

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **Substitute for HB 2333**, (Re-Corrected), on page 1, after line 8, by inserting:

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

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

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

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

- (a) "Act" means the provisions of section 1 et seq., and amendments thereto;
- (b) "active DC plan member" means a DC plan member who is actively employed by a

participating employer;

(c) “defined benefit plan” means the defined benefit plan for the Kansas public employees retirement system for KPERS;

(d) “DC plan member” means an individual who is required by section 1, and amendments thereto, to be a member of the defined contribution plan, and any individual who elects to transfer to the defined contribution plan under section 8, and amendments thereto. The term also includes any survivor or beneficiary of a DC plan member, who has a retirement account in the defined contribution plan;

(e) “optional retirement program” means the retirement plan established by the state board of regents under K.S.A. 74-4925, and amendments thereto.

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

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

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

New Sec. 4. (a) The board has the powers and shall perform the duties regarding the defined contribution plan as provided in K.S.A. 74-4909, and amendments thereto, as applicable. The board

may also exercise the powers and shall perform the duties provided in this act.

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

(c) The contract for administration of the defined contribution plan shall be awarded through a competitive proposal process.

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

(b) The board may:

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

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

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

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

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

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

decision.

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

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

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

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

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

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

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

(e) A system member may not simultaneously be a member of the defined benefit plan and the defined contribution plan and shall be a member of either the defined benefit plan or the defined contribution plan. A period of service may not be credited in more than one retirement plan within the system.

(f) A member of the defined benefit plan who is subject to a domestic relations order or an execution or income-withholding order may not transfer to the defined contribution plan unless the

order is modified to apply under the defined contribution plan.

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

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

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

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

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

(c) If a member who is employed by the state board of regents who is covered by the defined contribution plan becomes eligible to make a choice between the defined contribution plan and the

optional retirement plan under K.S.A. 74-4911, and amendments thereto, the member may elect to remain in the defined contribution plan or become a member of the optional retirement plan.

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

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

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

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

(h) An election to become a member of the optional retirement program pursuant to this section is a waiver of all rights and benefits under the Kansas public employees retirement system.

New Sec. 9. The board shall accept the rollover of contributions and the income on those contributions from another eligible retirement plan to the member's rollover account only to the extent allowed under applicable federal law.

New Sec. 10. (a) A DC plan member's mandatory contribution account includes the DC plan member's contributions and the income on those contributions and is vested from the date that the employee becomes a member of the plan.

(b) A DC plan member's employer contribution account includes the employer's contributions and the income on those contributions and is vested only when the member has a total of five years of participating service in the defined contribution plan.

(c) A DC plan member's rollover account includes the member's rollovers of contributions

made pursuant to section 9, and amendments thereto, and income on those contributions and are vested from the date that the contribution is credited to the account.

(d) If the DC plan member's employer contribution account is not vested upon termination of plan membership, as provided in this section, the employer contributions and income are forfeited as provided in section 11, and amendments thereto.

New Sec. 11. (a) An active DC plan member shall contribute 6% of compensation to the defined contribution plan. These contributions shall be picked up by the employer via a salary reduction as provided in section 414 (h)(2) of the federal internal revenue code.

(b) A DC plan member may not make voluntary contributions to the defined contribution plan.

(c) Subject to adjustment by the board as provided in section 12, and amendments thereto, an active DC plan member's employer shall contribute the following:

(1) Three percent of compensation to the active DC plan member's employer contribution account;

(2) a percentage of compensation, determined by the board under section 12, and amendments thereto, to the defined benefit plan as the plan funding rate as described in section 12, and amendments thereto;

(3) a percentage of compensation, determined by the board, must be allocated to the administrative account established by section 5, and amendments thereto; and

(4) a percentage of compensation, determined by the board, must be allocated to the death and long-term disability plan under K.S.A. 74-4927, and amendments thereto.

(d) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a DC plan member's retirement account. The board shall allocate the forfeitures under section 10, and amendments thereto, to meet the plan's administrative expenses,

including startup expenses.

New Sec. 12. (a) The board shall periodically review the sufficiency of the plan funding rate and shall adjust the amount of contributions under section 11, and amendments thereto, as specified in this section. The board shall collect and maintain the data necessary to comply with this section. The plan funding rate set in section 11, and amendments thereto, must be adjusted as provided in this section and the plan document to actuarially fund the defined benefit plan's unfunded liabilities and the change in the normal cost contribution rate that is the result of the DC plan member participation in the defined contribution plan.

(b) If the board determines that the plan funding rate should be increased or decreased, the plan funding rate under section 11, and amendments thereto, must be increased or decreased accordingly.

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

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

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

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

New Sec. 14. Except as provided in section 18, and amendments thereto, any time after termination of service, a DC plan member or the DC plan member's beneficiary may terminate plan

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

- (a) A direct rollover to an eligible retirement plan;
- (b) a regular rollover to an eligible retirement plan;
- (c) a lump-sum distribution of the DC plan member's vested account balance; or
- (d) an optional form of distribution offered by the board under section 15, and amendments thereto.

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

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

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

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

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

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

balance.

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

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

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

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

under section 11, and amendments thereto, means the individual's compensation at the time the individual became disabled as defined under the insured disability program prescribed in K.S.A. 74-4927, and amendments thereto.";

And by renumbering remaining sections accordingly;

Also on page 1, in the title, in line 2, after "thereunder;" by inserting "enacting the Kansas public employees retirement system defined contribution act, terms, conditions and requirements, and benefits and contributions; relating to"

_____ District.