

HOUSE BILL No. 2268

By Committee on Financial Institutions and Pensions

2-2

Proposed Amendment to HB No. 2268
Working after retirement - exclude
nontaxable items from cap for legislators

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; extending
3 sunset date for exemptions; amending K.S.A. 2016 Supp. 74-4914 and
4 74-4937 and repealing the existing sections; also repealing K.S.A. 2016
5 Supp 74-4914f.
6

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

8 Section 1. K.S.A. 2016 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 and
13 without any prearranged agreement for employment with any participating
14 employer, and the attainment of age 65 or, commencing July 1, 1993, age
15 62 with the completion of 10 years of credited service or the first day of
16 the month coinciding with or following the date that the total of the
17 number of years of credited service and the number of years of attained
18 age of the member is equal to or more than 85. In no event shall a normal
19 retirement date for a member be before six months after the entry date of
20 the participating employer by whom such member is employed. A member
21 may retire on the normal retirement date or on the first day of any month
22 thereafter upon the filing with the office of the retirement system of an
23 application in such form and manner as the board shall prescribe. Such
24 application shall contain a certification by the member that the member
25 will not be employed with any participating employer within 60 days of
26 retirement and the member has not entered into a prearranged agreement
27 for employment with any participating employer. Nothing herein shall
28 prevent any person, member or retirant from being employed, appointed or
29 elected as an employee, appointee, officer or member of the legislature.
30 Elected officers may retire from the system on any date on or after the
31 attainment of the normal retirement date, but no retirement benefits
32 payable under this act shall be paid until the member has terminated such
33 member's office.

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

36 (3) Any member who is an employee of an affiliating employer

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 2 withdrawn such members' accumulated contributions from the Kansas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

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

18 (5) Except as provided in subsection (7), on or after July 1, 2006, for
 19 any retiree who is first employed or appointed in or to any position or
 20 office by a participating employer other than a participating employer for
 21 which such retiree was employed or appointed during the final two years
 22 of such retiree's participation, and, on or after April 1, 2009, for any
 23 retiree who is employed by a third-party entity who contracts services
 24 with a participating employer other than a participating employer for
 25 which such retiree was employed or appointed during the final two years
 26 of such retiree's participation to fill a position covered under K.S.A. 72-
 27 5410(a), and amendments thereto, with such retiree, such participating
 28 employer shall pay to the system the actuarially determined employer
 29 contribution and the statutorily prescribed employee contribution based on
 30 the retiree's compensation during any such period of employment or
 31 appointment. If a retiree is employed or appointed in or to any position or
 32 office for which compensation for service is paid in an amount equal to
 33 \$20,000 or more in any one such calendar year, or \$25,000 or more in any
 34 one calendar year between July 1, 2016, and July 1, ~~2020~~ 2021, by any
 35 participating employer for which such retiree was employed or appointed
 36 during the final two years of such retiree's participation, and, on or after
 37 April 1, 2009, by any third-party entity who contracts services to fill a
 38 position covered under K.S.A. 72-5410(a), and amendments thereto, with
 39 such retiree with a participating employer for which such retiree was
 40 employed or appointed during the final two years of such retiree's
 41 participation, such retiree shall not receive any retirement benefit for any
 42 month for which such retiree serves in such position or office. The
 43 participating employer who employs such retiree whether by contract

1 directly with the retirant or through an arrangement with a third-party
2 entity shall report to the system within 30 days of when the compensation
3 paid to the retirant is equal to or exceeds any limitation provided by this
4 section. Any participating employer who contracts services with any such
5 third-party entity to fill a position covered under K.S.A. 72-5410(a), and
6 amendments thereto, shall include in such contract a provision or condition
7 which requires the third-party entity to provide the participating employer
8 with the necessary compensation paid information related to any such
9 position filled by the third-party entity with a retirant to enable the
10 participating employer to comply with provisions of this subsection
11 relating to the payment of contributions and reporting requirements. The
12 provisions and requirements provided for in amendments made in this act
13 which relate to positions filled with a retirant or employment of a retirant
14 by a third-party entity shall not apply to any contract for services entered
15 into prior to April 1, 2009, between a participating employer and third-
16 party entity as described in this subsection. Any retirant employed by a
17 participating employer or a third-party entity as provided in this subsection
18 shall not make contributions nor receive additional credit under such
19 system for such service except as provided by this section. Upon request of
20 the executive director of the system, the secretary of revenue shall provide
21 such information as may be needed by the executive director to carry out
22 the provisions of this act. The provisions of this subsection shall not apply
23 to retirants employed as substitute teachers or officers, employees or
24 appointees of the legislature. The provisions of this subsection shall not
25 apply to members of the legislature prior to January 8, 2000. The
26 provisions of this subsection shall not apply to any other elected officials
27 prior to the term of office of such elected official which commences on or
28 after July 1, 2000. The provisions of this subsection shall apply to any
29 other elected official, except an elected city or county officer as further
30 provided in this subsection, on and after the term of office of such other
31 elected official which commences on or after July 1, 2000.
32 Notwithstanding any provisions of law to the contrary, when an elected
33 city or county officer is retired under the provisions of subsection (1) or
34 (4) of this section and is paid an amount of compensation of \$25,000 or
35 more in any one calendar year between July 1, 2016, and July 1, ~~2020~~
36 ~~2021~~, such officer may receive such officer's salary, and still be entitled to
37 receive such officer's retirement benefit pursuant to the provisions of
38 K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise
39 provided, commencing January 8, 2001, the provisions of this subsection
40 shall apply to members of the legislature. For determination of the amount
41 of compensation paid pursuant to this subsection, for members of the
42 legislature, compensation shall include any amount paid as provided
43 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,

1 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding
 2 any provision of law to the contrary, when a member of the legislature is
 3 paid an amount of compensation of \$20,000 or more in any one calendar
 4 year, the member may continue to receive any amount provided in K.S.A.
 5 46-137a(b) and (d), and amendments thereto, and still be entitled to
 6 receive such member's retirement benefit. Commencing July 1, 2005, the
 7 provisions of this subsection shall not apply to retirants who either retired
 8 under the provisions of subsection (1), or, if they retired under the
 9 provisions of subsection (4), were retired more than 30 days prior to the
 10 effective date of this act and are licensed professional nurses or licensed
 11 practical nurses employed by the state of Kansas in an institution as
 12 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments
 13 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
 14 in this subsection shall be construed to create any right, or to authorize the
 15 creation of any right, which is not subject to amendment or nullification by
 16 act of the legislature. The participating employer of such retirant shall pay
 17 to the system the actuarially determined employer contribution based on
 18 the retirant's compensation during any such period of employment.

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

26 (7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and
 27 amendments thereto, and the provisions of this subsection, commencing
 28 July 1, 2016, and ending July 1, ~~2020~~ 2021, any retirant who is employed
 29 or appointed in or to any position by a participating employer or a third-
 30 party entity who contracts services with a participating employer to fill a
 31 position, without any prearranged agreement with such participating
 32 employer and not prior to 60 days after such retirant's retirement date, shall
 33 not receive any retirement benefit for any month in any calendar year in
 34 which the retirant receives compensation in an amount equal to \$25,000 or
 35 more, pursuant to this subsection. The provisions of this subsection shall
 36 apply to members of the legislature.

37 (b) The provisions of this subsection shall not apply, except as
 38 specifically provided in this subsection, to retirants ~~that~~ who are:

39 (i) Licensed professional nurses or licensed practical nurses
 40 employed by the state of Kansas in an institution as defined in K.S.A. 76-
 41 12a01(b) or 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers'
 42 home or the Kansas veterans' home. The participating employer of such
 43 retirant shall pay to the system the actuarially determined employer

, to the extent that any such amount paid is
 included in federal adjusted gross income and
 subject to federal income taxation