

2015

SUBSTITUTE FOR _____

By _____

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; employment after retirement; special provisions for certain retirants employed as teachers; amending K.S.A. 46-2201 and K.S.A. 2014 Supp. 74-4914 and 74-4937 and repealing the existing sections.

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

Section 1. K.S.A. 46-2201 is hereby amended to read as follows: 46-2201. (a) There is hereby created the joint committee on pensions, investments and benefits which shall be composed of five senators and eight members of the house of representatives. The five senate members shall be the chairperson of the standing committee on ways and means of the senate, or a member of such committee appointed by the chairperson, two members appointed by the president and two members appointed by the minority leader. The eight representative members shall be the chairperson of the standing committee on appropriations of the house of representatives, or a member of such committee appointed by the chairperson, four members appointed by the speaker and three members appointed by the minority leader.

(b) All members of the joint committee on pensions, investments and benefits shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The chairperson and vice-chairperson serving on the effective date of this act will continue to serve in such capacities through June 30, 1998. On and after July 1, 1998, and until the first day of the 1999 regular legislative session, the chairperson shall be one of the senate members of the joint committee selected by the president and the vice-chairperson shall be one of the representative members selected by the speaker. Thereafter, on and after the first day of the regular legislative session in odd-numbered years, the chairperson shall be one of the representative members of the joint committee selected by the speaker and the vice-chairperson

shall be one of the senate members selected by the president and on and after the first day of the regular legislative session in even-numbered years, the chairperson shall be one of the senate members of the joint committee selected by the president and the vice-chairperson shall be one of the representative members of the joint committee selected by the speaker. The chairperson and vice-chairperson of the joint committee shall serve in such capacities until the first day of the regular legislative session in the ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) The joint committee on pensions, investments and benefits shall meet at any time and at any place within the state on call of the chairperson. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(d) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on pensions, investments and benefits.

(e) The joint committee on pensions, investments and benefits may introduce such legislation as deemed necessary in performing such committee's functions.

(f) The joint committee on pensions, investments and benefits shall:

(1) Monitor, review and make recommendations regarding investment policies and objectives formulated by the board of trustees of the Kansas public employees retirement system;

(2) review and make recommendations relating to benefits for members under the Kansas public employees retirement system;

(3) consider and make recommendations to the standing committee of the senate specified by the president of the senate relating to the confirmation of members of the board of trustees of the Kansas public employees retirement system appointed pursuant to K.S.A. 74-4905, and amendments thereto. The information provided by the Kansas bureau of investigation or other criminal justice agency pursuant to ~~subsection (h) of~~ K.S.A. 74-4905(h), and amendments thereto, relating to the confirmation of members of the board to the standing committee of the senate specified by the president shall be forwarded by the Kansas bureau of investigation or such other criminal justice agency to such joint committee for such joint committee's consideration and other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the joint 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; ~~and~~

(4) review and make recommendations relating to the inclusion of city and county correctional officers as eligible members of the Kansas police and firemen's retirement system; and

(5) review reports and approve or deny appeals regarding working after retirement exceptions pursuant to K.S.A. 74-4914 and 74-4937, and amendments thereto. The joint committee may appoint a subcommittee to carry out the provisions of this subsection.

Sec. 2. K.S.A. 2014 Supp. 74-4914 is hereby amended to read as follows: 74-4914. (1) The normal retirement date for a member of the system shall be the first day of the month coinciding with or following termination of employment with any participating employer not

followed by employment with any participating employer within 60 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

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

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

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating

employer not followed by employment with any participating employer within 60 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) Except as provided in subsection (7), on or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under ~~subsection (a) of~~ K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$20,000 or more in any one such calendar year, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under ~~subsection (a) of~~ K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any

month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under ~~subsection (a) of~~ K.S.A. 72-5410(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official

which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official on and after the term of office of such other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to ~~subsections (a), (b), (c) and (d)~~ of K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$20,000 or more in any one calendar year, the member may continue to receive any amount provided in ~~subsections (b) and (d)~~ of K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in ~~subsection (b)~~ of K.S.A. 76-12a01(b) or ~~subsection (f)~~ of K.S.A. 38-2302(f), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

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

(7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2017, and ending July 1, 2021, any retirant who is employed or appointed in or to any position by a participating employer or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to \$25,000 or more, pursuant to this subsection.

(b) The provisions of this subsection shall not apply to retirants that are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(f), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), (4) or (5), and amendments thereto;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarial determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto;

(v) employed as substitute teachers or officers, employees or appointees of the legislature; and

(vi) employed by a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection.

(c) The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits. No retirant shall receive credit for service while employed under the provisions of this subsection.

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

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

(ii) the employer pays to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%;

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

(e) An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in subsection (7)(d) by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee.

(f) On July 1, 2017, and at least every five years thereafter, the joint committee on pensions, investments and benefits shall study the issue of whether the compensation limitation prescribed in this subsection should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation.

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

Sec. 3. K.S.A. 2014 Supp. 74-4937 is hereby amended to read as follows: 74-4937. (1)

The normal retirement date of a member of the system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days and the attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with the completion of 35 years of credited service or at any age with the completion of 40 years of credited service, or commencing July 1, 1993, any alternative normal retirement date already prescribed by law or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. Each member upon giving prior notice to the appointing authority and the retirement system may retire on the normal retirement date or the first day of any month thereafter.

(2) Any member who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, may retire before such member's normal retirement date on the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days and the attainment of age 55 with the completion of 10 years of credited service, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(3) ~~Commencing July 1, 2009~~ Before July 1, 2017, the provisions of ~~subsection (5) of~~ K.S.A. 74-4914~~(5)~~, and amendments thereto, which relate to an earnings limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein shall not apply to retirants who either

retired under the provisions of ~~subsection (1) of~~ K.S.A. 74-4914(1), and amendments thereto, related to normal retirement, or, if they retired under the provisions of ~~subsection (4) of~~ K.S.A. 74-4914(4), and amendments thereto, related to early retirement, were retired more than 60 days prior to the effective date of this act, and are subsequently hired in a position that requires a license under K.S.A. 72-1388, and amendments thereto, or other provision of law. The provisions of this subsection shall only apply to retirants who retired prior to May 1, 2015. The provisions of this subsection do not apply to retirants who retired under ~~subsection (4) of~~ K.S.A. 74-4914(4), and amendments thereto, which relates to early retirement prior to age 62. Except as otherwise provided, when a retirant is employed by the same school district or a different school district with which such retirant was employed during the final two years of such retirant's participation or employed by a third-party entity who contracts services with a school district to fill a position as described in this subsection, the participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of ~~subsection (5) of~~ K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or

nullification by act of the legislature. The provisions of this subsection shall expire on ~~July 1, 2015~~ June 30, 2017. After such date the Kansas public employees retirement system and its actuary shall report the experience to the joint committee on pensions, investments and benefits.

(4) (a) On and after July 1, 2017, the provisions of K.S.A. 74-4914(5) and (7), and amendments thereto, shall not apply to retirants who retired under the provisions of K.S.A. 74-4914(1), and amendments thereto, related to normal retirement and are subsequently hired without any prearranged agreement with such participating employer prior to retirement and were hired not prior to 60 days after such retirant's retirement date in a position as a special teacher as defined in K.S.A. 72-962, and amendments thereto. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. When a retirant is employed by the same school district or a different school district with which such retirant was employed or employed by a third-party entity who contracts services with a school district to fill a special teacher position, the retirant may continue to receive such retirant's full retirement benefit and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total employment with all employers under this subsection does not exceed 36 months.

or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as special teachers, except as specifically provided in this subsection. An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in this subsection by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

(b) Each participating employer that uses the provisions of this subsection to hire retirants shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the positions. Upon request of the joint committee on pensions, investments and benefits, an employer shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant for the position or if the

committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The provisions of this subsection shall expire on July 1, 2021.

(5) (a) On and after July 1, 2017, a school district may hire a retired licensed professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirent's retirement date without any prearrangement with such school district, and if such school district hires a retirant for a hard-to-fill position in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.

(b) The state board of education shall annually certify the top five types of licensed positions that are hard to fill. Each school district may select up to three types of the certified positions which shall be eligible to be filled with retirants. Such school district may hire a retirant to fill a hard-to-fill position for as long as the retirant's total employment with all employers under this subsection does not to exceed three school years or 36 months, whichever is less. A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to

the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. The provisions of this subsection shall not apply to retirants employed as substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The provisions of K.S.A. 74-4914(7), and amendments thereto, shall not apply to retirants employed pursuant to the provisions of this subsection.

(c) Each school district that uses the provisions of this subsection to hire retirants for hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the hard-to-fill positions. Upon request of the joint committee on pensions, investments and benefits, a school district shall provide such documentation to the committee. If the committee finds that a school district has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exception provided for in this subsection by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee.

(d) The provisions of this subsection shall expire on July 1, 2021.

Sec. 4. K.S.A. 46-2201 and K.S.A. 2014 Supp. 74-4914 and 74-4937 are hereby repealed.

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