

HOUSE BILL No. 2411

By Representative Schwertfeger

11-24

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; reducing the required waiting period for
3 employment of retirants hired by a school district participating
4 employer for a covered position that requires a teaching license or
5 certificate; amending K.S.A. 2025 Supp. 74-4914 and 74-4937 and
6 repealing the existing sections.

7
8 WHEREAS, The amendments made to the provisions of K.S.A. 2025
9 Supp. 74-4914 and 74-4937 by this act shall be known as the Kansas
10 teacher shortage relief act; and

11 WHEREAS, Recognition shall be given to the great former Kansas
12 Senator Dave Jackson for his efforts in supporting this legislation to
13 alleviate teacher shortages in Kansas; and

14 WHEREAS, We offer gratitude and thank Dave for his efforts to make
15 Kansas and his community a better place.

16 Now, therefore:

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

18 Section 1. K.S.A. 2025 Supp. 74-4914 is hereby amended to read as
19 follows: 74-4914. (1) The normal retirement date for a member of the
20 system shall be the first day of the month coinciding with or following
21 termination of employment with any participating employer not followed
22 by employment with any participating employer within 60 days, or 180
23 days as provided in subsection (9), and without any prearranged agreement
24 for employment with any participating employer, and the attainment of age
25 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of
26 credited service or the first day of the month coinciding with or following
27 the date that the total of the number of years of credited service and the
28 number of years of attained age of the member is equal to or more than 85.
29 In no event shall a normal retirement date for a member be before six
30 months after the entry date of the participating employer by whom such
31 member is employed. A member may retire on the normal retirement date
32 or on the first day of any month thereafter upon the filing with the office of
33 the retirement system of an application in such form and manner as the
34 board shall prescribe. Such application shall contain a certification by the
35 member that the member will not be employed with any participating
36 employer within 60 days, or 180 days as provided in subsection (9), of

1 retirement and the member has not entered into a prearranged agreement
2 for employment with any participating employer. Nothing herein shall
3 prevent any person, member or retirant from being employed, appointed or
4 elected as an employee, appointee, officer or member of the legislature.
5 Elected officers may retire from the system on any date on or after the
6 attainment of the normal retirement date, but no retirement benefits
7 payable under this act shall be paid until the member has terminated such
8 member's office.

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

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

17 (4) Any member may retire before such member's normal retirement
18 date on the first day of any month coinciding with or following
19 termination of employment with any participating employer not followed
20 by employment with any participating employer within 60 days, or 180
21 days as provided in subsection (9), and the attainment of age 55 with the
22 completion of 10 years of credited service, but in no event before six
23 months after the entry date, upon the filing with the office of the retirement
24 system of an application for retirement in such form and manner as the
25 board shall prescribe. The member's application for retirement shall
26 contain a certification by the member that the member will not be
27 employed with any participating employer within 60 days, or 180 days as
28 provided in subsection (9), of retirement and the member has not entered
29 into a prearranged agreement for employment with any participating
30 employer.

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

38 (6) (a) Commencing January 1, 2018, for all retirements that occurred
39 prior to such date, any retirant who is employed or appointed in or to any
40 position by a participating employer, an independent contractor or a third-
41 party entity who contracts services with a participating employer to fill a
42 position, without any prearranged agreement with such participating
43 employer and not prior to 60 days after such retirant's retirement date, shall

1 not be subject to an earnings limitation that when met or exceeded requires
2 that the retirant not receive a retirement benefit for any month for which
3 such retirant serves in such position. If a retirant is employed in a covered
4 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
5 participating employer of such retirant shall pay to the system the
6 statutorily prescribed employer contribution rate on the first \$40,000 of
7 such retirant's compensation in a calendar year and a 30% employer
8 contribution on any compensation in excess of \$40,000 in a calendar year
9 during any such period of employment. If a retirant is employed by more
10 than one participating employer or performing duties in more than one
11 position, contributions shall be made on compensation from all such
12 employment for that calendar year. If a retirant is employed in a non-
13 covered position, no employer contribution shall be paid to the system.

14 (b) The provisions of this subsection shall not apply, except as
15 specifically provided in this subsection, to retirants who are:

16 (i) Licensed professional nurses or licensed practical nurses
17 employed by the state of Kansas in an institution as defined in K.S.A. 76-
18 12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers'
19 home or the Kansas veterans' home. The participating employer of such
20 retirant shall pay to the system the actuarially determined employer
21 contribution based on the retirant's compensation and the statutorily
22 prescribed employee contribution during any such period of employment;

23 (ii) employed by a school district in a position as provided in K.S.A.
24 74-4937(3), and amendments thereto;

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

31 (iv) members of the Kansas police and firemen's retirement system
32 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members of
33 the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
34 amendments thereto, or members of the state board of regents retirement
35 plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

36 (v) employed as substitute teachers without a contract or officers,
37 employees or appointees of the legislature;

38 (vi) a poll worker hired to work an election day for a county election
39 officer responsible for conducting all official elections held in the county;

40 (vii) employed by, or have accepted employment from, a participating
41 employer prior to May 1, 2015. Any break in continuous employment by a
42 retirant or move to a different position by a retirant during the effective
43 period of this subsection shall be deemed new employment and shall

1 subject the retirant to the provisions of this subsection. Commencing
2 January 1, 2018, the participating employer of a retirant described in this
3 subparagraph who is employed in a covered position, as defined in K.S.A.
4 74-49,202, and amendments thereto, shall pay to the system the statutorily
5 prescribed employer contribution rate on the first \$40,000 of such retirant's
6 compensation in a calendar year and a 30% employer contribution on any
7 compensation in excess of \$40,000 in a calendar year during any such
8 period of employment. If a retirant is employed by more than one
9 participating employer or performing duties in more than one position,
10 contributions shall be made on compensation from all such employment
11 for that calendar year. If a retirant is employed in a non-covered position,
12 no employer contribution shall be paid to the system;

13 (viii) state or local elected officials. A retirant shall not be employed
14 in an elected office within 30 days of such retirant's retirement, except that
15 if a retirant is filling a vacant elected office, no waiting period shall be
16 required;

17 (ix) employed by the Kansas academies of the United States
18 department of defense STARBASE program; or

19 (x) employed as a licensed professional nurse, licensed practical
20 nurse or in a direct support position of an affiliated employer organized
21 under K.S.A. 19-4001, and amendments thereto, or defined under K.S.A.
22 39-1803, and amendments thereto.

23 (c) The participating employer shall enroll all retirants, including
24 retirants under subsection (6)(b)(i), (ii), (iii), (vii) and (viii), and report to
25 the system when compensation is paid to a retirant as provided in this
26 subsection. Such report shall contain a certification by the appointing
27 authority of the participating employer that any hired retirant has not been
28 employed by the participating employer within 60 days of such retirant's
29 retirement and that there was no prearranged agreement for employment
30 between the participating employer and the hired retirant. Upon request of
31 the executive director of the system, the participating employer shall
32 provide such information as may be needed by the executive director to
33 carry out the provisions of this subsection. No retirant shall make
34 contributions to the system or receive credit for service while employed
35 under the provisions of this subsection.

36 (d) Retirants who are independent contractors or employees of third-
37 party entities who contract with a participating employer, shall not be
38 subject to the compensation limitation or employer contribution
39 requirements in this subsection or the requirements of paragraph (c)
40 regarding enrollment and reporting to the system, so long as all of the
41 following apply:

42 (A) The contractual relationship was not created to allow the retirant
43 to continue employment with the participating employer after retirement in

1 a position similar to the one such retirant held prior to retirement;

2 (B) the activities performed by the independent contractor or third-
3 party entity are not normally performed exclusively by employees of that
4 participating employer; and

5 (C) the retirant meets the classification of independent contractor as
6 provided in K.S.A. 44-768, and amendments thereto, or activities
7 performed by the third-party entity that employs the retirant are performed
8 on a limited-term basis and the third-party entity is not a participating
9 employer in the system.

10 (e) Nothing in this subsection shall be construed to create any right;
11 or to authorize the creation of any right, ~~which~~ *that* is not subject to
12 amendment or nullification by act of the legislature.

13 (7) (a) Except as provided in paragraph (b), if determined by the
14 retirement system that a retirant entered into a prearranged agreement for
15 employment with a participating employer prior to such retirant's
16 retirement and prior to the end of the subsequent 60-day waiting period, or
17 the 180-day waiting period under subsection (9), the monthly retirement
18 benefit of such retirant shall be suspended during the period that begins on
19 the month in which the retirant is re-employed and ends six months after
20 the retirant's termination of such employment. The retirant shall repay to
21 the retirement system all monthly retirement benefits paid to the retirant by
22 the retirement system that the retirant received after such employment
23 began. The participating employer ~~which~~ *that* hired such retirant shall be
24 required to pay to the system any fees, fines, penalties or any other cost
25 imposed by the internal revenue service and indemnify the system for any
26 cost incurred by the system to defend any action brought by the internal
27 revenue service based on in-service distributions ~~which~~ *that* are a result of
28 any determined prearranged agreement and for any cost incurred by the
29 system to collect any monthly retirement benefit required to be repaid by
30 such retirant pursuant to this subsection.

31 (b) For members who retired on and after July 1, 2016, and on or
32 before July 1, 2019, if determined by the retirement system that a retirant
33 entered into a prearranged agreement for employment with a participating
34 employer prior to such retirant's retirement date and the subsequent 60-day
35 waiting period, or the 180-day waiting period under subsection (9), and
36 upon being notified of the violation, the retirant terminated such
37 employment, the provisions of paragraph (a) shall not apply. If any retirant
38 had benefits suspended prior to July 1, 2019, such benefits shall be
39 reimbursed by the retirement system, if the retirant terminated such
40 prearranged employment in accordance with the provisions of this act. On
41 and after July 1, 2019, the executive director may waive such penalties
42 under this subsection if it is determined by the retirement system that any
43 of the following conditions were satisfied:

1 (i) The retirant's total length of reemployment was less than 21
2 calendar days;

3 (ii) the retirant's total compensation during the total length of
4 reemployment was less than 10% of the amount of such retirant's
5 retirement benefit that would be suspended pursuant to this subsection; or

6 (iii) other facts and circumstances indicated that the retirant would
7 not have been reemployed but for an error on the part of the participating
8 employer or the retirement system in verifying the retirement status of
9 such retirant and such retirant immediately terminated employment upon
10 being notified of the violation.

11 (c) On or before the first day of each regular session of the
12 legislature, beginning with the 2020 regular session, the executive director
13 shall submit an annual report on the number of waivers granted pursuant to
14 paragraph (b) in the prior calendar year to the joint committee on pensions,
15 investments and benefits, the house of representatives standing committee
16 on financial institutions and pensions and the senate standing committee
17 on financial institutions and insurance, or the successors of such
18 committees.

19 (8) For the purposes of this section a prearranged agreement for
20 employment may be determined by whether the facts and circumstances of
21 the situation indicate that the employer and employee reasonably
22 anticipated that further services would be performed after the employee's
23 retirement.

24 (9) (a) Notwithstanding the provisions of subsection (6) to the
25 contrary, commencing on January 1, 2018, any retirant who is retired more
26 than 60 days, if such retirant's age on the date of retirement is 62 or older,
27 or is retired more than 180 days, if such retirant's age on the date of
28 retirement is less than 62, and who is subsequently hired without any
29 prearranged agreement with the participating employer in a covered
30 position, as defined in K.S.A. 74-49,202, and amendments thereto, or an
31 independent contractor or a third-party entity who contracts service to fill
32 such covered position shall not be subject to an earnings limitation that
33 when met or exceeded requires that the retirant not receive a retirement
34 benefit for any month for which such retirant serves in such covered
35 position. The participating employer of such retirant shall pay to the
36 system the statutorily prescribed employer contribution rate on the first
37 \$40,000 of such retirant's compensation in a calendar year and a 30%
38 employer contribution on any compensation in excess of \$40,000 in a
39 calendar year during any such period of employment. If a retirant is
40 employed by more than one participating employer or performing duties in
41 more than one position, contributions shall be made on compensation from
42 all such employment for that calendar year.

43 (b) Notwithstanding the provisions of subsection (6) to the contrary,

1 commencing January 1, 2018, any retirant who is retired more than 60
2 days, if such retirant's age on the date of retirement is 62 or older, or is
3 retired more than 180 days, if such retirant's age on the date of retirement
4 is less than 62, and who is subsequently hired without any prearranged
5 agreement with the participating employer in a non-covered position, or an
6 independent contractor or a third-party entity who contracts service to fill
7 such non-covered position, shall not be subject to an earnings limitation
8 that when met or exceeded requires that the retirant not receive a
9 retirement benefit for any month for which such retirant serves in such
10 non-covered position. No employer contribution shall be paid to the
11 system on compensation paid to a retirant hired in a non-covered position.

12 (c) The participating employer shall enroll all retirants, including
13 retirants under subsection (6)(b)(i), (ii), (iii), (vii) and (viii), and report to
14 the system when compensation is paid to a retirant as provided in this
15 subsection. Such report shall contain a certification by the appointing
16 authority of the participating employer that any hired retirant has not been
17 employed by the participating employer within 60 days of such retirant's
18 retirement in the case of a retirant whose age on the date of retirement is
19 62 or older, or within 180 days of such retirant's retirement in the case of a
20 retirant whose age on the date of retirement is less than 62, and that there
21 was no prearranged agreement for employment between the participating
22 employer and the hired retirant. Upon request of the executive director of
23 the system, the participating employer shall provide such information as
24 may be needed by the executive director to carry out the provisions of this
25 subsection. No retirant shall make contributions to the system or receive
26 credit for service while employed under the provisions of this subsection.

27 (d) The provisions of this subsection relating to an earnings limitation
28 and employer contributions shall not apply to any retirant described in
29 subsection (6)(b) or to retirants who are independent contractors or
30 employees of third-party entities who contract with a participating
31 employer as described in subsection (6)(d), except as specifically provided
32 in this subsection.

33 (e) *Notwithstanding any provision of subsection (6) or this subsection*
34 *to the contrary, a participating employer under K.S.A. 74-4931(1), and*
35 *amendments thereto, may hire a retirant for a covered position that*
36 *requires a teaching license or certificate if such retirant is not hired prior*
37 *to 45 days after such retirant's retirement date and does not have any*
38 *prearranged agreement with such participating employer. Such retirant*
39 *shall not be subject to an earnings limitation that when met or exceeded*
40 *requires that the retirant not receive a retirement benefit for any month for*
41 *which such retirant serves in such covered position.*

42 (f) Nothing in this subsection shall be construed to create any right; or
43 to authorize the creation of any right that is not subject to amendment or

1 nullification by act of the legislature.

2 Sec. 2. K.S.A. 2025 Supp. 74-4937 is hereby amended to read as
3 follows: 74-4937. (1) The normal retirement date of a member of the
4 system who is in school employment and who is subject to K.S.A. 74-
5 4940, and amendments thereto, shall be the first day of the month
6 coinciding with or following termination of employment not followed by
7 employment with any participating employer within 60 days, or 180 days
8 as provided in K.S.A. 74-4914(9), and amendments thereto, and without
9 any prearranged agreement for employment with any participating
10 employer, and the attainment of age 65 or, commencing July 1, 1986, age
11 65 or age 60 with the completion of 35 years of credited service or at any
12 age with the completion of 40 years of credited service, or commencing
13 July 1, 1993, any alternative normal retirement date already prescribed by
14 law or age 62 with the completion of 10 years of credited service or the
15 first day of the month coinciding with or following the date that the total
16 of the number of years of credited service and the number of years of
17 attained age of the member is equal to or more than 85. Each member
18 upon giving prior notice to the appointing authority and the retirement
19 system may retire on the normal retirement date or the first day of any
20 month thereafter. Such member's application for retirement shall contain a
21 certification by the member that the member will not be employed with
22 any participating employer within 60 days, or 180 days as provided in
23 K.S.A. 74-4914(9), and amendments thereto, of retirement and the
24 member has not entered into a prearranged agreement for employment
25 with any participating employer.

26 (2) Any member who is in school employment and who is subject to
27 K.S.A. 74-4940, and amendments thereto, may retire before such
28 member's normal retirement date on the first day of the month coinciding
29 with or following termination of employment not followed by employment
30 with any participating employer within 60 days, or 180 days as provided in
31 K.S.A. 74-4914(9), and amendments thereto, and the attainment of age 55
32 with the completion of 10 years of credited service, upon the filing with
33 the office of the retirement system of an application for retirement in such
34 form and manner as the board shall prescribe. The member's application
35 for retirement shall contain a certification by the member that the member
36 will not be employed with any participating employer within 60 days, or
37 180 days as provided in K.S.A. 74-4914(9), and amendments thereto, of
38 retirement and the member has not entered into a prearranged agreement
39 for employment with any participating employer.

40 (3) (a) The provisions of K.S.A. 74-4914(6) and (9), and amendments
41 thereto, that relate to an earnings limitation—~~which~~ *that* when met or
42 exceeded requires that the retirant not receive a retirement benefit for any
43 month during which such retirant serves in a position as described herein

1 shall not apply to retirants who either retired under the provisions of
2 K.S.A. 74-4914(l), and amendments thereto, related to normal retirement,
3 or, if they retired under the provisions of K.S.A. 74-4914(4), and
4 amendments thereto, related to early retirement, and are subsequently
5 hired in a position that requires a license under K.S.A. 72-2157, and
6 amendments thereto, or other provision of law. The provisions of this
7 subsection shall only apply to retirants who retired prior to January 1,
8 2018. Except as otherwise provided, when a retirant is employed by the
9 same school district or a different school district with which such retirant
10 was employed during the final two years of such retirant's participation or
11 employed as an independent contractor or by a third-party entity who
12 contracts services with a school district to fill a position as described in
13 this subsection, the participating employer of such retirant shall pay to the
14 system the actuarially determined employer contribution based on the
15 retirant's compensation during any such period of employment plus 8%.
16 Commencing January 1, 2018, if a retirant is employed in a covered
17 position, as defined in K.S.A. 74-49,202, and amendments thereto, the
18 participating employer shall pay to the system the statutorily prescribed
19 employer contribution rate on the first \$40,000 of such retirant's
20 compensation in a calendar year and a 30% employer contribution on any
21 compensation in excess of \$40,000 in a calendar year during any such
22 period of employment. If a retirant is employed by more than one
23 participating employer or performing duties in more than one position,
24 contributions shall be made on compensation from all such employment
25 for that calendar year. If a retirant is employed in a non-covered position,
26 no employer contribution shall be paid to the system. The participating
27 employer shall enroll all retirants and report to the system when
28 compensation is paid to a retirant as provided in this subsection. Such
29 notice shall contain a certification by the appointing authority of the
30 participating employer that any hired retirant has not been employed by
31 the participating employer within 60 days of such retirant's retirement and
32 that there was no prearranged agreement for employment between the
33 participating employer and the hired retirant. Upon request of the
34 executive director of the system, the participating employer shall provide
35 such information as may be needed by the executive director to carry out
36 the provisions of this subsection. The provisions of this subsection shall
37 not apply to retirants employed as substitute teachers without a contract.
38 Nothing in this subsection shall be construed to create any right; or to
39 authorize the creation of any right that is not subject to amendment or
40 nullification by act of the legislature.

41 *(b) Notwithstanding any provision of K.S.A. 74-4914, and*
42 *amendments thereto, or this section to the contrary, a participating*
43 *employer under K.S.A. 74-4931(1), and amendments thereto, may hire a*

1 *retirant for a covered position that requires a teaching license or*
2 *certificate if such retirant is hired not prior to 45 days after such retirant's*
3 *retirement date and does not have any prearranged agreement with such*
4 *participating employer. Such retirant shall not be subject to an earnings*
5 *limitation that when met or exceeded requires that the retirant not receive*
6 *a retirement benefit for any month for which such retirant serves in such*
7 *covered position. Nothing in this paragraph shall be construed to create*
8 *any right or to authorize the creation of any right that is not subject to*
9 *amendment or nullification by act of the legislature.*

10 (4) The provisions of K.S.A. 74-4914(7), and amendments thereto,
11 shall apply to retirants under the provisions of this section.

12 (5) For the purposes of this section a prearranged agreement for
13 employment may be determined by whether the facts and circumstances of
14 the situation indicate that the employer and employee reasonably
15 anticipated that further services would be performed after the employee's
16 retirement.

17 Sec. 3. K.S.A. 2025 Supp. 74-4914 and 74-4937 are hereby repealed.

18 Sec. 4. This act shall take effect and be in force from and after its
19 publication in the Kansas register.