

## 2023 Kansas Statutes

**74-4910. Participating employers; application to affiliate; resolution; referendum, when; affiliation of employees; state participating employer on entry date; Kansas turnpike authority; judges and others being paid by a participating employer; affiliation of certain governmental entities or instrumentalities; proposal for affiliation, estimate of employer's contribution rate.**

(1) An eligible employer may join the system on January 1 of any year. Application for affiliation shall be in the form of a resolution approved by the governing or legislative body of the eligible employer or by any other body or officer authorized by law or recognized by the board to approve the action. Such application may be for participation with regard to: (a) All employees who are employed by the participating employer on or after the employer's entry date; (b) all employees employed by the participating employer immediately prior to and on the employer's entry date; or (c) all individuals which are referred to in subsections (1)(a) and (1)(b). The application shall include a statement of the group or groups to be covered. Any such application, upon approval by the board of trustees, shall be irrevocable, except that extension of coverage to any of the employee groups referred to in subsections (1)(a) or (1)(b) not covered in the employer's initial application may be obtained by supplemental application to the board, in such form as may be provided by the board, with such coverage to be effective on January 1 of any succeeding year. No city or township shall become a participating employer except by the adoption of a resolution therefor, which shall be published once in the official city or township newspaper or, if there is none, in a newspaper of general circulation in the city or county. No such resolution shall take effect until 60 days after its final publication. If within 60 days of its final publication a petition signed by electors equal in number to not less than 10% of the electors who voted at the last preceding regular election in the township, in the case of townships, the last regular city election in the city, in the case of cities is filed in the office of the clerk of such city, or township demanding that such resolution be submitted to a vote of the electors, the resolution shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. A 2/3 vote of the members-elect of the governing body shall be necessary for the affiliation of any eligible employer other than a city or township. An application for affiliation with the system shall be filed with the board not later than 30 days prior to the date participation is to begin, except as such time limit may be extended by the board. Upon the filing of a certified copy of such resolutions with the board an election pursuant to this section shall be irrevocable, and the employer shall become a participating employer on January 1 of the year immediately following the filing of such election with the board.

(2) The state of Kansas in its capacity as an eligible employer, shall become, by operation of law, a participating employer on the first entry date. The Kansas turnpike authority shall not become a participating employer nor shall its officers or employees be covered by the retirement system until such time as its governing body by a 2/3 vote of the members of such governing body adopts a resolution for affiliation and files the same in the same manner and on the same conditions as in the case of an eligible employer other than a city or township.

(3) If a participating employer is paying or has paid the salary or other compensation of the judge, clerk or any other employee, whether elective or appointive, such judge, clerk or other employee of such court or courts, whether elective or appointive, shall be deemed an employee of the participating employer. Such employee shall be governed by the provisions governing other eligible employees of such participating employer. Any participating employer which has not heretofore included such employees as eligible employees under the retirement system shall on the first day of the month coinciding with or following the effective date of this act include such employees if otherwise eligible as eligible employees under the retirement system. Such employees, whether elective or appointive, if employed on the employer's entry date may elect to pay the employee contributions from the employer's entry date and thereby be governed by the provisions governing other employees employed by the participating employer on entry date except that no such employee shall be considered to be a new employee on the first day of the month

coinciding with or following the effective date of this act and commence making employee contributions in compliance with other provisions governing the retirement system and the participating employer shall make the employer contributions in accordance with the alternative elected by the employee and other provisions governing the retirement system.

(4) Any employer whose employees are covered by social security and who otherwise do not meet the provisions of subsection (13) of K.S.A. 74-4902, and amendments thereto, may elect to affiliate under this section upon meeting the definition of a governmental entity or instrumentality as determined by the system. If, subsequent to such determination, the United States internal revenue service determines that such employer does not meet the definition of a governmental entity or instrumentality, such affiliation shall be null and void and all employee accrued rights associated with such affiliation shall be null and void and the system shall refund such amounts presently credited to each employee's account and an equivalent amount to the employer for each employee. The provisions of this subsection shall apply to current and future participating employers.

(5) For affiliations on and after January 1, 1999, any eligible employer, prior to the filing of an application for affiliation under this system, shall request the board of trustees to submit a proposal for such affiliation including an estimate of the employer's contribution rate necessary to comply with the actuarial standard of this system. Such eligible employer shall furnish all necessary data from which such proposal is prepared, and shall pay all costs involved.

**History:** L. 1961, ch. 427, § 10; L. 1963, ch. 412, § 5; L. 1969, ch. 377, § 1; L. 1970, ch. 320, § 1; L. 1976, ch. 145, § 238; L. 1981, ch. 173, § 77; L. 1992, ch. 321, § 29; L. 1996, ch. 266, § 7; L. 1998, ch. 201, § 14; L. 2012, ch. 11, § 1; July 1.