

As Amended by House Committee

HOUSE BILL No. 2213

By Committee on Pensions and Benefits

2-5

Proposed Amendments to House Bill No. 2213
Eliminate IRS approval for Tier I election.
Election would occur as provided in statute

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; certain member elections; retirement
3 benefit determinations, one-time payment; membership; amending
4 K.S.A. 2012 Supp. 74-49,135, 74-49,205, 74-49,301, 74-49,306, 74-
5 49,308, 74-49,313 and 74-49,315 and repealing the existing sections.
6

internal revenue service review requirements;
74-4915, 74-4919,

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

8 Section 1. K.S.A. 2012 Supp. 74-49,135 is hereby amended to read as
9 follows: 74-49,135. (a) ~~The provisions of this section and any related~~
10 ~~provisions shall not be implemented until the board of trustees of the~~
11 ~~Kansas public employees retirement system has obtained approval for the~~
12 ~~election and related provisions specified in this section from the federal~~
13 ~~internal revenue service.] The board may implement the remainder of this~~
14 ~~act prior to implementation of this section. [For that end, this section and~~
15 ~~provisions related thereto are severable from the remainder of this act and~~
16 ~~shall be repealed if the federal internal revenue service refuses to grant~~
17 ~~such approval or issues an adverse decision.]~~

Insert Section 1. K.S.A. 2012 Supp. 74-4915
Sec. 2. K.S.A. 2012 Supp. 74-4919
(see attachment #1)

And by renumbering sections accordingly

18 (b) Except as otherwise provided in this act, a member of the system
19 under the provisions of K.S.A. 74-4901 et seq., and amendments thereto,
20 on July 1, 2013, may elect to: (1) Contribute, commencing January 1,
21 2014, 5% of such member's compensation as employee contributions, and
22 commencing January 1, 2015, and in each subsequent calendar year, 6% of
23 such member's compensation as employee contributions, and to receive an
24 amount for participating service equal to the total of 1.85% of such
25 member's final average salary; or (2) continue to contribute 4% of such
26 member's compensation as employee contributions, and to receive an
27 amount for participating service equal to the total of 1.4% of such
28 member's final average salary. Members shall make such election within a
29 90-day period established by the board.
30 (c) (1) Elections made pursuant to this section shall be made on a
31 form and in a manner prescribed by the board.
32 (2) A member failing to make an election pursuant to subsection (b)
33 shall contribute, commencing January 1, 2014, 5% of such member's
34 compensation as employee contributions, and commencing January 1,
35 2015, and in each subsequent year, 6% of such member's compensation as
36 employee contributions, and shall receive an amount for participating

1 service equal to the total of 1.85% of the member's final average salary.
2 (3) An election under this section, including the default election
3 pursuant to subsection (b)(2) (c) (2), is a one-time irrevocable election.

4 Sec. 2. K.S.A. 2012 Supp. 74-49,205 is hereby amended to read as
5 follows: 74-49,205. For any member who is first employed by a
6 participating employer on or after July 1, 2009, and who retires on or after
7 such member's normal retirement date, or such member's retirement date
8 pursuant to early retirement as provided pursuant to K.S.A. 2012 Supp.
9 74-49,206, and amendments thereto, but prior to ~~January 1, 2014~~ July 1,
10 2012, the amount for participating service shall be equal to the total of
11 1.75% of the member's final average salary, and for any member who
12 retires on or after such member's normal retirement date, or such
13 member's retirement date pursuant to early retirement as provided
14 pursuant to K.S.A. 2012 Supp. 74-49,206, and amendments thereto, and on
15 and after ~~January 1, 2014~~ July 1, 2012, the amount for participating service
16 shall be equal to 1.85% of the member's final average salary, multiplied by
17 the number of years of participating service to be used in determining such
18 member's annual retirement benefit. Notwithstanding any law to the
19 contrary, for any member who retired on and after July 1, 2012, but prior
20 to the effective date of this act, such member's annual retirement benefit
21 shall be redetermined with the amount for participating service to be used
22 in determining such member's annual retirement benefit equal to 1.85% of
23 the member's final average salary. Any underpayment to such member for
24 any monthly retirement benefit as determined pursuant to this section shall
25 be paid to such member by the system by means of a one-time
26 redetermination benefit payment in a form and manner prescribed by the
27 board.

28 Sec. 3. K.S.A. 2012 Supp. 74-49,301 is hereby amended to read as
29 follows: 74-49,301. (a) The provisions of K.S.A. 2012 Supp. 74-49,301
30 through 74-49,318, and amendments thereto, shall be known and may be
31 cited as the Kansas public employees retirement system act of 2015.

32 (b) Any employee who is first employed by a participating employer
33 on or after January 1, 2015, shall be a member of the system under the
34 provisions of this act on the first day of employment of such employee
35 with such participating employer.

36 (c) (1) Any non-vested employee other than an elected official of a
37 participating employer who has been employed in a covered position as
38 defined in K.S.A. 2012 Supp. 74-49,202, and amendments thereto, other
39 than with a school employer, shall remain a member of the Kansas public
40 employees retirement system as provided pursuant to K.S.A. 74-4901 et
41 seq., and amendments thereto, on and after July 1, 2009, if the member:
42 (A) Does not leave covered employment with a participating employer for
43 a period of time exceeding 30 consecutive days; (B) does not withdraw

1 such member's annuity savings account as defined by K.S.A. 74-49,302,
2 and amendments thereto, forfeiting such member's membership in the
3 interim; and (C) returns to covered employment with a participating
4 employer in a covered position within such 30-day time period.

5 (2) Any non-vested employee other than an elected official of a
6 participating employer who has been employed in a covered position with
7 a participating school employer, shall remain a member of the Kansas
8 public employees retirement system as provided pursuant to K.S.A. 74-
9 4901 et seq., and amendments thereto, if the member: (A) Was employed in
10 a covered position with a participating school employer for the duration of
11 the school year and immediately returns to covered employment with
12 another participating school employer at the beginning of the following
13 school year; and (B) does not withdraw such member's annuity savings
14 account as defined by K.S.A. 74-49,302, and amendments thereto,
15 forfeiting such member's membership in the interim.

16 (d) This act does not apply to members of the Kansas police and
17 firemen's retirement system, K.S.A. 74-4951 et seq., and amendments
18 thereto, the retirement system for judges, K.S.A. 20-2601 et seq., and
19 amendments thereto, and security officers as provided in K.S.A. 74-4914a,
20 and amendments thereto.

21 (f)(e) A system member may not simultaneously be a member of the
22 pre-2015 plan and the plan established pursuant to this act. A period of
23 service may not be credited in more than one retirement plan within the
24 system.

25 (f)(f) The board of trustees of the Kansas public employees
26 retirement system shall administer the provisions of this act in the same
27 manner as the board administers the provisions of K.S.A. 74-4901 et seq.,
28 and amendments thereto, except as specifically provided in this act.

29 (f)(g) Unless specifically provided in this act, the provisions of
30 K.S.A. 74-4901 et seq., and amendments thereto, shall be applicable to this
31 act. In an event that a conflict exists between the provisions of this act and
32 the provisions of K.S.A. 74-4901 et seq., and amendments thereto, the
33 provisions of this act shall control, and to that end, no legal or contractual
34 rights shall inure to the benefit of members or participating employers
35 under this act with regard to the provisions of K.S.A. 74-4901 et seq., and
36 amendments thereto, when the provisions of this act control.

37 (f)(h) Each participating employer as provided in this act and each
38 employee as defined by this act shall be subject to the provisions of this
39 act as specified in this act and subject to the provisions of K.S.A. 74-4901
40 et seq., and amendments thereto, as appropriate as to terms, conditions and
41 requirements not specifically covered in this act. The provisions of this act
42 shall not apply to members of the Kansas public employees retirement
43 system as provided in K.S.A. 74-4901 et seq., and 74-49,201 et seq., and

1 amendments thereto, first employed by a participating employer prior to
2 January 1, 2015, unless otherwise provided in this act.

3 (h)(i) The provisions of this act shall be part of and supplemental to
4 the provisions of K.S.A. 74-4901 et seq., and amendments thereto, subject
5 to the limitations contained in this act.

6 Sec. 4. K.S.A. 2012 Supp. 74-49,306 is hereby amended to read as
7 follows: 74-49,306. (a) A member's annuity savings account is the sum of
8 the member's mandatory contributions plus the interest credits on those
9 contributions, which shall be credited no less frequently than quarterly
10 based on the account balances as of the last day of the preceding quarter.
11 Effective January 1, 2015, the interest credits are 5.25% per annum. The
12 legislature may from time to time prospectively change the interest credits,
13 and expressly reserves the right to do so.

14 (b) The board may, in the board's discretion, from time to time
15 provide for an additional interest credit, subject to the following
16 conditions: (1) The additional interest credit may not exceed 4% per
17 annum;

18 (2) if the funding ratio of the system as a whole is equal to or more
19 than 80% as certified by the board, the board shall provide for an
20 additional interest credit which may not exceed the lesser of 4% or a
21 percentage of the rate of return on the system's assets that is above 8% for
22 a fiscal year which such percentage is equal to the funding ratio of the
23 system as a whole for each fiscal year;

24 (3) the additional interest-rate *credit* for a fiscal year shall not be
25 granted unless the rate of return on the system's assets is at least 10% for
26 that fiscal year; and

27 (4) if the funding ratio of the system as a whole is less than 80% as
28 certified by the board, the board shall consider the funding of the system,
29 market conditions, investment returns and other related factors specified
30 by the board.

31 (c) The member's annuity savings account is vested from the date that
32 the employee becomes a member of the plan.

33 (d) Interest credits under subsections (a) and (b) shall not be granted
34 on the member's annuity savings account following the end of the second
35 plan year following the member's termination of employment under the
36 plan without vesting in the retirement annuity account as provided in
37 K.S.A. 2012 Supp. 74-49,312, and amendments thereto.

38 (e) For a member to be eligible for an additional interest credit, the
39 member shall have an account balance at the time the interest credit is
40 posted to the account.

41 Sec. 5. K.S.A. 2012 Supp. 74-49,308 is hereby amended to read as
42 follows: 74-49,308. (a) A member's retirement annuity account is the sum
43 of all employer credits to the account plus the interest credits on the

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1 account, which shall be credited no less frequently than quarterly, based on
2 the account balances as of the last day of the preceding quarter. Effective
3 January 1, 2015, the interest credits are 5.25% per annum. The legislature
4 may from time to time prospectively change the interest credits, and
5 expressly reserves the right to do so.

6 (b) The board may, in the board's discretion, from time to time
7 provide for an additional interest credit, subject to the following
8 conditions: (1) The additional interest credit may not exceed 4% per
9 annum;

10 (2) if the funding ratio of the system as a whole, is equal to or more
11 than 80% as certified by the board, the board shall provide for an
12 additional interest credit which may not exceed the lesser of 4% or a
13 percentage of the rate of return on the system's assets that is above 8% for
14 a fiscal year which such percentage is equal to the overall funded ratio of
15 the system as a whole for each fiscal year;

16 (3) the additional interest-rate *crediti* for a fiscal year shall not be
17 granted unless the rate of return on the system's assets is at least 10% for
18 that fiscal year; and

19 (4) if the funding ratio of the system as a whole is less than 80% as
20 certified by the board, the board shall consider the funding of the system,
21 market conditions, investment returns and other related factors specified
22 by the board.

23 (c) For a member to be eligible for an additional interest credit, the
24 member shall have an account balance at the time the interest credit is
25 posted to the account.

26 (d) Interest credits under subsections (a) and (b) shall not be granted
27 on the member's non-vested retirement annuity account following the end
28 of the second plan year following the member's termination of
29 employment covered under the plan.

30 Sec. 6. K.S.A. 2012 Supp. 74-49,313 is hereby amended to read as
31 follows: 74-49,313. (a) Except as provided in subsection (e), a member
32 who has a nonforfeitable interest in the member's retirement annuity
33 account, at any time after termination from service and the attainment of
34 normal retirement age, shall receive an annuity based upon the balance in
35 such member's retirement annuity account, using mortality rates
36 established by the board by official action as of the member's annuity start
37 date and interest rates established by the legislature as of the member's
38 annuity start date, and such interest rate shall initially be 6%. The
39 legislature may from time to time prospectively change the interest rate
40 and the board may from time to time prospectively change the mortality
41 rates, and the legislature expressly reserves such rights to do so.

42 (b) Except as provided in subsection (e), a member who has a vested
43 interest in the member's retirement annuity account, who terminates ~~after~~

1 ~~attainment of age 55 covered employment, without forfeiting interest in~~
2 ~~such member's account, with the completion of at least 10 years of service,~~
3 ~~shall be eligible to receive, upon attainment of age 55, an annuity based~~
4 ~~upon employer credits and interest credits in such member's retirement~~
5 ~~annuity account, using mortality rates established by the board by official~~
6 ~~action as of the member's annuity start date and an interest rate established~~
7 ~~by the legislature as of the member's annuity start date, and such interest~~
8 ~~rate shall initially be 6%. The legislature may from time to time~~
9 ~~prospectively change the interest rate and the board may from time to time~~
10 ~~prospectively change the mortality rates, and the legislature expressly~~
11 ~~reserves such rights to do so.~~

12 (c) The form of benefit payable under subsections (a) and (b) shall be
13 a single life annuity with 10-year certain. The member may elect any
14 option described in K.S.A. 74-4918, and amendments thereto, except the
15 partial lump-sum option, subject to actuarial factors established by the
16 board from time to time. The benefit option selected may include a self-
17 funded cost-of-living adjustment feature, in which the account value is
18 converted to a benefit amount that increases by a fixed percentage over
19 time. One or more fixed percentages shall be established by the board,
20 which may be changed from time to time. In lieu of a part of an annuity,
21 for a member entitled to a benefit under subsection (a), the member may
22 elect to receive a lump-sum of such member's retirement annuity account
23 of any fixed dollar amount or percent, but in no event may the lump-sum
24 option elected under this section and the lump-sum option elected under
25 subsection (a) of K.S.A. 2012 Supp. 74-49,311, and amendments thereto,
26 exceed 30% of the total value of such member's annuity savings account
27 and retirement annuity account.

28 (d) Except as provided in subsection (e), in the case of an active or
29 inactive member:

- 30 (1) Who is vested in the member's retirement annuity account;
- 31 (2) who has five or more years of service at death; and
- 32 (3) who dies before attaining normal retirement age, with such
- 33 member's spouse at time of death designated as such member's sole
- 34 primary beneficiary, the member's surviving spouse on and after the date
- 35 the member would have attained normal retirement age had such member
- 36 not died, shall receive an annuity based upon employer credits and interest
- 37 credits in the retirement annuity account, using factors established by the
- 38 board by official action as of the beneficiary's annuity start date. The form
- 39 of benefit shall be a single life annuity with 10-year certain.

40 (e) If a member's vested retirement annuity account is less than
41 \$1,000 upon separation from service, or the total of the member's vested
42 retirement annuity account and annuity savings account balance is less
43 than \$1,000, the account balance or balances shall be mandatorily

1 distributed to the member in accordance with section 401(a)(31)(B) of the
2 federal internal revenue code. If the member does not elect to have such
3 distribution paid directly to an eligible retirement plan specified by the
4 participant in a direct rollover or to receive the distribution directly, then
5 the board will pay the distribution to the member directly.

6 Sec. 7. K.S.A. 2012 Supp. 74-49,315 is hereby amended to read as
7 follows: 74-49,315. A member's beneficiary shall be determined as
8 provided in the ~~pre-2014 pre-2015~~ plan. Upon filing a written application
9 with the board after the death of a member receiving a benefit under
10 ~~subsection subsections~~ (a) or (b) of K.S.A. 2012 Supp. 74-49,313, and
11 amendments thereto, the member's beneficiary is entitled to a \$4,000 death
12 benefit as provided in K.S.A. 74-4989, and amendments thereto.

13 Sec. 8. K.S.A. 2012 Supp. 74-49,135, 74-49,205, 74-49,301, 74-
14 49,306, 74-49,308, 74-49,313 and 74-49,315 are hereby repealed.

15 Sec. 9. This act shall take effect and be in force from and after its
16 publication in the Kansas register.

74-4915, 74-4919,

Section 1. K.S.A. 2012 Supp. 74-4915 is hereby amended to read as follows: (1) Any member who retires on or after such member's normal retirement date shall be entitled to receive an annual retirement benefit equal to the sum obtained by adding an amount for participating service and an amount for prior service determined as provided in this section. The amount for prior service shall be equal to 1% of the member's prior service annual salary multiplied by the number of years of prior service entitled to credit as provided in K.S.A. 74-4913, and amendments thereto, except that for members retiring on or after July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, and for the period commencing January 1, 1986, for members retiring before July 1, 1981, who were last employed by a participating employer which had affiliated with the system under K.S.A. 74-4910, 74-4912, 74-4929 or 74-4991, and amendments thereto, except that any increase in benefits under this section shall be reduced by any postretirement benefit adjustments received by such member prior to July 2, 1985, the amount for prior service shall be calculated using final average salary in lieu of prior service annual salary and, in the case of any such member who became a member under subsection (3) of K.S.A. 74-4925, and amendments thereto, and for whom a final average salary cannot be otherwise determined, such member's final average salary shall be based on all service for which such member received assistance in a plan under subsection (2) of K.S.A. 74-4925, and amendments thereto, as certified by such employer upon request of the board. For any member who retires on or after July 1, 1993, the amount for participating service shall be equal to the total of 1.75% of the member's final average salary multiplied by the number of years of participating service earned prior to January 1, 2014, and, subject to any election made pursuant to the provisions of K.S.A. 2012 Supp. 74-49,135, and amendments thereto, 1.4% or 1.85% of the member's final average salary multiplied by the number of years of participating service earned on and after January 1, 2014. If the federal internal revenue service fails to grant an approval or issues an adverse decision as described in K.S.A. 2012 Supp. 74-49,135, and amendments thereto, the amount for participating service earned on and after January 1, 2014, shall be 1.85% of the member's final average salary multiplied by the number of years of participating service earned on and after January 1, 2014. Notwithstanding any provision of law to the contrary, service that is purchased under the provisions of K.S.A. 74-4919a et seq., and amendments thereto, shall be credited at a rate which equals 1.4% of the member's final average salary for members that elect the 1.4% multiplier pursuant to subsection (b)(2) of K.S.A. 2012 Supp. 74-49,135, and amendments thereto, and 1.75% of the member's final average salary for members that elect the 1.85% multiplier pursuant to subsection (b)(1) of K.S.A. 2012 Supp. 74-49,135, and amendments thereto.

(2) (A) Any member who retires on or after July 1, 1993, but before the normal retirement date and has attained age 60 but has not attained age 62 with the completion of 10 years of credited service, shall receive an annual retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date but based upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an amount equal to the product of (i) such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (ii) the product of 0.2% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 62.

(B) Any member who retires on or after July 1, 1993, but before the normal retirement date and has attained age 55 but has not attained age 60 with the completion of 10 years of credited service, shall receive an annual retirement benefit equal to the annual retirement benefit payable had the member retired on the normal retirement date but based upon the member's final average salary and years of participating and prior service credited to the date of actual retirement reduced by an amount equal to the total of: (i) (a) The product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by (b) the product of 0.6% multiplied by the number of months' difference, to the nearest whole month, between the member's attained age at the time of retirement and age 60; and

(ii) on and after July 1, 1993, the product of such annual retirement benefit payable had the member retired on the normal retirement date, multiplied by 4.8%.

(3) Upon death of a retiree, there shall be paid to such retiree's beneficiary an amount equal to the excess, if any, of such retiree's accumulated contributions over the sum of all retirement benefit payments made.

(4) Such annual retirement benefits shall be paid in equal monthly installments, except that the board may provide for the payment of retirement benefits which total less than \$240 a year on other than a monthly basis.

(5) In the event that an application in such form as may be prescribed by the board for any amount due under the provisions of this act, is not filed with the office of the retirement system by the person entitled to same within five years of the date such amount became due and payable, an amount equal to same shall be transferred to the retirement benefit accumulation reserve and such amount shall no longer be due and payable, except that if any such person shall present evidence satisfactory to the board that such person's failure to file such application within that time period was due to lack of knowledge or incapacity on such person's part, the amount equal to the amount originally due shall be transferred from the retirement benefit accumulation reserve to the reserve or reserves from which such transfer was initially made and the amount originally due shall be paid to such person.

(6) The participating employer, when an employee files an application for retirement, shall certify to the system all member contributions of such employee which have not been reported previously. In the event the amount certified results in an overpayment of retirement benefits, the employer shall be held responsible for the contribution amount previously certified from the time of commencement of the overpayment of retirement benefits until the time that such overpayment is discovered by the system. At the time that such overpayment of retirement benefits is discovered by the system, the system shall adjust the amount of retirement benefits paid to the employee to the correct amount based on the participating employer's certification of member contributions which had not been previously reported. The participating employer of the employee who has had such member's retirement benefits adjusted as provided in this subsection shall notify such employee of such overpayment and such adjustment of retirement benefits. If the contributions previously certified are lower than the actual amount reported, the employer shall be responsible for remitting the correct amount and the member's monthly benefit shall be recalculated based on the amount reported by the employer. When an employee in school employment files such an application, the participating employer responsible for any such amounts as provided in this subsection shall be the employee's eligible employer as specified in subsection (1), (2) or (3) of K.S.A. 74-4931, and amendments thereto, and shall not be the state of Kansas. The provisions of law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retiree, any joint annuitant and any beneficiary.

Sec. 2. K.S.A. 2012 Supp. 74-4919 is hereby amended to read as follows: 74-4919. (1) Except as otherwise provided, each participating employer, beginning with the first payroll for services performed after the entry date, shall deduct from the compensation of each member 4% of such member's compensation as employee contributions. Subject to any election made pursuant to the provisions of K.S.A. 2012 Supp. 74-49,135, and amendments thereto, each participating employer, for services performed by an employee first employed prior to July 1, 2009, shall deduct from the compensation of each member, the following amounts expressed as a percentage of compensation during the following periods: (a) Commencing January 1, 2014, for members who elected to receive an amount for participating service equal to the total of 1.4% of such member's final average salary, 4% of such member's compensation as employee contributions; and (b) commencing January 1, 2014, for members who elected to receive an amount for participating service equal to the total of 1.85% of such member's final average salary, who did not make an election pursuant to K.S.A. 2012 Supp. 74-49,135, and amendments thereto, or if the federal internal revenue service fails to grant an approval or issues an adverse decision as described in K.S.A. 2012 Supp. 74-49,135, and amendments thereto, 5% of such member's compensation as employee contributions, and commencing January 1, 2015, and in each subsequent calendar year, 6% of such member's compensation as employee contributions. Such deductions shall be remitted quarterly, or as the board may otherwise provide, to the executive director for deposit in the Kansas public employees retirement fund. Such deductions shall be credited to the members' individual accounts and interest shall be added annually to such accounts.

(2) (a) Subject to the provisions of K.S.A. 74-49,123, and amendments thereto, each participating employer, pursuant to the provisions of section 414(f)(2) of the federal internal revenue code, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (1) commencing with the third quarter of 1984. The contributions so picked up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the member's compensation.

(b) Member contributions picked up by the employer shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from each member's compensation equal to the amount of the member's contributions picked up by the employer, provided that such deduction shall not reduce the member's compensation for purposes of computing benefits under the system.

(c) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive director for credit to the Kansas public employees retirement fund. Such contributions shall be credited to a separate account within the member's individual account so that amounts contributed by the member commencing with the third quarter of 1984 may be distinguished from the member contributions picked up by the employer. Interest shall be added annually to members' individual accounts.

