AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; exempting members of the state board of regents retirement plan from certain employment after retirement provisions; amending K.S.A. 2016 Supp. 74-4914 and repealing the existing section; also repealing K.S.A. 2016 Supp. 74-4914f.

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

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

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.
(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

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

(5) Except as provided in subsection (7), on or after July 1, 2006, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to $20,000 or more in any one such calendar year, or $25,000 or more in any one calendar year between July 1, 2016, and July 1, 2020, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-5410(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The
participating employer who employs such retirant whether by contract
directly with the retirant or through an arrangement with a third-party
employer shall report to the system within 30 days of when the compensation
paid to the retirant is equal to or exceeds any limitation provided by this
section. Any participating employer who contracts services with any such
third-party entity to fill a position covered under K.S.A. 72-5410(a), and
amendments thereto, shall include in such contract a provision or condition
which requires the third-party entity to provide the participating employer
with the necessary compensation paid information related to any such
position filled by the third-party entity with a retirant to enable the
participating employer to comply with provisions of this subsection
relating to the payment of contributions and reporting requirements. The
provisions and requirements provided for in amendments made in this act
which relate to positions filled with a retirant or employment of a retirant
by a third-party entity shall not apply to any contract for services entered
into prior to April 1, 2009, between a participating employer and third-
party entity as described in this subsection. Any retirant employed by a
participating employer or a third-party entity as provided in this subsection
shall not make contributions nor receive additional credit under such
system for such service except as provided by this section. Upon request of
the executive director of the system, the secretary of revenue shall provide
such information as may be needed by the executive director to carry out
the provisions of this act. The provisions of this subsection shall not apply
to retirants employed as substitute teachers or officers, employees or
appointees of the legislature. The provisions of this subsection shall not
apply to members of the legislature prior to January 8, 2000. The
provisions of this subsection shall not apply to any other elected officials
prior to the term of office of such elected official which commences on or
after July 1, 2000. The provisions of this subsection shall apply to any
other elected official, except an elected city or county officer as further
provided in this subsection, on and after the term of office of such other
elected official which commences on or after July 1, 2000. Notwithstanding any provisions of law to the contrary, when an elected
city or county officer is retired under the provisions of subsection (1) or
(4) of this section and is paid an amount of compensation of $25,000 or
more in any one calendar year between July 1, 2016, and July 1, 2020,
such officer may receive such officer's salary, and still be entitled to
receive such officer's retirement benefit pursuant to the provisions of
K.S.A. 74-4915 et seq., and amendments thereto. Except as otherwise
provided, commencing January 8, 2001, the provisions of this subsection
shall apply to members of the legislature. For determination of the amount
of compensation paid pursuant to this subsection, for members of the
legislature, compensation shall include any amount paid as provided
pursuant to K.S.A. 46-137a(a), (b), (c) and (d), and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of $20,000 or more in any one calendar year, the member may continue to receive any amount provided in K.S.A. 46-137a(b) and (d), and amendments thereto, and still be entitled to receive such member's retirement benefit. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(f)(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment.

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

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

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

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(f)(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such
retirant shall pay to the system the actuarially determined employer
contribution based on the retirant's compensation and the statutorily
prescribed employee contribution during any such period of employment;
(ii) employed by a school district in a position as provided in K.S.A.
74-4937(3), (4) or (5), and amendments thereto. Any retirant employed by
a school district in a position under K.S.A. 74-4937(3), (4) or (5), and
amendments thereto, shall be subject to the provisions of subsection (7)(h)
which relate to a limitation on the total term of employment with any
participating employer in which a retirant may receive such retirant's full
retirement benefit;
(iii) certified law enforcement officers employed by the law
enforcement training center. Such law enforcement officers shall receive
their benefits notwithstanding this subsection. The law enforcement
training center shall pay to the system the actuarially determined
employer contribution and the statutorily prescribed employee contribution
based on the retirant's compensation during any such period of employment;
(iv) members of the Kansas police and firemen's retirement system
pursuant to K.S.A. 74-4951 et seq., and amendments thereto, or members
of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and
amendments thereto, or members of the state board of regents retirement
plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;
(v) employed as substitute teachers or officers, employees or
appointees of the legislature;
(vi) a poll worker hired to work an election day for a county election
officer responsible for conducting all official elections held in the county;
and
(vii) employed by, or have accepted employment from, a participating
employer prior to May 1, 2015. Any break in continuous employment by a
retirant or move to a different position by a retirant during the effective
period of this subsection shall be deemed new employment and shall
subject the retirant to the provisions of this subsection.
(c) The participating employer shall enroll all retirants and report to
the system when compensation is paid to a retirant as provided in this
subsection. Such report shall contain a certification by the appointing
authority of the participating employer that any hired retirant has not been
employed by the participating employer within 60 days of such retirant's
retirement and that there was no prearranged agreement for employment
between the participating employer and the hired retirant. Upon request of
the executive director of the system, the participating employer shall
provide such information as may be needed by the executive director to
carry out the provisions of this subsection. Any participating employer
who hires a retirant covered by this subsection shall pay to the system the
statutorily prescribed employer contribution rate for such retirant, without
regard to whether the retirant is receiving benefits. No retirant shall
receive credit for service while employed under the provisions of this
subsection.

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

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

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

(iii) the employer maintains documentation of its efforts to fill the
position with a non-retirant and provides such documentation to the joint
committee on pensions, investments and benefits upon request of the
committee.

(e) An employer may submit a written assurance protocol to the
system to extend the exception provided for in subsection (7)(d) by one-
year increments for a total extension not to exceed three years. A written
assurance protocol shall be submitted to the system for each one-year
increment extension. If a school district submits a written assurance
protocol, such written assurance protocol shall be signed by the
superintendent and the board president of such school district. If a
municipality, as defined in K.S.A. 75-1117, and amendments thereto, other
than a school district, submits a written assurance protocol, such written
assurance protocol shall be signed by the governing body or such
governing body's designee for such municipality. Such written assurance
protocol shall state that the position was advertised on multiple platforms
for a minimum of 30 calendar days and that at least one of the following
conditions occurred:
(i) No applications were submitted for the position;
(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or
(iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.

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

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

(h) Any retirant hired by any participating employer under the provisions of subsection (7)(d) or K.S.A. 74-4937(3), (4) or (5), and amendments thereto, may continue to receive such retirant's full retirement benefit so long as, commencing July 1, 2016, such retirant's total term of employment with all participating employers under one or more of such provisions does not exceed 48 months or four school years, whichever is less. After such period, such retirant shall not receive any retirement benefit for any month in any calendar year in which such retirant receives compensation in an amount equal to $25,000 or more in such calendar year.

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

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

Sec. 2. K.S.A. 2016 Supp. 74-4914 and 74-4914f are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.