

HOUSE BILL No. 2311

By Committee on Pension and Benefits

2-11

1 AN ACT concerning retirement and pensions; enacting the Kansas public
2 employees retirement system defined contribution act; providing
3 terms, conditions and requirements related thereto; relating to plan
4 document, membership, benefits and contributions; death and
5 disability benefits.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. (a) The provisions of sections 1 through 18, and
9 amendments thereto, shall be known and may be cited as the Kansas
10 public employees retirement system defined contribution act, and shall be
11 effective on and after July 1, 2013.

12 (b) This act applies to any individual who is: (1) First hired on and
13 after July 1, 2013, by a participating employer and who would otherwise
14 qualify for membership in the Kansas public employees retirement
15 system, K.S.A. 74-4901 et seq., and amendments thereto; and (2) an
16 inactive non-vested member of the Kansas public employees retirement
17 system on June 30, 2013, and who returns to employment with a
18 participating employer on and after July 1, 2013, and who would
19 otherwise qualify for membership in the Kansas public employees
20 retirement system, K.S.A. 74-4901 et seq., and amendments thereto. The
21 individuals described in this subsection are required to become members
22 of the defined contribution plan established under section 3, and
23 amendments thereto.

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

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

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

33 (b) "active DC plan member" means a DC plan member who is
34 actively employed by a participating employer;

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

1 (d) “DC plan member” means an individual who is required by
2 section 1, and amendments thereto, to be a member of the defined
3 contribution plan, and any individual who elects to transfer to the defined
4 contribution 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
8 established by the state board of regents under K.S.A. 74-4925, and

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

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

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

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

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

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

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

41 (b) The board may:

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

1 (2) negotiate with a vendor or vendors for vendor reimbursement of
2 board administrative expenses for the plan.

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

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

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

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

20 (b) Except as otherwise provided in this act, an active member of the
21 defined benefit plan of the system on July 1, 2013, may elect to become a
22 member of the defined contribution plan by making an election within a
23 90-day period established by the board.

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

26 (2) A defined benefit plan member failing to make an election
27 prescribed by this section remains a member of the defined benefit plan.

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

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

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

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

41 (e) A system member may not simultaneously be a member of the
42 defined benefit plan and the defined contribution plan and shall be a
43 member of either the defined benefit plan or the defined contribution

1 plan. A period of service may not be credited in more than one retirement
2 plan within the system.

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

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

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

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

22 Sec. 8. (a) If a member actively covered by the defined benefit plan
23 on July 1, 2013, is employed by the state board of regents and has
24 previously chosen under K.S.A. 74-4911, and amendments thereto, to be
25 a member of the defined benefit plan that member shall not be eligible to
26 elect the defined contribution plan pursuant to this section.

27 (b) If a member who is employed by the state board of regents and
28 who is covered by the defined benefit plan on July 1, 2011, elects to
29 remain in the defined benefit plan under section 7, and amendments
30 thereto, and subsequently becomes eligible to make a choice between the
31 defined benefit plan and the optional retirement plan under K.S.A. 74-
32 4911, and amendments thereto, the member may only elect to remain in
33 the defined benefit plan.

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

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

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

1 (f) A member in either the defined contribution plan or the optional
2 retirement program who becomes inactive after an election under this
3 section and who returns to active membership remains in the plan
4 previously elected.

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

10 (h) An election to become a member of the optional retirement
11 program pursuant to this section is a waiver of all rights and benefits
12 under 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 the
15 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
26 rollovers of contributions made pursuant to section 9, 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
32 section 11, and amendments thereto.

33 Sec. 11. (a) An active DC plan member shall contribute 6% of
34 compensation to the defined contribution plan. These contributions shall
35 be picked up by the employer via a salary reduction as provided in
36 section 41

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
41 contribute t

42 (1) Three 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-
9 4927, 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
12 member's retirement account. The board shall allocate the forfeitures
13 under section 10, and amendments thereto, to meet the plan's
14 administrative expenses, including startup expenses.

15 Sec. 12. (a) The board shall periodically review the sufficiency of
16 the 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
25 increased or decreased, the plan funding rate under section 11, and
26 amendments thereto, must be increased or decreased accordingly.

27 Sec. 13. (a) The investment alternatives under the defined
28 contribution plan may be the same as the investment alternatives under
29 the Kansas public employees deferred compensation plan.

30 (b) The board shall from time to time review the suitability and
31 management of investment alternatives and may change the alternatives
32 to be offered. The board shall notify affected DC plan members of
33 potential changes before any changes become effective.

34 (c) The board shall establish a default investment option for
35 any DC plan member who does not have an effective investment
36 direction. The board may utilize a balanced fund as the default investment
37 fund.

38 (d) Assets within each member's accounts must be invested as
39 directed by the member. However, the non-vested portion of the DC plan
40 member's employer contribution account shall be invested in the board's
41 default investment fund.

42 Sec. 14. Except as provided in section 18, and amendments thereto,
43 any time after termination of service, a DC plan member or the DC plan

1 member's beneficiary may terminate plan membership by filing a written
2 application with the board and removing the DC plan member's vested
3 account balance from the plan through any combination of the following
4 payout options, each of which is subject to the provisions of the plan
5 document and the federal internal revenue code and the applicable
6 regulations of the internal revenue service:

7 (a) A direct rollover to an eligible retirement plan;

8 (b) a regular rollover to an eligible retirement plan;

9 (c) a lump-sum distribution of the DC plan member's vested account
10 balance; or

11 (d) an optional form of distribution offered by the board under
12 section 15, and amendments thereto.

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

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

20 (c) A DC plan member who is less than 70 ½ years of age who
21 returns to service may not continue to receive a distribution under this
22 section while actively employed in a covered position.

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

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

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

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

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

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

6 (c) Except as otherwise provided, in the event that a DC plan
7 member as defined in section 2, and amendments thereto, becomes
8 eligible for and begins to receive the insured disability benefit prescribed
9 in K.S.A. 74-4927, and amendments thereto, the member's participating
10 employer shall continue to make the contributions on behalf of such
11 individual to the retirement plan as required under subsection (c)(1) of
12 section 11, and amendments thereto, and shall also contribute to the
13 retirement plan an amount equal to the individual's contribution required
14 under subsection (a) of section 11, and amendments thereto, if the DC
15 plan member is permanently and totally disabled as defined in section
16 72(m) of the federal internal revenue code. Commencing on and after
17 July 1, 2013, such contributions shall cease at the earlier of: (1) The date
18 that the individual is no longer entitled to an insured disability benefit
19 under K.S.A. 74-4927, and amendments thereto; or (2) the date that is
20 five years after the date the individual becomes eligible for and begins to
21 receive the insured disability benefit prescribed in K.S.A. 74-4927, and
22 amendments thereto. For purposes of applying this subsection,
23 compensation under section 11, and amendments thereto, means the
24 individual's compensation at the time the individual became disabled as
25 defined under the insured disability program prescribed in K.S.A. 74-
26 4927, and amendments thereto.

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

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