

Senate Substitute for HOUSE BILL No. 2095

By Select Committee on KPERS

5-4

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; special
3 provisions for certain retirants; certain duties of the joint committee on
4 pensions, investments and benefits; amending K.S.A. 46-2201 and
5 K.S.A. 2014 Supp. 74-4914 and 74-4937 and repealing the existing
6 sections.

and systems thereunder

7
8 Be it enacted by the Legislature of the State of Kansas:
9 Section 1. K.S.A. 46-2201 is hereby amended to read as follows: 46-
10 2201. (a) There is hereby created the joint committee on pensions,
11 investments and benefits which shall be composed of five senators and
12 eight members of the house of representatives. The five senate members
13 shall be the chairperson of the standing committee on ways and means of
14 the senate, or a member of such committee appointed by the chairperson,
15 two members appointed by the president and two members appointed by
16 the minority leader. The eight representative members shall be the
17 chairperson of the standing committee on appropriations of the house of
18 representatives, or a member of such committee appointed by the
19 chairperson, four members appointed by the speaker and three members
20 appointed by the minority leader.

enacting the Kansas deferred retirement option program act; providing terms, conditions, requirements, benefits and contributions related thereto; relating to member election; Kansas highway patrol affiliation; interest credits; account distribution;

21 (b) All members of the joint committee on pensions, investments and
22 benefits shall serve for terms ending on the first day of the regular
23 legislative session in odd-numbered years. The chairperson and vice-
24 chairperson serving on the effective date of this act will continue to serve
25 in such capacities through June 30, 1998. On and after July 1, 1998, and
26 until the first day of the 1999 regular legislative session, the chairperson
27 shall be one of the senate members of the joint committee selected by the
28 president and the vice-chairperson shall be one of the representative
29 members selected by the speaker. Thereafter, on and after the first day of
30 the regular legislative session in odd-numbered years, the chairperson shall
31 be one of the representative members of the joint committee selected by
32 the speaker and the vice-chairperson shall be one of the senate members
33 selected by the president and on and after the first day of the regular
34 legislative session in even-numbered years, the chairperson shall be one of
35 the senate members of the joint committee selected by the president and
36 the vice-chairperson shall be one of the representative members of the

1 joint committee selected by the speaker. The chairperson and vice-
2 chairperson of the joint committee shall serve in such capacities until the
3 first day of the regular legislative session in the ensuing year. The vice-
4 chairperson shall exercise all of the powers of the chairperson in the
5 absence of the chairperson.

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

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

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

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

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

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

25 (3) consider and make recommendations to the standing committee of
26 the senate specified by the president of the senate relating to the
27 confirmation of members of the board of trustees of the Kansas public
28 employees retirement system appointed pursuant to K.S.A. 74-4905, and
29 amendments thereto. The information provided by the Kansas bureau of
30 investigation or other criminal justice agency pursuant to ~~subsection (h) of~~
31 K.S.A. 74-4905(h), and amendments thereto, relating to the confirmation
32 of members of the board to the standing committee of the senate specified
33 by the president shall be forwarded by the Kansas bureau of investigation
34 or such other criminal justice agency to such joint committee for such joint
35 committee's consideration and other than conviction data, shall be
36 confidential and shall not be disclosed except to members and employees
37 of the joint committee as necessary to determine qualifications of such
38 member. The committee, in accordance with K.S.A. 75-4319, and
39 amendments thereto, shall recess for a closed or executive meeting to
40 receive and discuss information received by the committee pursuant to this
41 subsection; ~~and~~

42 (4) review and make recommendations relating to the inclusion of
43 city and county correctional officers as eligible members of the Kansas

1 police and firemen's retirement system; and

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

6 Sec. 2. K.S.A. 2014 Supp. 74-4914 is hereby amended to read as
7 follows: 74-4914. (1) The normal retirement date for a member of the
8 system shall be the first day of the month coinciding with or following
9 termination of employment with any participating employer not followed
10 by employment with any participating employer within 60 days and the
11 attainment of age 65 or, commencing July 1, 1993, age 62 with the
12 completion of 10 years of credited service or the first day of the month
13 coinciding with or following the date that the total of the number of years
14 of credited service and the number of years of attained age of the member
15 is equal to or more than 85. In no event shall a normal retirement date for a
16 member be before six months after the entry date of the participating
17 employer by whom such member is employed. A member may retire on
18 the normal retirement date or on the first day of any month thereafter upon
19 the filing with the office of the retirement system of an application in such
20 form and manner as the board shall prescribe. Nothing herein shall prevent
21 any person, member or retirant from being employed, appointed or elected
22 as an employee, appointee, officer or member of the legislature. Elected
23 officers may retire from the system on any date on or after the attainment
24 of the normal retirement date, but no retirement benefits payable under this
25 act shall be paid until the member has terminated such member's office.

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

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

34 (4) Any member may retire before such member's normal retirement
35 date on the first day of any month coinciding with or following
36 termination of employment with any participating employer not followed
37 by employment with any participating employer within 60 days and the
38 attainment of age 55 with the completion of 10 years of credited service,
39 but in no event before six months after the entry date, upon the filing with
40 the office of the retirement system of an application for retirement in such
41 form and manner as the board shall prescribe.

42 (5) Except as provided in subsection (7), on or after July 1, 2006, for
43 any retirant who is first employed or appointed in or to any position or

1 office by a participating employer other than a participating employer for
2 which such retirant was employed or appointed during the final two years
3 of such retirant's participation, and, on or after April 1, 2009, for any
4 retirant who is employed by a third-party entity who contracts services
5 with a participating employer other than a participating employer for
6 which such retirant was employed or appointed during the final two years
7 of such retirant's participation to fill a position covered under ~~subsection~~
8 ~~(a)~~ of K.S.A. 72-5410(a), and amendments thereto, with such retirant, such
9 participating employer shall pay to the system the actuarially determined
10 employer contribution and the statutorily prescribed employee contribution
11 based on the retirant's compensation during any such period of
12 employment or appointment. If a retirant who retired on or after July 1,
13 1988, is employed or appointed in or to any position or office for which
14 compensation for service is paid in an amount equal to \$20,000 or more in
15 any one such calendar year, ~~by any participating employer for which such~~
16 ~~retirant was employed or appointed during the final two years of such~~
17 ~~retirant's participation, and, on or after April 1, 2009, by any third-party~~
18 ~~entity who contracts services to fill a position covered under ~~subsection (a)~~~~
19 ~~of K.S.A. 72-5410(a), and amendments thereto, with such retirant with a~~
20 ~~participating employer for which such retirant was employed or appointed~~
21 ~~during the final two years of such retirant's participation, such retirant shall~~
22 ~~not receive any retirement benefit for any month for which such retirant~~
23 ~~serves in such position or office. The participating employer who employs~~
24 ~~such retirant whether by contract directly with the retirant or through an~~
25 ~~arrangement with a third-party entity shall report to the system within 30~~
26 ~~days of when the compensation paid to the retirant is equal to or exceeds~~
27 ~~any limitation provided by this section. Any participating employer who~~
28 ~~contracts services with any such third-party entity to fill a position covered~~
29 ~~under ~~subsection (a)~~ of K.S.A. 72-5410(a), and amendments thereto, shall~~
30 ~~include in such contract a provision or condition which requires the third-~~
31 ~~party entity to provide the participating employer with the necessary~~
32 ~~compensation paid information related to any such position filled by the~~
33 ~~third-party entity with a retirant to enable the participating employer to~~
34 ~~comply with provisions of this subsection relating to the payment of~~
35 ~~contributions and reporting requirements. The provisions and requirements~~
36 ~~provided for in amendments made in this act which relate to positions~~
37 ~~filled with a retirant or employment of a retirant by a third-party entity~~
38 ~~shall not apply to any contract for services entered into prior to April 1,~~
39 ~~2009, between a participating employer and third-party entity as described~~
40 ~~in this subsection. Any retirant employed by a participating employer or a~~
41 ~~third-party entity as provided in this subsection shall not make~~
42 ~~contributions nor receive additional credit under such system for such~~
43 ~~service except as provided by this section. Upon request of the executive~~

or \$25,000 or more in any one
calendar year between July 1,
2016, and July 1, 2021,

1 director of the system, the secretary of revenue shall provide such
2 information as may be needed by the executive director to carry out the
3 provisions of this act. The provisions of this subsection shall not apply to
4 retirants employed as substitute teachers or officers, employees or
5 appointees of the legislature. The provisions of this subsection shall not
6 apply to members of the legislature prior to January 8, 2000. The
7 provisions of this subsection shall not apply to any other elected officials
8 prior to the term of office of such elected official which commences on or
9 after July 1, 2000. The provisions of this subsection shall apply to any
10 other elected official, **except an elected city or county officer as further**
11 **provided in this subsection,** on and after the term of office of such other
12 elected official which commences on or after July 1, 2000.
13 **Notwithstanding any provisions of law to the contrary, when an elected**
14 **city or county officer is retired under the provisions of subsection (1) or**
15 **(4) of this section and is paid an amount of compensation of \$25,000 or**
16 **more in any one calendar year between July 1, ~~2017~~ {2016}, and July 1,**
17 **2021, such officer may receive such officer's salary, and still be entitled to**
18 **receive such officer's retirement benefit pursuant to the provisions of**
19 **K.S.A. 74-4915 et seq., and amendments thereto.** Except as otherwise
20 provided, commencing January 8, 2001, the provisions of this subsection
21 shall apply to members of the legislature. For determination of the amount
22 of compensation paid pursuant to this subsection, for members of the
23 legislature, compensation shall include any amount paid as provided
24 pursuant to ~~subsections (a), (b), (c) and (d)~~ of K.S.A. 46-137a **(a), (b), (c)**
25 **and (d),** and amendments thereto, or pursuant to K.S.A. 46-137b, and
26 amendments thereto. Notwithstanding any provision of law to the contrary,
27 when a member of the legislature is paid an amount of compensation of
28 \$20,000 or more in any one calendar year, the member may continue to
29 receive any amount provided in ~~subsections (b) and (d)~~ of K.S.A. 46-
30 137a **(b) and (d),** and amendments thereto, and still be entitled to receive
31 such member's retirement benefit. Commencing July 1, 2005, the
32 provisions of this subsection shall not apply to retirants who either retired
33 under the provisions of subsection (1), or, if they retired under the
34 provisions of subsection (4), were retired more than 30 days prior to the
35 effective date of this act and are licensed professional nurses or licensed
36 practical nurses employed by the state of Kansas in an institution as
37 defined in ~~subsection (b)~~ of K.S.A. 76-12a01 **(b)** or ~~subsection (f)~~ of K.S.A.
38 38-2302 **(f),** and amendments thereto, the Kansas soldiers' home or the
39 Kansas veterans' home. Nothing in this subsection shall be construed to
40 create any right, or to authorize the creation of any right, which is not
41 subject to amendment or nullification by act of the legislature. The
42 participating employer of such retirant shall pay to the system the
43 actuarially determined employer contribution based on the retirant's

1 compensation during any such period of employment.

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

9 (7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and
10 amendments thereto, and the provisions of this subsection, commencing
11 July 1, ~~2017~~ {2016}, and ending July 1, 2021, any retirant who is
12 employed or appointed in or to any position by a participating employer
13 or a third-party entity who contracts services with a participating
14 employer to fill a position, without any prearranged agreement with such
15 participating employer and not prior to 60 days after such retirant's
16 retirement date, shall not receive any retirement benefit for any month in
17 any calendar year in which the retirant receives compensation in an
18 amount equal to \$25,000 or more, pursuant to this subsection.

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

21 (i) Licensed professional nurses or licensed practical nurses
22 employed by the state of Kansas in an institution as defined in K.S.A. 76-
23 12a01(b) or 38-2302(f), and amendments thereto, the Kansas soldiers'
24 home or the Kansas veterans' home. The participating employer of such
25 retirant shall pay to the system the actuarially determined employer
26 contribution based on the retirant's compensation and the statutorily
27 prescribed employee contribution during any such period of employment;

28 (ii) employed by a school district in a position as provided in K.S.A.
29 74-4937(3), (4) or (5), and amendments thereto;

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

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

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

42 (vi) employed by, or have accepted employment from, a participating
43 employer prior to May 1, 2015. Any break in continuous employment by a

The provisions of this subsection shall apply to members of the legislature.

1 retirant or move to a different position by a retirant during the effective
2 period of this subsection shall be deemed new employment and shall
3 subject the retirant to the provisions of this subsection.

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

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

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

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

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

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

34 (f) On July 1, ~~2017~~ {2016}, and at least every five years thereafter,
35 the joint committee on pensions, investments and benefits shall study the
36 issue of whether the compensation limitation prescribed in this subsection
37 should be adjusted. The committee shall consider the effect of inflation
38 and data on member retirement benefits and active employee
39 compensation.

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

43 Sec. 3. K.S.A. 2014 Supp. 74-4937 is hereby amended to read as

1 follows: 74-4937. (1) The normal retirement date of a member of the
2 system who is in school employment and who is subject to K.S.A. 74-
3 4940, and amendments thereto, shall be the first day of the month
4 coinciding with or following termination of employment not followed by
5 employment with any participating employer within 60 days and the
6 attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with
7 the completion of 35 years of credited service or at any age with the
8 completion of 40 years of credited service, or commencing July 1, 1993,
9 any alternative normal retirement date already prescribed by law or age 62
10 with the completion of 10 years of credited service or the first day of the
11 month coinciding with or following the date that the total of the number of
12 years of credited service and the number of years of attained age of the
13 member is equal to or more than 85. Each member upon giving prior
14 notice to the appointing authority and the retirement system may retire on
15 the normal retirement date or the first day of any month thereafter.

16 (2) Any member who is in school employment and who is subject to
17 K.S.A. 74-4940, and amendments thereto, may retire before such
18 member's normal retirement date on the first day of the month coinciding
19 with or following termination of employment not followed by employment
20 with any participating employer within 60 days and the attainment of age
21 55 with the completion of 10 years of credited service, upon the filing with
22 the office of the retirement system of an application for retirement in such
23 form and manner as the board shall prescribe.

24 (3) ~~Commencing July 1, 2009~~ **Before July 1, 2017**, the provisions of
25 ~~subsection (5) of K.S.A. 74-4914(5)~~, and amendments thereto, which
26 relate to an earnings limitation which when met or exceeded requires that
27 the retirant not receive a retirement benefit for any month for which such
28 retirant serves in a position as described herein shall not apply to retirants
29 who either retired under the provisions of ~~subsection (1) of K.S.A. 74-~~
30 ~~4914(1)~~, and amendments thereto, related to normal retirement, or, if they
31 retired under the provisions of ~~subsection (4) of K.S.A. 74-4914(4)~~, and
32 amendments thereto, related to early retirement, were retired more than 60
33 days prior to ~~the effective date of this act~~, and are subsequently hired in a
34 position that requires a license under K.S.A. 72-1388, and amendments
35 thereto, or other provision of law. **The provisions of this subsection shall**
36 **only apply to retirants who retired prior to May 1, 2015.** The provisions of
37 this subsection do not apply to retirants who retired under ~~subsection (4) of~~
38 ~~K.S.A. 74-4914(4)~~, and amendments thereto, which relates to early
39 retirement prior to age 62. Except as otherwise provided, when a retirant is
40 employed by the same school district or a different school district with
41 which such retirant was employed during the final two years of such
42 retirant's participation or employed by a third-party entity who contracts
43 services with a school district to fill a position as described in this

May 28, 2009

1 subsection, the participating employer of such retirant shall pay to the
 2 system the actuarially determined employer contribution based on the
 3 retirant's compensation during any such period of employment plus 8%.
 4 The participating employer shall enroll all retirants and report to the
 5 system when compensation is paid to a retirant as provided in this
 6 subsection. Upon request of the executive director of the system, the
 7 participating employer shall provide such information as may be needed
 8 by the executive director to carry out the provisions of this subsection. The
 9 provisions of this subsection shall not apply to retirants employed as
 10 substitute teachers. The provisions of ~~subsection (5) of K.S.A. 74-4914(5),~~
 11 and amendments thereto, shall be applicable to retirants employed as
 12 described in this subsection, except as specifically provided in this
 13 subsection. Nothing in this subsection shall be construed to create any
 14 right, or to authorize the creation of any right, which is not subject to
 15 amendment or nullification by act of the legislature. The provisions of this
 16 subsection shall expire on ~~July 1, 2015~~ June 30, 2017. After such date the
 17 Kansas public employees retirement system and its actuary shall report the
 18 experience to the joint committee on pensions, investments and benefits.

19 (4) (a) On and after July 1, ~~2017~~ {2016}, a school district may hire a
 20 retired licensed professional to fill a special teacher position as defined in
 21 K.S.A. 72-962, and amendments thereto, if such retirant is hired not prior
 22 to 60 days after such retirant's retirement date without any
 23 prearrangement with such school district in the manner prescribed in this
 24 subsection. The participating employer shall enroll all retirants and report
 25 to the system when compensation is paid to a retirant as provided in this
 26 subsection. Upon request of the executive director of the system, the
 27 participating employer shall provide such information as may be needed
 28 by the executive director to carry out the provisions of this subsection.

29 (b) A retirant hired under the provisions of this subsection may
 30 continue to receive such retirant's full retirement benefit for a period not
 31 to exceed three school years or 36 months, whichever is less, and shall not
 32 be subject to the provisions of K.S.A. 74-4914(5), and amendments
 33 thereto, which relate to a compensation limitation which when met or
 34 exceeded requires that the retirant not receive a retirement benefit for any
 35 month for which such retirant serves in a position as described herein.
 36 Such retirant may be employed by such employer for some or all of a
 37 school year, and in subsequent school years if the employer is unable to
 38 permanently fill the position with active members, so long as the retirant's
 39 total term of employment with all employers under this subsection does
 40 not exceed 36 months or three school years, whichever is less. After such
 41 period, the retirant shall be subject to the provisions of K.S.A. 74-4914(5),
 42 and amendments thereto. The participating employer of such retirant shall
 43 pay to the system the actuarially determined employer contribution based

7	, 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
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1 on the retirant's compensation during any such period of employment plus
2 8%. The provisions of this subsection shall not apply to retirants employed
3 as substitute teachers. The provisions of K.S.A. 74-4914(5), and
4 amendments thereto, shall be applicable to retirants employed as special
5 teachers, except as specifically provided in this subsection.

6 (c) Each school district that uses the provisions of this subsection to
7 hire retirants shall maintain documentation describing their recruiting
8 efforts to obtain non-retirant employees to fill the special teacher
9 positions. Upon request of the joint committee on pensions, investments
10 and benefits, an employer shall provide such documentation to the
11 committee. If the committee finds that an employer has not made sufficient
12 efforts to hire a non-retirant for the position or if the committee finds
13 evidence of prearrangement in violation of this section, the three-year
14 exemption provided pursuant to this subsection may be revoked. The
15 committee shall notify the executive director of the system that a retirant's
16 exemption has been revoked within 30 days of making such a
17 determination.

18 (d) An employer may submit a written appeal to the joint committee
19 on pensions, investments and benefits to extend the exception provided for
20 in this subsection by one year. Such written appeal shall include
21 documentation of the employer's efforts to fill the position with a non-
22 retirant. Granting or denial of such extension shall be at the sole
23 discretion of the committee. The committee shall notify the executive
24 director of the system that a retirant's exemption has been extended within
25 30 days of making such a determination.

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

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

30 (5) (a) On and after July 1, ~~2017~~ {2016}, a school district may hire a
31 retired licensed professional to fill a non-special teacher position if such
32 retirant is hired not prior to 60 days after such retirant's retirement date
33 without any prearrangement with such school district, and if such school
34 district hires a retirant for a hard-to-fill position in the manner prescribed
35 in this subsection. The participating employer shall enroll all retirants and
36 report to the system when compensation is paid to a retirant as provided in
37 this subsection. Upon request of the executive director of the system, the
38 participating employer shall provide such information as may be needed
39 by the executive director to carry out the provisions of this subsection.

40 (b) The state board of education shall annually certify the top five
41 types of licensed positions that are hard to fill. A school district may hire a
42 retirant to fill a hard-to-fill position for some or all of a school year and in
43 subsequent school years if the employer is unable to permanently fill the

1 position with an active member. A retirant first hired under the provisions
 2 of this subsection may be retained by an employer even if such retirant's
 3 type of position is no longer one of the five types of positions certified by
 4 the state board of education. A retirant hired under the provisions of this
 5 subsection may continue to receive such retirant's full retirement benefit
 6 for a period not to exceed three school years or 36 months, whichever is
 7 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and
 8 amendments thereto, which relate to a compensation limitation which
 9 when met or exceeded requires that the retirant not receive a retirement
 10 benefit for any month for which such retirant serves in a position as
 11 described herein. After such period, the retirant shall be subject to the
 12 provisions of K.S.A. 74-4914(~~S~~), and amendments thereto. The
 13 participating employer of such retirant shall pay to the system the
 14 actuarially determined employer contribution based on the retirant's
 15 compensation during any such period of employment plus 8%. The
 16 provisions of this subsection shall not apply to retirants employed as
 17 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments
 18 thereto, shall be applicable to retirants employed as described in this
 19 subsection, except as specifically provided in this subsection.

20 (c) Each school district that uses the provisions of this subsection to
 21 hire retirants for hard-to-fill positions shall maintain documentation
 22 describing their recruiting efforts to obtain non-retirant employees to fill
 23 the hard-to-fill positions. Upon request of the joint committee on pensions,
 24 investments and benefits, a school district shall provide such
 25 documentation to the committee. If the committee finds that a school
 26 district has not made sufficient efforts to hire a non-retirant for the
 27 position or if the committee finds evidence of prearrangement in violation
 28 of this section, the three-year exemption provided pursuant to this
 29 subsection may be revoked. The committee shall notify the executive
 30 director of the system that a retirant's exemption has been revoked within
 31 30 days of making such a determination.

32 (d) An employer may submit a written appeal to the joint committee
 33 on pensions, investments and benefits to extend the exception provided for
 34 in this subsection by one year. Such written appeal shall include
 35 documentation of the employer's efforts to fill the position with a non-
 36 retirant. Granting or denial of such extension shall be at the sole
 37 discretion of the committee. The committee shall notify the executive
 38 director of the system that a retirant's exemption has been extended within
 39 30 days of making such a determination.

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

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

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 term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less.

7

, 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

"New Sec. 4. (a) The provisions of sections 4 through 11, and amendments thereto, shall be known and may be cited as the Kansas deferred retirement option program act, and shall be effective on and after January 1, 2016.

(b) The provisions of this act shall be part of and supplemental to the provisions of K.S.A. 74-4901 et seq., and amendments thereto, subject to the limitations contained in this act.

New Sec. 5. (a) As used in this act, unless otherwise provided or the context otherwise requires:

(1) "Act" means the Kansas deferred retirement option program act;

(2) "board" means the board of trustees of the Kansas public employees retirement system;

(3) "DROP" means the deferred retirement option program established by section 6, and amendments thereto;

(4) "DROP account" means the notional account to which is credited the monthly DROP accrual;

(5) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP pursuant to section 7, and amendments thereto;

(6) "member" means a trooper, examiner or officer of the Kansas highway patrol who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;

(7) "monthly DROP accrual" means the amount equal to the monthly retirement benefit

that would have been payable to the member had the member terminated service and retired on the day the member elected; and

(8) "system" means the Kansas police and firemen's retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act shall have the meanings ascribed to them as provided under the provisions of K.S.A. 74-4901 et seq. and K.S.A. 74-4951 et seq., and amendments thereto.

New Sec. 6. (a) The board shall establish within the Kansas police and firemen's retirement system a deferred retirement option program for members. The board shall administer the DROP in compliance with the federal internal revenue code and applicable treasury regulations, including, but not limited to, the incidental benefit and required minimum distribution requirements of section 401(a)(9) of the federal internal revenue code.

(b) The board shall establish a DROP account for each member. Each DROP account shall be credited annually with interest as provided in this subsection. Interest may only be credited in a year in which the actual rate of return on the market value on the investments of the DROP reach the system's assumed investment rate of return. Such interest credit may not exceed 50% of the actual rate of return, and such interest credit shall not exceed 3%.

New Sec. 7. (a) (1) A member who is appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service or at the completion of 32 years of credited service regardless of the age of such member.

(2) A member who is appointed or employed on or after July 1, 1989, or who made an

election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service.

(b) A member shall indicate on the application the DROP period such member wishes to participate in the DROP. A member may elect to participate in the DROP for a minimum of three years and may not participate for more than five years from the effective date of the election to participate in the DROP. A member may participate in the DROP only once. An election under this section is a one-time irrevocable election. Once the application is accepted by the system, such member becomes a DROP participant. If a member fails to participate in the DROP for a minimum of three years, all of the member's interest credits shall be forfeited, unless such member retires due to disability as defined in K.S.A. 74-4952, and amendments thereto. A member who remains in active service at the expiration of the member's elected DROP period shall not be eligible for any additional interest credits.

(c) A member who makes an election under this section shall continue in the active service under the Kansas police and firemen's retirement system but shall not earn service credit under K.S.A. 74-4951 et seq., and amendments thereto, after the election's effective date. On and after the effective date of the member's election to participate, such member is ineligible to purchase service credit under K.S.A. 74-4901 et seq., and amendments thereto.

(d) Participation in the DROP by a member does not guarantee continued employment. During a member's participation in the DROP, employer contributions under K.S.A. 74-4967, and amendments thereto, and member contributions under K.S.A. 74-4965, and amendments

thereto, shall be made to the retirement system. No member or employer contributions shall be applied to a member's DROP account.

New Sec. 8. (a) For each DROP member, the board shall calculate a monthly DROP accrual. The system shall determine the DROP member's retirement benefit under K.S.A. 74-4958 or 74-4958a, and amendments thereto. In determining the retirement benefit, the system shall use the member's total service credit and final average salary as of the last day of the employer's payroll period immediately prior to the effective date of the member's election to participate in the DROP. Before entering the DROP, a member may elect to have such member's retirement benefit determined under one of the options provided in K.S.A. 74-4964 or 74-4964a, and amendments thereto, in lieu of having it determined in the form stated in K.S.A. 74-4958 or 74-4958a, and amendments thereto, except such member may not elect the lump sum payment option. During the DROP period, an amount equal to the monthly DROP accrual shall be credited to the member's DROP account. The calculation of the monthly DROP accrual will be calculated using the member's age and, if the member elected a joint and survivor option, the age of the beneficiary as of the calendar year which contains the beginning of the DROP period. The monthly DROP accrual shall comply with the requirements of section 401(a)(9) of the federal internal revenue code and treasury regulation § 1.401(a)9-6, Q&A-2(c).

(b) A member shall not receive a monthly retirement benefit, as calculated pursuant to K.S.A. 74-4958 or 74-4958a, and amendments thereto, until termination of such member's DROP participation and commencement of retirement. A DROP member shall not have any claim to any funds in such member's DROP account until such member retires at the termination of such member's DROP participation. Upon terminating DROP participation, a member is

entitled to such member's retirement benefit, including any postretirement benefit adjustment for which the member is eligible.

New Sec. 9. (a) A member's participation in the DROP ceases on the occurrence of the earliest of the following:

(1) Termination of the member's active service with the Kansas highway patrol;

(2) the last day of the member's elected DROP period that begins on the effective date of the member's election to participate in the DROP;

(3) retirement due to disability as defined in K.S.A. 74-4952, and amendments thereto;

or

(4) the member's death.

(b) If a member dies before taking a distribution from such member's DROP account, the member's designated beneficiary shall receive a lump-sum payment equal to the member's DROP account balance. If the DROP member has not named a beneficiary for such member's DROP account, the amount in the DROP account shall be paid to the beneficiary of the member's retirement benefit.

New Sec. 10. (a) A member, who satisfies the requirements of this act, shall be entitled to a distribution of such member's DROP account. Such distribution may be through any combination of the following payout options, each of which is subject to the applicable provisions of the federal internal revenue code and the applicable regulations of the internal revenue service:

- (1) A direct rollover to an eligible retirement plan; or
- (2) a lump-sum distribution.

(b) The board may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 11. The provisions of sections 4 through 11, and amendments thereto, shall expire on January 1, 2020.";

13 1 Sec. ~~4~~ K.S.A. 46-2201 and K.S.A. 2014 Supp. 74-4914 and 74-4937
2 are hereby repealed.

14 3 Sec. ~~5~~ This act shall take effect and be in force from and after its
4 publication in the statute book.