
39 accumulated ~~one hundred fifty (150)~~ 150 days of sick leave or more.

40 (b) Retirement employee contributions shall be deducted from all
41 compensation for accumulated sick leave paid to each person who retires
42 and benefit calculations for such person shall include all such
43 compensation *as defined in K.S.A. 74-4902, and amendments thereto,*

1 *upon such person's retirement in accordance with the provisions of section*
2 *1, and amendments thereto.*

3 Sec. 4. K.S.A. 75-5517 and K.S.A. 2014 Supp. 74-4902 are hereby
4 repealed.

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