

HOUSE BILL No. 2751

By Committee on Appropriations

5-7

9 AN ACT concerning retirement and pensions; enacting the Kansas pub-
10 lic employees retirement system defined contribution act; providing
11 terms, conditions and requirements related thereto; relating to plan
12 document, membership, benefits and contributions; death and disa-
13 bility benefits.

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

16 Section 1. (a) The provisions of sections 1 through 18, and amend-
17 ments thereto, shall be known and may be cited as the Kansas public
18 employees retirement system defined contribution act, and shall be ef-
19 fective on and after July 1, 2012.

20 (b) This act applies to any individual who is: (1) First hired on and
21 after July 1, 2012, by a participating employer and who would otherwise
22 qualify for membership in the Kansas public employees retirement sys-
23 tem, K.S.A. 74-4901 et seq., and amendments thereto; and (2) an inactive
24 non-vested member of the Kansas public employees retirement system
25 on June 30, 2012, and who returns to employment with a participating
26 employer on and after July 1, 2012, and who would otherwise qualify for
27 membership in the Kansas public employees retirement system, K.S.A.
28 74-4901 et seq., and amendments thereto. The individuals described in
29 this subsection are required to become members of the defined contri-
30 bution plan established under section 3, and amendments thereto.

31 (c) This act does not apply to members of the Kansas police and
32 firemen's retirement system, K.S.A. 74-4951 et seq., and amendments
33 thereto, and the retirement system for judges, K.S.A. 20-2601 et seq.,
34 and amendments thereto.

35 Sec. 2. Unless the context requires otherwise, terms that are used in
36 this act have the meanings set forth for them in K.S.A. 74-4902, and
37 amendments thereto, and the following definitions apply:

38 (a) "Act" means the provisions of section 1 et seq., and amendments
39 thereto;

40 (b) "active DC plan member" means a DC plan member who is ac-
41 tively employed by a participating employer;

42 (c) "defined benefit plan" means the defined benefit plan for the
43 Kansas public employees retirement system for KPERS;

1 (d) “DC plan member” means an individual who is required by sec-
2 tion 1, and amendments thereto, to be a member of the defined contri-
3 bution plan, and any individual who elects to transfer to the defined con-
4 tribution plan under section 8, and amendments thereto. The term also
5 includes any survivor or beneficiary of a DC plan member, who has a
6 retirement account in the defined contribution plan;

7 (e) “optional retirement program” means the retirement plan estab-
8 lished by the state board of regents under K.S.A. 74-4925, and amend-
9 ments thereto; and

10 (f) “plan” or “defined contribution plan” means the defined contri-
11 bution retirement plan established by section 3, and amendments thereto.

12 Sec. 3. (a) The board shall establish within the Kansas public em-
13 ployees retirement system a separate defined contribution plan in ac-
14 cordance with the provisions of this act. The plan must be established as
15 a pension plan for the exclusive benefit of members and their benefici-
16 aries and as a “qualified governmental plan” pursuant to sections 401(a)
17 and 414(d) of the federal internal revenue code and its implementing
18 regulations. Retirement accounts must be established for each DC plan
19 member. Assets of the plan must be held in trust. The plan is established
20 in addition to any retirement, pension, deferred compensation or other
21 benefit plan administered by the state or a political subdivision.

22 (b) The board may contract for plan administration and use a com-
23 petitive proposal process when contracting for consulting, educational,
24 investment, recordkeeping or other services for the plan.

25 Sec. 4. (a) The board has the powers and shall perform the duties
26 regarding the defined contribution plan as provided in K.S.A. 74-4909,
27 and amendments thereto, as applicable. The board may also exercise the
28 powers and shall perform the duties provided in this act.

29 (b) The board shall adopt a plan document and reasonable and nec-
30 essary policies and procedures, without the need for corresponding rules
31 and regulations.

32 (c) The board may negotiate a contract with the third party admin-
33 istrator currently selected for the Kansas public employees deferred com-
34 pensation plan for the initial administration of the defined contribution
35 plan for a period not to exceed five years. Thereafter, the contract for
36 administration of the defined contribution plan shall be awarded through
37 a competitive proposal process.

38 Sec. 5. (a) The board may establish an account within the defined
39 contribution plan for paying the plan’s administrative expenses.

40 (b) The board may:

41 (1) Assess fees on DC plan member accounts to pay the reasonable
42 administrative costs of the plan; and

43 (2) negotiate with a vendor or vendors for vendor reimbursement of

1 board administrative expenses for the plan.

2 (c) All fees assessed must be fully disclosed to members and treated
3 as public information.

4 (d) Costs for the board to secure investment advice, recordkeeping,
5 contract oversight, educational materials for members, performance eval-
6 uations and other appropriate information and services, are included as
7 part of the administrative expenses of the plan.

8 Sec. 6. The statutory provisions governing the defined contribution
9 plan are subject to amendment by the legislature. The board has the
10 power to amend the plan document, policies and procedures, consistent
11 with the statutory provisions governing the defined contribution plan at
12 the time of the amendment.

13 Sec. 7. (a) This section shall not be implemented until the board has
14 obtained approval from the federal internal revenue service. The board
15 may implement the remainder of this act prior to implementation of this
16 section. This section is severable from the remainder of this act and shall
17 be repealed if the federal internal revenue service refuses to grant such
18 approval or issues an adverse decision.

19 (b) Except as otherwise provided in this act, an active member of the
20 defined benefit plan of the system on July 1, 2012, may elect to become
21 a member of the defined contribution plan by making an election within
22 a 90-day period established by the board.

23 (c) (1) Elections made pursuant to this section shall be made on a
24 form and in a manner prescribed by the board.

25 (2) A defined benefit plan member failing to make an election pre-
26 scribed by this section remains a member of the defined benefit plan.

27 (3) An election under this section, including the default election pur-
28 suant to subsection (c)(2), is a one-time irrevocable election.

29 (4) A member who makes an election to transfer to the defined con-
30 tribution plan shall have such member's employee account balance as of
31 the date of the transfer directly transferred to the defined contribution
32 plan.

33 (5) A member who makes an election to transfer to the defined con-
34 tribution plan shall have no rights of any nature in the defined benefit
35 plan after the transfer.

36 (d) A member in either the defined benefit plan or the defined con-
37 tribution plan who becomes inactive after an election under this section
38 and who returns to active membership remains in the plan previously
39 elected.

40 (e) A system member may not simultaneously be a member of the
41 defined benefit plan and the defined contribution plan and shall be a
42 member of either the defined benefit plan or the defined contribution
43 plan. A period of service may not be credited in more than one retirement

1 plan within the system.

2 (f) A member of the defined benefit plan who is subject to a domestic
3 relations order or an execution or income-withholding order may not
4 transfer to the defined contribution plan unless the order is modified to
5 apply under the defined contribution plan.

6 (g) (1) A member of the defined benefit plan who is purchasing serv-
7 ice credit through installment payments, either made directly to the board
8 or pursuant to a payroll deduction agreement, may not transfer mem-
9 bership to the defined contribution plan unless the member first com-
10 pletes the contract for purchase of service credit.

11 (2) A member who files an election to transfer membership may
12 make a lump-sum payment for up to the balance of the service credit
13 remaining to be purchased prior to transferring, subject to the limitations
14 of section 415 of the federal internal revenue code. The lump-sum pay-
15 ment, unless made by a rollover, shall be made with after-tax dollars.

16 (3) If a member who files an election to transfer membership fails to
17 complete the contract for purchase of service credit by the end of the
18 member's 90-day election window, the board shall terminate the service
19 purchase contract and credit the member with the prorated amount of
20 service credit purchased under the contract.

21 Sec. 8. (a) If a member actively covered by the defined benefit plan
22 on July 1, 2012, is employed by the state board of regents and has pre-
23 viously chosen under K.S.A. 74-4911, and amendments thereto, to be a
24 member of the defined benefit plan that member shall not be eligible to
25 elect the defined contribution plan pursuant to this section.

26 (b) If a member who is employed by the state board of regents and
27 who is covered by the defined benefit plan on July 1, 2010, elects to
28 remain in the defined benefit plan under section 7, and amendments
29 thereto, and subsequently becomes eligible to make a choice between the
30 defined benefit plan and the optional retirement plan under K.S.A. 74-
31 4911, and amendments thereto, the member may only elect to remain in
32 the defined benefit plan.

33 (c) If a member who is employed by the state board of regents who
34 is covered by the defined contribution plan becomes eligible to make a
35 choice between the defined contribution plan and the optional retirement
36 plan under K.S.A. 74-4911, and amendments thereto, the member may
37 elect to remain in the defined contribution plan or become a member of
38 the optional retirement plan.

39 (d) Elections made pursuant to this section must be made on a form
40 prescribed by the board and must be made within 90 days of the date of
41 employment.

42 (e) An election under this section is a one-time irrevocable election.

43 (f) A member in either the defined contribution plan or the optional

1 retirement program who becomes inactive after an election under this
2 section and who returns to active membership remains in the plan pre-
3 viously elected.

4 (g) A regents employee in a position covered under the system may
5 not simultaneously be a member of more than one retirement plan under
6 this act, but must be a member of the defined benefit plan, the defined
7 contribution plan, or the optional retirement program. The same period
8 of service may not be credited in more than one retirement system or
9 plan.

10 (h) An election to become a member of the optional retirement pro-
11 gram pursuant to this section is a waiver of all rights and benefits under
12 the Kansas public employees retirement system.

13 Sec. 9. The board shall accept the rollover of contributions and the
14 income on those contributions from another eligible retirement plan to
15 the member's rollover account only to the extent allowed under applicable
16 federal law.

17 Sec. 10. (a) A DC plan member's mandatory contribution account
18 includes the DC plan member's contributions and the income on those
19 contributions and is vested from the date that the employee becomes a
20 member of the plan.

21 (b) A DC plan member's employer contribution account includes the
22 employer's contributions and the income on those contributions and is
23 vested only when the member has a total of three years of participating
24 service in the defined contribution plan.

25 (c) A DC plan member's rollover account includes the member's roll-
26 overs of contributions made pursuant to section 10, and amendments
27 thereto, and income on those contributions and are vested from the date
28 that the contribution is credited to the account.

29 (d) If the DC plan member's employer contribution account is not
30 vested upon termination of plan membership, as provided in this section,
31 the employer contributions and income are forfeited as provided in sec-
32 tion 11, and amendments thereto.

33 Sec. 11. (a) An active DC plan member shall contribute 7% of com-
34 pensation to the defined contribution plan. These contributions shall be
35 picked up by the employer via a salary reduction as provided in section
36 414(h)(2) of the federal internal revenue code.

37 (b) A DC plan member may not make voluntary contributions to the
38 defined contribution plan.

39 (c) Subject to adjustment by the board as provided in section 12, and
40 amendments thereto, an active DC plan member's employer shall con-
41 tribute the following:

42 (1) Five percent of compensation to the active DC plan member's
43 employer contribution account;

- 1 (2) a percentage of compensation, determined by the board under
2 section 12, and amendments thereto, to the defined benefit plan as the
3 plan funding rate as described in section 12, and amendments thereto;
- 4 (3) a percentage of compensation, determined by the board, must be
5 allocated to the administrative account established by section 5, and
6 amendments thereto; and
- 7 (4) a percentage of compensation, determined by the board, must be
8 allocated to the death and long-term disability plan under K.S.A. 74-4927,
9 and amendments thereto.
- 10 (d) Forfeitures of employer contributions and investment income on
11 the employer contributions may not be used to increase a DC plan mem-
12 ber's retirement account. The board shall allocate the forfeitures under
13 section 10, and amendments thereto, to meet the plan's administrative
14 expenses, including startup expenses.
- 15 Sec. 12. (a) The board shall periodically review the sufficiency of the
16 plan funding rate and shall adjust the amount of contributions under
17 section 11, and amendments thereto, as specified in this section. The
18 board shall collect and maintain the data necessary to comply with this
19 section. The plan funding rate set in section 11, and amendments thereto,
20 must be adjusted as provided in this section and the plan document to
21 actuarially fund the defined benefit plan's unfunded liabilities and the
22 change in the normal cost contribution rate that is the result of the DC
23 plan member participation in the defined contribution plan.
- 24 (b) If the board determines that the plan funding rate should be in-
25 creased or decreased, the plan funding rate under section 11, and amend-
26 ments thereto, must be increased or decreased accordingly.
- 27 Sec. 13. (a) The investment alternatives under the defined contri-
28 bution plan may be the same as the investment alternatives under the
29 Kansas public employees deferred compensation plan.
- 30 (b) The board shall from time to time review the suitability and man-
31 agement of investment alternatives and may change the alternatives to be
32 offered. The board shall notify affected DC plan members of potential
33 changes before any changes become effective.
- 34 (c) The board shall establish a default investment option for any DC
35 plan member who does not have an effective investment direction. The
36 board may utilize a balanced fund as the default investment fund.
- 37 (d) Assets within each member's accounts must be invested as di-
38 rected by the member. However, the non-vested portion of the DC plan
39 member's employer contribution account shall be invested in the board's
40 default investment fund.
- 41 Sec. 14. Except as provided in section 18, and amendments thereto,
42 any time after termination of service, a DC plan member or the DC plan
43 member's beneficiary may terminate plan membership by filing a written

1 application with the board and removing the DC plan member's vested
2 account balance from the plan through any combination of the following
3 payout options, each of which is subject to the provisions of the plan
4 document and the federal internal revenue code and the applicable reg-
5 ulations of the internal revenue service:

- 6 (a) A direct rollover to an eligible retirement plan;
- 7 (b) a regular rollover to an eligible retirement plan;
- 8 (c) a lump-sum distribution of the DC plan member's vested account
9 balance; or
- 10 (d) an optional form of distribution offered by the board under sec-
11 tion 15, and amendments thereto.

12 Sec. 15. (a) Subject to the provisions of the plan document, a DC
13 plan member, after termination of service, may leave the DC plan mem-
14 ber's vested account balance in the plan, and the DC plan member is
15 eligible for a distribution as provided in this section.

16 (b) After termination of service and upon filing a written application
17 with the board, a DC plan member may select any distribution option
18 provided by the plan document.

19 (c) A DC plan member who is less than 70 1/2 years of age who
20 returns to service may not continue to receive a distribution under this
21 section while actively employed in a covered position.

22 (d) The plan document shall provide that distributions must comply
23 with the minimum distribution requirements established in the federal
24 internal revenue code and applicable under K.S.A. 74-49,123, and
25 amendments thereto.

26 (e) The plan document may specify minimum account balances for
27 purposes of allowing benefit payment options and rollovers in accordance
28 with federal law.

29 Sec. 16. A DC plan member's beneficiary must be determined as
30 provided in the defined benefit plan regulations. Upon filing a written
31 application with the board after the death of a DC plan member, the DC
32 plan member's beneficiary is entitled to the DC plan member's vested
33 account balance.

34 Sec. 17. Before termination of service, a DC plan member may not
35 receive a refund of any portion of the DC plan member's vested account
36 balance.

37 Sec. 18. (a) For the purposes of providing the "insured death ben-
38 efit" and "insured disability benefit" as prescribed in K.S.A. 74-4927, and
39 amendments thereto, the term "member" as used in K.S.A. 74-4927, and
40 amendments thereto, shall include those members of the Kansas public
41 employees retirement system's defined contribution plan as defined in
42 section 2, and amendments thereto.

43 (b) Each participating employer shall pay to the Kansas public em-

1 ployees retirement system in such manner as the board of trustees shall
2 prescribe each payroll period an amount sufficient to pay the employer's
3 contribution to the group insurance reserve as provided in subsection
4 (c)(4) of section 11, and amendments thereto.

5 (c) Except as otherwise provided, in the event that a DC plan mem-
6 ber as defined in section 2, and amendments thereto, becomes eligible
7 for and begins to receive the insured disability benefit prescribed in
8 K.S.A. 74-4927, and amendments thereto, the member's participating
9 employer shall continue to make the contributions on behalf of such in-
10 dividual to the retirement plan as required under subsection (c)(1) of
11 section 11, and amendments thereto, and shall also contribute to the
12 retirement plan an amount equal to the individual's contribution required
13 under subsection (a) of section 11, and amendments thereto, if the DC
14 plan member is permanently and totally disabled as defined in section
15 72(m) of the federal internal revenue code. Commencing on and after
16 July 1, 2012, such contributions shall cease at the earlier of: (1) The date
17 that the individual is no longer entitled to an insured disability benefit
18 under K.S.A. 74-4927, and amendments thereto; or (2) the date that is
19 five years after the date the individual becomes eligible for and begins to
20 receive the insured disability benefit prescribed in K.S.A. 74-4927, and
21 amendments thereto. For purposes of applying this subsection, compen-
22 sation under section 11, and amendments thereto, means the individual's
23 compensation at the time the individual became disabled as defined un-
24 der the insured disability program prescribed in K.S.A. 74-4927, and
25 amendments thereto.

26 Sec. 19. This act shall take effect and be in force from and after its
27 publication in the statute book.