

House Substitute for SENATE BILL No. 21

By Committee on Financial Institutions and Pensions

3-23

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; employment after retirement; amending
3 K.S.A. 2016 Supp. 74-4914 and 74-4937 and repealing the existing
4 sections; also repealing K.S.A. 2016 Supp. 74-4914f.
5

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

7 Section 1. K.S.A. 2016 Supp. 74-4914 is hereby amended to read as
8 follows: 74-4914. (1) The normal retirement date for a member of the
9 system shall be the first day of the month coinciding with or following
10 termination of employment with any participating employer not followed
11 by employment with any participating employer within 60 days and
12 without any prearranged agreement for employment with any participating
13 employer, and the attainment of age 65 or, commencing July 1, 1993, age
14 62 with the completion of 10 years of credited service or the first day of
15 the month coinciding with or following the date that the total of the
16 number of years of credited service and the number of years of attained
17 age of the member is equal to or more than 85. In no event shall a normal
18 retirement date for a member be before six months after the entry date of
19 the participating employer by whom such member is employed. A member
20 may retire on the normal retirement date or on the first day of any month
21 thereafter upon the filing with the office of the retirement system of an
22 application in such form and manner as the board shall prescribe. Such
23 application shall contain a certification by the member that the member
24 will not be employed with any participating employer within 60 days of
25 retirement and the member has not entered into a prearranged agreement
26 for employment with any participating employer. Nothing herein shall
27 prevent any person, member or retirant from being employed, appointed or
28 elected as an employee, appointee, officer or member of the legislature.
29 Elected officers may retire from the system on any date on or after the
30 attainment of the normal retirement date, but no retirement benefits
31 payable under this act shall be paid until the member has terminated such
32 member's office.

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

35 (3) Any member who is an employee of an affiliating employer
36 pursuant to K.S.A. 74-4954b, and amendments thereto, and has not

1 withdrawn such member's accumulated contributions from the Kansas
2 police and firemen's retirement system may retire before such member's
3 normal retirement date on the first day of any month coinciding with or
4 following the attainment of age 55.

5 (4) Any member may retire before such member's normal retirement
6 date on the first day of any month coinciding with or following
7 termination of employment with any participating employer not followed
8 by employment with any participating employer within 60 days and the
9 attainment of age 55 with the completion of 10 years of credited service,
10 but in no event before six months after the entry date, upon the filing with
11 the office of the retirement system of an application for retirement in such
12 form and manner as the board shall prescribe. The member's application
13 for retirement shall contain a certification by the member that the member
14 will not be employed with any participating employer within 60 days of
15 retirement and the member has not entered into a prearranged agreement
16 for employment with any participating employer.

17 (5) Except as provided in subsection (7), on or after July 1, 2006, for
18 any retirant who is first employed or appointed in or to any position or
19 office by a participating employer other than a participating employer for
20 which such retirant was employed or appointed during the final two years
21 of such retirant's participation, and, on or after April 1, 2009, for any
22 retirant who is employed by a third-party entity who contracts services
23 with a participating employer other than a participating employer for
24 which such retirant was employed or appointed during the final two years
25 of such retirant's participation to fill a position covered under K.S.A. 72-
26 5410(a), and amendments thereto, with such retirant, such participating
27 employer shall pay to the system the actuarially determined employer
28 contribution and the statutorily prescribed employee contribution based on
29 the retirant's compensation during any such period of employment or
30 appointment. If a retirant is employed or appointed in or to any position or
31 office for which compensation for service is paid in an amount equal to
32 \$20,000 or more in any one such calendar year, or \$25,000 or more in any
33 one calendar year between July 1, 2016, and July 1, 2020, by any
34 participating employer for which such retirant was employed or appointed
35 during the final two years of such retirant's participation, and, on or after
36 April 1, 2009, by any third-party entity who contracts services to fill a
37 position covered under K.S.A. 72-5410(a), and amendments thereto, with
38 such retirant with a participating employer for which such retirant was
39 employed or appointed during the final two years of such retirant's
40 participation, such retirant shall not receive any retirement benefit for any
41 month for which such retirant serves in such position or office. The
42 participating employer who employs such retirant whether by contract
43 directly with the retirant or through an arrangement with a third-party

1 entity shall report to the system within 30 days of when the compensation
2 paid to the retirant is equal to or exceeds any limitation provided by this
3 section. Any participating employer who contracts services with any such
4 third-party entity to fill a position covered under K.S.A. 72-5410(a), and
5 amendments thereto, shall include in such contract a provision or condition
6 which requires the third-party entity to provide the participating employer
7 with the necessary compensation paid information related to any such
8 position filled by the third-party entity with a retirant to enable the
9 participating employer to comply with provisions of this subsection
10 relating to the payment of contributions and reporting requirements. The
11 provisions and requirements provided for in amendments made in this act
12 which relate to positions filled with a retirant or employment of a retirant
13 by a third-party entity shall not apply to any contract for services entered
14 into prior to April 1, 2009, between a participating employer and third-
15 party entity as described in this subsection. Any retirant employed by a
16 participating employer or a third-party entity as provided in this subsection
17 shall not make contributions nor receive additional credit under such
18 system for such service except as provided by this section. Upon request of
19 the executive director of the system, the secretary of revenue shall provide
20 such information as may be needed by the executive director to carry out
21 the provisions of this act. The provisions of this subsection shall not apply
22 to retirants employed as substitute teachers or officers, employees or
23 appointees of the legislature. The provisions of this subsection shall not
24 apply to members of the legislature prior to January 8, 2000. The
25 provisions of this subsection shall not apply to any other elected officials
26 prior to the term of office of such elected official which commences on or
27 after July 1, 2000. The provisions of this subsection shall apply to any
28 other elected official, except an elected city or county officer as further
29 provided in this subsection, on and after the term of office of such other
30 elected official which commences on or after July 1, 2000.
31 Notwithstanding any provisions of law to the contrary, when an elected
32 city or county officer is retired under the provisions of subsection (1) or
33 (4) of this section and is paid an amount of compensation of \$25,000 or
34 more in any one calendar year between July 1, 2016, and July 1, 2020,
35 such officer may receive such officer's salary, and still be entitled to
36 receive such officer's retirement benefit pursuant to the provisions of
37 K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise
38 provided, commencing January 8, 2001, the provisions of this subsection
39 shall apply to members of the legislature. For determination of the amount
40 of compensation paid pursuant to this subsection, for members of the
41 legislature, compensation shall include any amount paid as provided
42 pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto,
43 or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding

1 any provision of law to the contrary, when a member of the legislature is
2 paid an amount of compensation of \$20,000 or more in any one calendar
3 year, the member may continue to receive any amount provided in K.S.A.
4 46-137a(b) and (d), and amendments thereto, and still be entitled to
5 receive such member's retirement benefit. Commencing July 1, 2005, the
6 provisions of this subsection shall not apply to retirants who either retired
7 under the provisions of subsection (1), or, if they retired under the
8 provisions of subsection (4), were retired more than 30 days prior to the
9 effective date of this act and are licensed professional nurses or licensed
10 practical nurses employed by the state of Kansas in an institution as
11 defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302~~(f)~~(k), and amendments
12 thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing
13 in this subsection shall be construed to create any right, or to authorize the
14 creation of any right, which is not subject to amendment or nullification by
15 act of the legislature. The participating employer of such retirant shall pay
16 to the system the actuarially determined employer contribution based on
17 the retirant's compensation during any such period of employment.

18 (6) For purposes of this section, any employee of a local
19 governmental unit which has its own pension plan who becomes an
20 employee of a participating employer as a result of a merger or
21 consolidation of services provided by local governmental units, which
22 occurred on January 1, 1994, may count service with such local
23 governmental unit in determining whether such employee has met the
24 years of credited service requirements contained in this section.

25 (7) (a) Except as provided in K.S.A. 74-4937(3), (4), or (5), and
26 amendments thereto, and the provisions of this subsection, commencing
27 July 1, 2016, and ending July 1, 2020, any retirant who is employed or
28 appointed in or to any position by a participating employer or a third-party
29 entity who contracts services with a participating employer to fill a
30 position, without any prearranged agreement with such participating
31 employer and not prior to 60 days after such retirant's retirement date, shall
32 not receive any retirement benefit for any month in any calendar year in
33 which the retirant receives compensation in an amount equal to \$25,000 or
34 more, pursuant to this subsection. The provisions of this subsection shall
35 apply to members of the legislature.

36 (b) The provisions of this subsection shall not apply, except as
37 specifically provided in this subsection, to retirants ~~that~~ who are:

38 (i) Licensed professional nurses or licensed practical nurses
39 employed by the state of Kansas in an institution as defined in K.S.A. 76-
40 12a01(b) or 38-2302~~(f)~~(k), and amendments thereto, the Kansas soldiers'
41 home or the Kansas veterans' home. The participating employer of such
42 retirant shall pay to the system the actuarially determined employer
43 contribution based on the retirant's compensation and the statutorily

1 prescribed employee contribution during any such period of employment;

2 (ii) employed by a school district in a position as provided in K.S.A.
3 74-4937(3), (4) or (5), and amendments thereto. Any retirant employed by
4 a school district in a position under K.S.A. 74-4937(3), (4) or (5), and
5 amendments thereto, shall be subject to the provisions of subsection (7)(h)
6 which relate to a limitation on the total term of employment with any
7 participating employer in which a retirant may receive such retirant's full
8 retirement benefit;

9 (iii) certified law enforcement officers employed by the law
10 enforcement training center. Such law enforcement officers shall receive
11 their benefits notwithstanding this subsection. The law enforcement
12 training center shall pay to the system the ~~actuarial~~ *actuarially* determined
13 employer contribution and the statutorily prescribed employee contribution
14 based on the retirant's compensation during any such period of
15 employment;

16 (iv) members of the Kansas police and firemen's retirement system
17 pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members
18 of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
19 amendments thereto;

20 (v) employed as ~~substitute teachers or~~ officers, employees or
21 appointees of the legislature;

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

25 (vii) employed by, or have accepted employment from, a participating
26 employer prior to May 1, 2015. Any ~~break in continuous employment by a~~
27 ~~retirant or~~ move to a ~~different~~ position *under a different participating*
28 *employer* by a retirant during the effective period of this subsection shall
29 be deemed new employment and shall subject the retirant to the provisions
30 of this subsection. *A retirant who was employed by, or accepted*
31 *employment from, a participating employer prior to May 1, 2015, and*
32 *who, during the period beginning July 1, 2016, and ending July 1, 2017,*
33 *moved to a different position with the same participating employer shall*
34 *not be deemed new employment and shall not subject such retirant to the*
35 *provisions of this subsection.*

36 (c) The participating employer shall enroll all retirants and report to
37 the system when compensation is paid to a retirant as provided in this
38 subsection. Such report shall contain a certification by the appointing
39 authority of the participating employer that any hired retirant has not been
40 employed by the participating employer within 60 days of such retirant's
41 retirement and that there was no prearranged agreement for employment
42 between the participating employer and the hired retirant. Upon request of
43 the executive director of the system, the participating employer shall

1 provide such information as may be needed by the executive director to
2 carry out the provisions of this subsection. ~~Any participating employer
3 who hires a retirant covered by this subsection shall pay to the system the
4 statutorily prescribed employer contribution rate for such retirant, without
5 regard to whether the retirant is receiving benefits. Except as provided by
6 subsection (7)(d), no employer contribution shall be paid to the system on
7 compensation paid to a retirant that is less than or equal to \$25,000 in a
8 calendar year. If a retirant is paid compensation in excess of \$25,000 in a
9 calendar year, the participating employer shall pay to the system a 30%
10 employer contribution based on the retirant's compensation that is in
11 excess of \$25,000 in a calendar year during any such period of
12 employment, except that if a retirant is subsequently hired under the
13 provisions of subsection (7)(d) during such calendar year by the same
14 participating employer, then such participating employer shall pay to the
15 system the statutorily prescribed employer contribution rate based on the
16 retirant's compensation earned in such calendar year prior to such
17 retirant's hire date under the provisions of subsection (7)(d) and shall pay
18 to the system a 30% employer contribution based on all of retirant's
19 compensation earned after such retirant's hire date under the provisions of
20 subsection (7)(d). No retirant shall receive credit for service while
21 employed under the provisions of this subsection.~~

22 (d) A participating employer may employ a retirant without regard to
23 the compensation limitation in this subsection for a period of ~~one three~~
24 ~~calendar-year years~~ or ~~one three~~ school year years, as the case may be, if
25 the following requirements are met:

26 (i) The employer certifies to the board that the position being filled
27 has been vacated due to an unexpected emergency or the employer has
28 been unsuccessful in filling the position;

29 (ii) the employer pays to the system a 30% employer contribution
30 based on *all of* the retirant's compensation during any such period of
31 employment. On or before July 1, 2019, and at least every three years
32 thereafter, the board, in consultation with the system's consulting actuary,
33 shall evaluate the plan's experience with employment of such retirants and
34 the corresponding employer contribution rate to assess whether the
35 employer contribution rate can be expected to fund adverse experience or
36 higher liabilities accruing under the system in connection with
37 employment of such retirants, to the extent that such liability can be
38 ascertained or estimated. Based on this evaluation of the plan's experience,
39 the board may certify to the division of the budget, in the case of the state,
40 and to the agent for each other participating employer, a new rate if needed
41 to more fully fund such adverse experience or additional liabilities, but
42 such rate shall not be less than 30%; and

43 (iii) the employer maintains documentation of its efforts to fill the

1 position with a non-retirant and provides such documentation to the joint
2 committee on pensions, investments and benefits upon request of the
3 committee. *If the committee finds that an employer has not made sufficient*
4 *efforts to hire a non-retirant for the position or if the committee finds*
5 *evidence of prearrangement in violation of this section, the three-year*
6 *exemption provided pursuant to this subsection (7)(d) may be revoked. The*
7 *committee shall notify the executive director of the system that a retirant's*
8 *exemption has been revoked within 30 days of making such a*
9 *determination.*

10 (e) An employer may submit a written assurance protocol to the
11 system to extend the exception provided for in subsection (7)(d) by ~~one-~~
12 ~~year increments for a total extension not to exceed three years~~ *one year*. A
13 written assurance protocol shall be submitted to the system for each one-
14 year increment extension. If a school district submits a written assurance
15 protocol, such written assurance protocol shall be signed by the
16 superintendent and the board president of such school district. If a
17 municipality, as defined in K.S.A. 75-1117, and amendments thereto, other
18 than a school district, submits a written assurance protocol, such written
19 assurance protocol shall be signed by the governing body or such
20 governing body's designee for such municipality. Such written assurance
21 protocol shall state that the position was advertised on multiple platforms
22 for a minimum of 30 calendar days and that at least one of the following
23 conditions occurred:

- 24 (i) No applications were submitted for the position;
25 (ii) if applications were submitted, none of the applicants met the
26 reference screening criteria of the employer; or
27 (iii) if applications were submitted, none of the applicants possessed
28 the appropriate licensure, certification or other necessary credentials for
29 the position.

30 (f) On July 1, 2021, and at least every five years thereafter, the joint
31 committee on pensions, investments and benefits shall study the issue of
32 whether the compensation limitation prescribed in this subsection should
33 be adjusted. The committee shall consider the effect of inflation and data
34 on member retirement benefits and active employee compensation.

35 (g) Nothing in this subsection shall be construed to create any right,
36 or to authorize the creation of any right, which is not subject to
37 amendment or nullification by act of the legislature.

38 (h) Any retirant hired by any participating employer under the
39 provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and
40 amendments thereto, may continue to receive such retirant's full retirement
41 benefit so long as, commencing July 1, 2016, such retirant's total term of
42 employment with all participating employers under one or more of such
43 provisions does not exceed 48 months or four school years, whichever is

1 less. After such period, such retirant shall not receive any retirement
2 benefit for any month in any calendar year in which such retirant receives
3 compensation in an amount equal to \$25,000 or more in such calendar
4 year.

5 (8) If determined by the retirement system that a retirant entered into
6 a prearranged agreement for employment with a participating employer
7 prior to such retirant's retirement and prior to the end of the subsequent 60-
8 day waiting period, the monthly retirement benefit of such retirant shall be
9 suspended during the period that begins on the month in which the retirant
10 is re-employed and ends six months after the retirant's termination of such
11 employment. The retirant shall repay to the retirement system all monthly
12 retirement benefits paid to the retirant by the retirement system that the
13 retirant received after such employment began. The participating employer
14 which hired such retirant shall be required to pay to the system any fees,
15 fines, penalties or any other cost imposed by the internal revenue service
16 and indemnify the system for any cost incurred by the system to defend
17 any action brought by the internal revenue service based on in-service
18 distributions which are a result of any determined prearranged agreement
19 and for any cost incurred by the system to collect any monthly retirement
20 benefit required to be repaid by such retirant pursuant to this subsection.

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

26 Sec. 2. K.S.A. 2016 Supp. 74-4937 is hereby amended to read as
27 follows: 74-4937. (1) The normal retirement date of a member of the
28 system who is in school employment and who is subject to K.S.A. 74-
29 4940, and amendments thereto, shall be the first day of the month
30 coinciding with or following termination of employment not followed by
31 employment with any participating employer within 60 days and without
32 any prearranged agreement for employment with any participating
33 employer, and the attainment of age 65 or, commencing July 1, 1986, age
34 65 or age 60 with the completion of 35 years of credited service or at any
35 age with the completion of 40 years of credited service, or commencing
36 July 1, 1993, any alternative normal retirement date already prescribed by
37 law or age 62 with the completion of 10 years of credited service or the
38 first day of the month coinciding with or following the date that the total
39 of the number of years of credited service and the number of years of
40 attained age of the member is equal to or more than 85. Each member
41 upon giving prior notice to the appointing authority and the retirement
42 system may retire on the normal retirement date or the first day of any
43 month thereafter. Such member's application for retirement shall contain a

1 certification by the member that the member will not be employed with
2 any participating employer within 60 days of retirement and the member
3 has not entered into a prearranged agreement for employment with any
4 participating employer.

5 (2) Any member who is in school employment and who is subject to
6 K.S.A. 74-4940, and amendments thereto, may retire before such
7 member's normal retirement date on the first day of the month coinciding
8 with or following termination of employment not followed by employment
9 with any participating employer within 60 days and the attainment of age
10 55 with the completion of 10 years of credited service, upon the filing with
11 the office of the retirement system of an application for retirement in such
12 form and manner as the board shall prescribe. The member's application
13 for retirement shall contain a certification by the member that the member
14 will not be employed with any participating employer within 60 days of
15 retirement and the member has not entered into a prearranged agreement
16 for employment with any participating employer.

17 (3) Before July 1, 2020, the provisions of K.S.A. 74-4914(5), and
18 amendments thereto, which relate to an earnings limitation which when
19 met or exceeded requires that the retirant not receive a retirement benefit
20 for any month for which such retirant serves in a position as described
21 herein shall not apply to retirants who either retired under the provisions of
22 K.S.A. 74-4914(1), and amendments thereto, related to normal retirement,
23 or, if they retired under the provisions of K.S.A. 74-4914(4), and
24 amendments thereto, related to early retirement, were retired more than 60
25 days prior to May 28, 2009, and are subsequently hired in a position that
26 requires a license under K.S.A. 72-1388, and amendments thereto, or other
27 provision of law. The provisions of this subsection shall only apply to
28 retirants who retired prior to May 1, 2015. The provisions of this
29 subsection do not apply to retirants who retired under K.S.A. 74-4914(4),
30 and amendments thereto, which relates to early retirement prior to age 62.
31 Except as otherwise provided, when a retirant is employed by the same
32 school district or a different school district with which such retirant was
33 employed during the final two years of such retirant's participation or
34 employed by a third-party entity who contracts services with a school
35 district to fill a position as described in this subsection, the participating
36 employer of such retirant shall pay to the system the actuarially
37 determined employer contribution based on the retirant's compensation
38 during any such period of employment plus 8%. The participating
39 employer shall enroll all retirants and report to the system when
40 compensation is paid to a retirant as provided in this subsection. Such
41 notice shall contain a certification by the appointing authority of the
42 participating employer that any hired retirant has not been employed by
43 the participating employer within 60 days of such retirant's retirement and

1 that there was no prearranged agreement for employment between the
2 participating employer and the hired retiree. Upon request of the
3 executive director of the system, the participating employer shall provide
4 such information as may be needed by the executive director to carry out
5 the provisions of this subsection. The provisions of this subsection shall
6 not apply to retirees employed as substitute teachers. The provisions of
7 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
8 retirees employed as described in this subsection, except as specifically
9 provided in this subsection. Nothing in this subsection shall be construed
10 to create any right, or to authorize the creation of any right, which is not
11 subject to amendment or nullification by act of the legislature. The
12 provisions of this subsection shall expire on June 30, 2020. After such date
13 the Kansas public employees retirement system and its actuary shall report
14 the experience to the joint committee on pensions, investments and
15 benefits.

16 (4) (a) On and after July 1, 2016, a school district may hire a retired
17 licensed professional to fill a special teacher position as defined in K.S.A.
18 72-962, and amendments thereto, if such retiree is hired not prior to 60
19 days after such retiree's retirement date without any prearrangement with
20 such school district in the manner prescribed in this subsection. The
21 participating employer shall enroll all retirees and report to the system
22 when compensation is paid to a retiree as provided in this subsection.
23 Such notice shall contain a certification by the appointing authority of the
24 participating employer that any hired retiree has not been employed by
25 the participating employer within 60 days of such retiree's retirement and
26 that there was no prearranged agreement for employment between the
27 participating employer and the hired retiree. Upon request of the
28 executive director of the system, the participating employer shall provide
29 such information as may be needed by the executive director to carry out
30 the provisions of this subsection.

31 (b) A retiree hired under the provisions of this subsection may
32 continue to receive such retiree's full retirement benefit for a period not
33 exceed three school years or 36 months, whichever is less, and shall not be
34 subject to the provisions of K.S.A. 74-4914(5), and amendments thereto,
35 which relate to a compensation limitation which when met or exceeded
36 requires that the retiree not receive a retirement benefit for any month for
37 which such retiree serves in a position as described herein. Such retiree
38 may be employed by such employer for some or all of a school year, and
39 in subsequent school years if the employer is unable to permanently fill the
40 position with active members, so long as the retiree's total term of
41 employment with all employers under this subsection does not exceed 36
42 months or three school years, whichever is less. After such period, the
43 retiree shall be subject to the provisions of K.S.A. 74-4914(7), and

1 amendments thereto, which relate to a compensation limitation which
2 when met or exceeded requires that the retirant not receive a retirement
3 benefit for any month for which such retirant serves in a position as
4 described herein. The participating employer of such retirant shall pay to
5 the system a 30% employer contribution based on the retirant's
6 compensation during any such period of employment. On or before July 1,
7 2019, and at least every three years thereafter, the board, in consultation
8 with the system's consulting actuary, shall evaluate the plan's experience
9 with employment of such retirants and the corresponding employer
10 contribution rate to assess whether the employer contribution rate can be
11 expected to fund adverse experience or higher liabilities accruing under
12 the system in connection with employment of such retirants, to the extent
13 that such liability can be ascertained or estimated. Based on this evaluation
14 of the plan's experience, the board may certify to the division of the
15 budget, in the case of the state, and to the agent for each other participating
16 employer, a new rate if needed to more fully fund such adverse experience
17 or additional liabilities, but such rate shall not be less than 30%. The
18 provisions of this subsection shall not apply to retirants employed as
19 substitute teachers. The provisions of K.S.A. 74-4914(5), and amendments
20 thereto, shall be applicable to retirants employed as special teachers,
21 except as specifically provided in this subsection.

22 (c) Each school district that uses the provisions of this subsection to
23 hire retirants shall maintain documentation describing their recruiting
24 efforts to obtain non-retirant employees to fill the special teacher positions.
25 Upon request of the joint committee on pensions, investments and
26 benefits, an employer shall provide such documentation to the committee.
27 If the committee finds that an employer has not made sufficient efforts to
28 hire a non-retirant for the position or if the committee finds evidence of
29 prearrangement in violation of this section, the three-year exemption
30 provided pursuant to this subsection may be revoked. The committee shall
31 notify the executive director of the system that a retirant's exemption has
32 been revoked within 30 days of making such a determination.

33 (d) An employer may submit a written assurance protocol to the
34 system to make a one-time extension to the exception provided for in this
35 subsection by one year. Such written assurance protocol shall be signed by
36 the superintendent and the board president of the school district. Such
37 written assurance protocol shall state that the position was advertised on
38 multiple platforms for a minimum of 30 calendar days and that at least one
39 of the following conditions occurred:

- 40 (i) No applications were submitted for the position;
41 (ii) if applications were submitted, none of the applicants met the
42 reference screening criteria of the employer; or
43 (iii) if applications were submitted, none of the applicants possessed

1 an appropriate teaching license for the state of Kansas or possessed the
2 appropriate credentials to receive any type of teaching license from the
3 state of Kansas.

4 (e) Nothing in this subsection shall be construed to create any right,
5 or to authorize the creation of any right, which is not subject to
6 amendment or nullification by act of the legislature.

7 (f) The provisions of this subsection shall expire on July 1, ~~2020~~
8 2017.

9 (g) *Any retirant who was hired by a participating employer under the*
10 *provisions of this subsection, as it existed immediately prior to July 1,*
11 *2017, shall be deemed to be hired under the provisions of K.S.A. 74-*
12 *4914(7)(d), and amendments thereto, and shall continue to be exempt from*
13 *the compensation limitation in K.S.A. 74-4914(7), and amendments*
14 *thereto, subject to the requirements of K.S.A. 74-4914(7)(d), and*
15 *amendments thereto. Any service by a retirant under this subsection, as it*
16 *existed immediately prior to July 1, 2017, shall be subject to the*
17 *provisions of K.S.A. 74-4914(7)(h), and amendments thereto, that relate to*
18 *a limitation on the total term of employment with any participating*
19 *employer in which a retirant may receive such retirant's full retirement*
20 *benefit.*

21 (5) (a) On and after July 1, 2016, a school district may hire a retired
22 licensed professional to fill a non-special teacher position if such retirant is
23 hired not prior to 60 days after such retirant's retirement date without any
24 prearrangement with such school district, and if such school district hires a
25 retirant for a hard-to-fill position in the manner prescribed in this
26 subsection. The participating employer shall enroll all retirants and report
27 to the system when compensation is paid to a retirant as provided in this
28 subsection. Such notice shall contain a certification by the appointing
29 authority of the participating employer that any hired retirant has not been
30 employed by the participating employer within 60 days of such retirant's
31 retirement and that there was no prearranged agreement for employment
32 between the participating employer and the hired retirant. Upon request of
33 the executive director of the system, the participating employer shall
34 provide such information as may be needed by the executive director to
35 carry out the provisions of this subsection.

36 (b) The state board of education shall annually certify the top five
37 types of licensed positions that are hard to fill. A school district may hire a
38 retirant to fill a hard-to-fill position for some or all of a school year and in
39 subsequent school years if the employer is unable to permanently fill the
40 position with an active member. A retirant first hired under the provisions
41 of this subsection may be retained by an employer even if such retirant's
42 type of position is no longer one of the five types of positions certified by
43 the state board of education. A retirant hired under the provisions of this

1 subsection may continue to receive such retirant's full retirement benefit
2 for a period not to exceed three school years or 36 months, whichever is
3 less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and
4 amendments thereto, which relate to a compensation limitation which
5 when met or exceeded requires that the retirant not receive a retirement
6 benefit for any month for which such retirant serves in a position as
7 described herein. Such retirant may be employed by such employer for
8 some or all of a school year, and in subsequent school years if the
9 employer is unable to permanently fill the position with active members,
10 so long as the retirant's total term of employment with all employers under
11 this subsection does not exceed 36 months or three school years,
12 whichever is less. After such period, the retirant shall be subject to the
13 provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to
14 a compensation limitation which when met or exceeded requires that the
15 retirant not receive a retirement benefit for any month for which such
16 retirant serves in a position as described herein. The participating
17 employer of such retirant shall pay to the system a 30% employer
18 contribution based on the retirant's compensation during any such period
19 of employment. On or before July 1, 2019, and at least every three years
20 thereafter, the board, in consultation with the system's consulting actuary,
21 shall evaluate the plan's experience with employment of such retirants and
22 the corresponding employer contribution rate to assess whether the
23 employer contribution rate can be expected to fund adverse experience or
24 higher liabilities accruing under the system in connection with
25 employment of such retirants, to the extent that such liability can be
26 ascertained or estimated. Based on this evaluation of the plan's experience,
27 the board may certify to the division of the budget, in the case of the state,
28 and to the agent for each other participating employer, a new rate if needed
29 to more fully fund such adverse experience or additional liabilities, but
30 such rate shall not be less than 30%. The provisions of this subsection shall
31 not apply to retirants employed as substitute teachers. The provisions of
32 K.S.A. 74-4914(5), and amendments thereto, shall be applicable to
33 retirants employed as described in this subsection, except as specifically
34 provided in this subsection.

35 (c) Each school district that uses the provisions of this subsection to
36 hire retirants for hard-to-fill positions shall maintain documentation
37 describing their recruiting efforts to obtain non-retirant employees to fill
38 the hard-to-fill positions. Upon request of the joint committee on pensions,
39 investments and benefits, a school district shall provide such
40 documentation to the committee. If the committee finds that a school
41 district has not made sufficient efforts to hire a non-retirant for the position
42 or if the committee finds evidence of prearrangement in violation of this
43 section, the three-year exemption provided pursuant to this subsection may

1 be revoked. The committee shall notify the executive director of the
2 system that a retirant's exemption has been revoked within 30 days of
3 making such a determination.

4 (d) An employer may submit a written assurance protocol to the
5 system to make a one-time extension to the exception provided for in this
6 subsection by one year. Such written assurance protocol shall be signed by
7 the superintendent and the board president of the school district. Such
8 written assurance protocol shall state that the position was advertised on
9 multiple platforms for a minimum of 30 calendar days and that at least one
10 of the following conditions occurred:

11 (i) No applications were submitted for the position;

12 (ii) if applications were submitted, none of the applicants met the
13 reference screening criteria of the employer; or

14 (iii) if applications were submitted, none of the applicants possessed
15 an appropriate teaching license for the state of Kansas or possessed the
16 appropriate credentials to receive any type of teaching license from the
17 state of Kansas.

18 (e) Nothing in this subsection shall be construed to create any right,
19 or to authorize the creation of any right, which is not subject to
20 amendment or nullification by act of the legislature.

21 (f) The provisions of this subsection shall expire on July 1, ~~2020~~
22 2017.

23 (g) *Any retirant who was hired by a participating employer under the*
24 *provisions of this subsection, as it existed immediately prior to July 1,*
25 *2017, shall be deemed to be hired under the provisions of K.S.A. 74-*
26 *4914(7)(d), and amendments thereto, and shall continue to be exempt from*
27 *the compensation limitation in K.S.A. 74-4914(7), and amendments*
28 *thereto, subject to the requirements of K.S.A. 74-4914(7)(d), and*
29 *amendments thereto. Any service by a retirant under this subsection, as it*
30 *existed immediately prior to July 1, 2017, shall be subject to the*
31 *provisions of K.S.A. 74-4914(7)(h), and amendments thereto, that relate to*
32 *a limitation on the total term of employment with any participating*
33 *employer in which a retirant may receive such retirant's full retirement*
34 *benefit.*

35 (6) The provisions of K.S.A. 74-4914(8), and amendments thereto,
36 shall apply to retirants under the provisions of this section.

37 (7) Any retirant hired by any participating employer under the
38 provisions of subsection (3), (4) or (5) or K.S.A. 74-4914(7)(d), and
39 amendments thereto, may continue to receive such retirant's full retirement
40 benefit so long as, commencing July 1, 2016, such retirant's total term of
41 employment with all participating employers under one or more of such
42 provisions does not exceed 48 months or four school years, whichever is
43 less. After such period, such retirant shall not receive any retirement

1 benefit for any month in any calendar year in which such retirant receives
2 compensation in an amount equal to \$25,000 or more in such calendar
3 year.

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

9 Sec. 3. K.S.A. 2016 Supp. 74-4914, 74-4914f and 74-4937 are hereby
10 repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.