

HOUSE BILL No. 2620

By Representative Otto

1-17

9 AN ACT concerning retirement and pensions; relating to the Kansas
10 public employees retirement system and systems thereunder; employ-
11 ment after retirement; amending K.S.A. 72-5437, 74-4922 and 74-4939
12 and K.S.A. 2005 Supp. 72-5445 and 74-4914 and repealing the existing
13 sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 72-5437 is hereby amended to read as follows: 72-
17 5437. (a) All contracts of employment of teachers, as defined in K.S.A.
18 72-5436, and amendments thereto, except contracts entered into under
19 the provisions of K.S.A. 72-5412a, and amendments thereto, *and con-*
20 *tracts with retirants for whom the participating employer is making em-*
21 *ployer and employee contributions pursuant to the provisions of subsec-*
22 *tion (5)(b) of K.S.A. 74-4914, and amendments thereto,* shall be deemed
23 to continue for the next succeeding school year unless written notice of
24 termination or nonrenewal is served as provided in this subsection. Writ-
25 ten notice to terminate a contract may be served by a board upon any
26 teacher prior to the time the contract has been completed, and written
27 notice of intention to nonrenew a contract shall be served by a board
28 upon any teacher on or before May 1. A teacher shall give written notice
29 to a board that the teacher does not desire continuation of a contract on
30 or before May 15 or, if applicable, not later than 15 days after final action
31 is taken by the board upon termination of professional negotiation absent
32 a binding agreement under article 54 of chapter 72 of Kansas Statutes
33 Annotated, whichever is the later date.

34 (b) Terms of a contract may be changed at any time by mutual con-
35 sent of both a teacher and a board.

36 Sec. 2. K.S.A. 2005 Supp. 72-5445 is hereby amended to read as
37 follows: 72-5445. (a) (1) Subject to the provisions of subsection (b), the
38 provisions of K.S.A. 72-5438 through 72-5443, and amendments thereto,
39 apply only to: (A) Teachers who have completed not less than three con-
40 secutive years of employment, and been offered a fourth contract, in the
41 school district, area vocational-technical school or community college by
42 which any such teacher is currently employed; and (B) teachers who have
43 completed not less than two consecutive years of employment, and been

1 offered a third contract, in the school district, area vocational-technical
2 school or community college by which any such teacher is currently em-
3 ployed if at any time prior to the current employment the teacher has
4 completed the years of employment requirement of subpart (A) in any
5 school district, area vocational-technical school or community college in
6 this state.

7 (2) Any board may waive, at any time, the years of employment
8 requirements of provision (1) for any teachers employed by it.

9 (3) The provisions of this subsection are subject to the provisions of
10 K.S.A. 72-5446, and amendments thereto.

11 (b) The provisions of K.S.A. 72-5438 through 72-5443, and amend-
12 ments thereto, do not apply to any teacher whose license has been non-
13 renewed or revoked by the state board of education for the reason that
14 the teacher: (1) Has been convicted of a felony under the uniform con-
15 trolled substances act; (2) has been convicted of a felony described in any
16 section of article 34 of chapter 21 of the Kansas Statutes Annotated or an
17 act described in K.S.A. 21-3412 or K.S.A. 2005 Supp. 21-3412a, and
18 amendments thereto, if the victim is a minor or student; (3) has been
19 convicted of a felony described in any section of article 35 of chapter 21
20 of the Kansas Statutes Annotated, or has been convicted of an act de-
21 scribed in K.S.A. 21-3517 and amendments thereto, if the victim is a
22 minor or student; (4) has been convicted of any act described in any
23 section of article 36 of chapter 21 of the Kansas Statutes Annotated; (5)
24 has been convicted of a felony described in article 37 of chapter 21 of
25 the Kansas Statutes Annotated; (6) has been convicted of an attempt
26 under K.S.A. 21-3301, and amendments thereto, to commit any act spec-
27 ified in this subsection; (7) has been convicted of any act which is de-
28 scribed in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments
29 thereto; (8) has been convicted in another state or by the federal govern-
30 ment of an act similar to any act described in this subsection; or (9) has
31 entered into a criminal diversion agreement after having been charged
32 with any offense described in this subsection.

33 (c) *The provisions of K.S.A. 72-5438 through 72-5443, and amend-*
34 *ments thereto, do not apply to any teacher who is a retirant from school*
35 *employment of the Kansas public employees retirement system and such*
36 *teacher's participating employer is making employer and employee con-*
37 *tributions pursuant to the provisions of subsection (5)(b) of K.S.A. 74-*
38 *4914, and amendments thereto.*

39 Sec. 3. K.S.A. 2005 Supp. 74-4914 is hereby amended to read as
40 follows: 74-4914. (1) The normal retirement date for a member of the
41 system shall be the first day of the month coinciding with or following
42 termination of employment with any participating employer not followed
43 by employment with any participating employer within 30 days and the

1 attainment of age 65 or, commencing July 1, 1993, age 62 with the com-
2 pletion of 10 years of credited service or the first day of the month co-
3 inciding with or following the date that the total of the number of years
4 of credited service and the number of years of attained age of the member
5 is equal to or more than 85. In no event shall a normal retirement date
6 for a member be before six months after the entry date of the participating
7 employer by whom such member is employed. A member may retire on
8 the normal retirement date or on the first day of any month thereafter
9 upon the filing with the office of the retirement system of an application
10 in such form and manner as the board shall prescribe. Nothing herein
11 shall prevent any person, member or retirant from being employed, ap-
12 pointed or elected as an employee, appointee, officer or member of the
13 legislature. Elected officers may retire from the system on any date on
14 or after the attainment of the normal retirement date, but no retirement
15 benefits payable under this act shall be paid until the member has ter-
16 minated such member's office.

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

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

25 (4) Any member may retire before such member's normal retirement
26 date on the first day of any month coinciding with or following termination
27 of employment with any participating employer not followed by employ-
28 ment with any participating employer within 30 days and the attainment
29 of age 55 with the completion of 10 years of credited service, but in no
30 event before six months after the entry date, upon the filing with the
31 office of the retirement system of an application for retirement in such
32 form and manner as the board shall prescribe.

33 (5) (a) *Except as otherwise provided in subsection (5)(b)*, if a retirant
34 who retired on or after July 1, 1988, is employed or appointed in or to
35 any position or office for which compensation for service is paid in an
36 amount equal to \$15,000 or more in any one such calendar year, by any
37 participating employer for which such retirant was employed or appointed
38 during the final two years of such retirant's participation, such retirant
39 shall not receive any retirement benefit for any month for which such
40 retirant serves in such position or office. The participating employer shall
41 report to the system within 30 days of when the compensation paid to
42 the retirant is equal to or exceeds any limitation provided by this section.
43 Any retirant employed by a participating employer shall not make con-

1 tributions nor receive additional credit under such system for such service
2 except as provided by this section. Upon request of the executive director
3 of the system, the secretary of revenue shall provide such information as
4 may be needed by the executive director to carry out the provisions of
5 this act. The provisions of this subsection shall not apply to retirants em-
6 ployed as substitute teachers or officers, employees or appointees of the
7 legislature. The provisions of this subsection shall not apply to members
8 of the legislature prior to January 8, 2000. The provisions of this subsec-
9 tion shall not apply to any other elected officials prior to the term of office
10 of such elected official which commences on or after July 1, 2000. The
11 provisions of this subsection shall apply to any other elected official on
12 and after the term of office of such other elected official which com-
13 mences on or after July 1, 2000. Except as otherwise provided, com-
14 mencing January 8, 2001, the provisions of this subsection shall apply to
15 members of the legislature. For determination of the amount of com-
16 pensation paid pursuant to this subsection, for members of the legislature,
17 compensation shall include any amount paid as provided pursuant to sub-
18 sections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto,
19 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstand-
20 ing any provision of law to the contrary, when a member of the legislature
21 is paid an amount of compensation of \$15,000 or more in any one calendar
22 year, the member may continue to receive any amount provided in sub-
23 sections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still
24 be entitled to receive such member's retirement benefit. Commencing
25 July 1, 2005, and ending June 30, 2008, the provisions of this subsection
26 shall not apply to retirants who either retired under the provisions of
27 subsection (1), or, if they retired under the provisions of subsection (4),
28 were retired more than 30 days prior to the effective date of this act and
29 are licensed professional nurses or licensed practical nurses employed by
30 the state of Kansas at the Osawatomie state hospital, Rainbow mental
31 health facility, Larned state hospital, Parsons state hospital and training
32 center, Kansas neurological institute, the Kansas soldiers' home or the
33 Kansas veterans' home. The participating employer of such retirant shall
34 pay to the system the actuarially determined employer contribution based
35 on the retirant's compensation during any such period of employment.

36 *(b) The provisions of subsection (5)(a) related to the compensation*
37 *limitation, nonreceipt of retirement benefits and all related provisions*
38 *shall not apply to any retirant who contracts for employment with any*
39 *participating employer in which such participating employer pays to the*
40 *system the actuarially determined employer contribution and the em-*
41 *ployee contribution based on the retirant's compensation during any such*
42 *period of employment. The participating employer of any such retirant*
43 *shall notify the system of the participating employer's intention to make*

1 *such required contributions prior to the commencement of such employ-*
2 *ment. Any contract of employment between a retirant and a participating*
3 *employer may provide that the retirant's compensation for employment*
4 *may be reduced by any such contributions made by the participating*
5 *employer to the system subject to agreement of both parties to the con-*
6 *tract.*

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

14 Sec. 4. K.S.A. 74-4922 is hereby amended to read as follows: 74-
15 4922. The executive director shall maintain such records as are necessary
16 to determine the following reserves.

17 (a) *Member's accumulated contribution reserve.* This reserve shall be
18 maintained within the fund for each member and for each member having
19 a vested benefit. Each such reserve account shall be credited with the
20 employee's contributions upon receipt thereof and shall be credited on
21 June 30 each year with interest: (1) At the actuarial assumption rate
22 adopted by the board on the balance in the employee's account as of the
23 preceding December 31 for those who first became members prior to
24 July 1, 1993; and (2) 4% for those who first became members on and
25 after July 1, 1993. For the purposes of crediting interest upon accumu-
26 lated contributions, the term member shall include the beneficiary of a
27 member during the twelve-month period following the death of a mem-
28 ber and the beneficiary of a member pursuant to subsection (6) of K.S.A.
29 74-4918 and amendments thereto during any period commencing on the
30 date of death of such member and ending on the date that the member
31 would have attained retirement age. Refunds of employee's accumulated
32 contributions prior to retirement shall be made from this reserve. Upon
33 commencement of payments of the retirement benefit, the amount in
34 this reserve account for the retiring member or members, shall be trans-
35 ferred to the retirement benefit payment reserve.

36 (b) *Retirement benefit accumulation reserve.* This reserve within the
37 fund shall be credited with the portion of employer contributions for
38 retirement benefits both for prior service and for participating service,
39 *employer and employee contributions as provided in subsection (5)(b) of*
40 *K.S.A. 74-4914, and amendments thereto, and with income of the fund*
41 *not otherwise directed by law to a different reserve. The board shall credit*
42 *interest to all other reserves and reserve accounts as provided by law at*
43 *rates determined by the board. Interest so credited shall be transferred*

1 from the retirement benefit accumulation reserve. Separate reserve ac-
2 counts shall not be maintained for each participating employer joining
3 the system on the first entry date. The board shall determine whether or
4 not separate reserve accounts shall be maintained for each participating
5 employer joining the system after the first entry date.

6 (c) *Retirement benefit payment reserve.* (i) This reserve within the
7 fund will be credited with the amount transferred from the member's
8 accumulated contributions reserve and from the retirement benefit ac-
9 cumulation reserve and with interest allocated to this reserve at the rate
10 determined each year by the board. This reserve shall be charged with
11 payments of retirement benefits including payments upon death of the
12 excess of member's accumulated contributions over retirement benefit
13 payments paid to date of death. Annually, upon receipt of the actuarial
14 valuation as of the end of the previous fiscal year the board shall cause
15 certain adjustments to be made which shall be made prior to the end of
16 the fiscal year immediately following the fiscal year for which the actuarial
17 valuation is applicable.

18 (ii) The amount of these adjustments shall be the difference between
19 the amount required by the current actuarial valuation and the amount
20 required by the previous year's actuarial valuation plus amounts trans-
21 ferred to this reserve less amounts paid out of this reserve during the
22 fiscal year to be adjusted. Such adjustments required to maintain this
23 reserve on an actuarial reserve basis as of June 30 of the previous fiscal
24 year shall be accomplished by transfers to or from, as applicable, the
25 retirement benefit accumulation reserve.

26 (d) *Expense reserve.* This reserve within the fund shall be credited
27 with interest allocated to this reserve at the rate determined each year by
28 the board. It shall be charged with payments of all expenses incurred in
29 connection with the administration of the system.

30 Sec. 5. K.S.A. 74-4939 is hereby amended to read as follows: 74-
31 4939. (1) Except as otherwise provided in this section, the provisions of
32 K.S.A. 74-4919 and 74-4920, and amendments thereto, shall apply to
33 employee and employer contributions and obligations.

34 (2) The employer contribution rate for participating employers who
35 are eligible employers as specified in subsections (1), (2) and (3) of K.S.A.
36 74-4931 and amendments thereto shall be as certified by the board. Par-
37 ticipating employers shall certify to the state board of education before
38 September 15 of each year the anticipated total compensation to be paid
39 during the next fiscal year to employees who are or are to become mem-
40 bers. The state board of education shall transmit the information neces-
41 sary to the division of the budget and the governor who shall include in
42 the budget and budget document each year thereafter provisions for the
43 transfer from the state general fund of sufficient sums to satisfy the par-

1 participating employer's obligation under this act. The director of accounts
2 and reports shall make a transfer therefor to the system quarterly, at the
3 same time such employee contributions are remitted by such participating
4 employers. Such transfer from the general fund of sufficient sums to
5 satisfy the participating employer's obligation shall not include any ad-
6 justments for individual employee's service in prior periods and any re-
7 quired payment by a participating employer pursuant to *subsection (5)(b)*
8 *of K.S.A. 74-4914, 74-4990 and amendments thereto* and ~~K.S.A. 74-~~
9 ~~49,126, and amendments thereto.~~ The employer's obligation for such ad-
10 justments shall be paid by the participating employer. Transfers required
11 by this subsection shall be provided for annually by act of the legislature.

12 (3) Participating employers who are eligible employers as specified
13 in subsection (4) of K.S.A. 74-4931 and amendments thereto shall pay to
14 the system employer contributions at a rate of contribution as certified
15 by the board.

16 (4) Upon the effective date of this act, the transfers for the employer's
17 obligation pursuant to subsection (2) for the quarter commencing on Jan-
18 uary 1, 1987, shall be made on July 1, 1987, together with interest thereon
19 at the rate of 6.72% per annum from the date the payment would have
20 been made as provided in this section immediately prior to this amend-
21 ment until the date paid.

22 Sec. 6. K.S.A. 72-5437, 74-4922 and 74-4939 and K.S.A. 2005 Supp.
23 72-5445 and 74-4914 are hereby repealed.

24 Sec. 7. This act shall take effect and be in force from and after its
25 publication in the statute book.