

## 2023 Kansas Statutes

**74-49b10. Same; employee participation agreements; service charge; payroll deferrals; state liability limited; amounts deferred considered for computation of retirement benefits; clearing fund; sharing of member's retirement account information with contracting party; tax treatment of Roth 457 plans.**

(a) The board is authorized to enter into a voluntary participation agreement with any employee of the state whereby a portion of the employee's salary or compensation from the state shall be deferred and deducted each payroll period in accordance with subsection (b) and the Kansas public employees deferred compensation plan. Such participation agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to K.S.A. 74-49b09(c), and amendments thereto, as a result of the administration of this act.

(b) Pursuant to this act and such participation agreements, the director of accounts and reports, as a part of the system of regular payroll deductions and using funds either appropriated or otherwise available for such purpose, shall establish a system for the following purposes: (1) To defer each payroll period the amounts authorized in such participation agreements from the salary or compensation of each employee who has entered into a participation agreement; and

(2) to remit these moneys in accordance with the Kansas public employees deferred compensation plan.

(c) (1) Pursuant to section 401(a) of the federal internal revenue code, the board may establish a qualified plan under which the state may contribute a specified amount, subject to appropriations, to the deferred compensation plan for state employees who have entered into a voluntary participation agreement with the board under this section.

(2) Any state agency that has on its payroll persons participating in any qualified plan established under subsection (c)(1), shall pay from any moneys available to the state agency for such purpose an amount specified in the qualified plan, subject to appropriations for that purpose.

(d) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by any participant under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(e) Notwithstanding the provisions of K.S.A. 74-4909(10), and amendments thereto, for those employees who entered into a voluntary participation agreement pursuant to the provisions of this section or K.S.A. 74-49b15, and amendments thereto, and who are also members of a retirement system administered by the board, the board may share information from the participants' retirement or pension system accounts with a contracting party pursuant to the provisions of K.S.A. 74-49b09, and amendments thereto, for the purpose of facilitating the participants' comprehensive retirement income planning.

(f) Any amount of the employee's salary or compensation that is deferred on a pre-tax basis under an authorized participation agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee. Any sum so deferred or deducted shall not be subject to state income taxes for the year in which such sum is contributed but shall be subject to applicable state income taxes for the year in which distributions are received by the employee. Any amounts contributed to a Roth 457 plan under this act shall be subject to state withholding and income taxes for the year in which such sum is contributed to the plan, but shall not be subject to applicable state income taxes for the year in which distributions are received by the employee, unless the provisions of article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, provide otherwise.

(g) A deferred compensation clearing fund shall be established in the state treasury in which all compensation deferred, deducted or contributed in accordance with this act and as provided for in each participation agreement shall be temporarily placed.

**History:** L. 1976, ch. 367, § 4; L. 1979, ch. 298, § 3; L. 2002, ch. 116, § 10; L. 2002, ch.

192, § 4; L. 2007, ch. 74, § 12; L. 2016, ch. 76, § 12; July 1.