

74-4960a. Disability benefits for members appointed or employed on or after July 1, 1989, or who elected pursuant to 74-4955a; procedures and reports. (1) If any active contributing member who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions of this act becomes disabled as defined in subsection (2), such member shall receive a monthly benefit equal to 50% of the member's final average salary at the time such member was disabled payable in monthly installments, accruing from the first day upon which the member ceases to draw compensation, if a report of the disability in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within 220 days after the date of the commencement of such disability and if an application for such benefit in such form and manner as the board shall prescribe is filed in the office of the executive director of the board within two years of the date of the commencement of such disability, except that the board may waive such two-year requirement, if the board is presented with evidence that clearly warrants such a waiver.

(2) For the purposes of this section, "disabled" means total inability to perform permanently the duties of the position of policeman or fireman.

(3) In the event a member who is disabled and entitled to such benefits as provided in subsection (1) dies after the date of such disability, the following benefits shall be payable:

(i) Pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, to the member's spouse, if lawfully wedded to the member at the time of the member's death, and if no benefits are payable under subsection (3) of K.S.A. 74-4958a, and amendments thereto, a lump-sum benefit equal to 50% of the member's final average salary at the time such member was disabled.

(ii) To the member's spouse, if lawfully wedded to the member at the time of the member's death, an annual benefit equal to 50% of the member's benefit payable in monthly installments, to accrue from the first day of the month following the member's date of death and ending on the last day of the month in which the spouse dies. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. If there is no surviving spouse, or if after the death of the spouse there remain one or more children under the age of 18 years or one or more children under the age of 23 years who is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto, the spouse's benefit shall be payable, subject to the provisions of K.S.A. 74-49,123, and amendments thereto, in equal shares to such children and each child's share shall end on the last day of the month in which such child attains the age of 18 years or dies, whichever occurs earlier or in which such child attains the age of 23 years, if such child is a full-time student as provided in K.S.A. 74-49,117, and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(4) Any member who was employed for compensation by an employer other than the member's participating employer and whose disability was incurred in the course of such other employment shall not be eligible for any of the benefits provided in subsection (1) or (3).

(5) If a member becomes totally and permanently disabled and no benefits are payable under subsection (1), the sum of the member's accumulated contributions shall be paid to the member.

(6) Any member receiving benefits under this section shall submit to medical examination, not more frequent than annually, by one or more physicians or any other practitioners of the healing arts holding a valid license issued by the state board of healing arts to practice a branch of the healing arts, as the board of trustees may direct. If upon such medical examination, the examiner's report to the board states that the member is physically able and capable of resuming employment with the same or a different participating employer, the disability benefits shall terminate. A member who has been receiving benefits under the provisions of this section and who returns to employment, as defined in subsection (4) of K.S.A. 74-4952, and amendments thereto, of a participating employer shall immediately commence accruing service credit which shall be added to that which has been accrued by virtue of previous service.

(7) Any member who has been receiving benefits under the provisions of this section for a period of five years shall be deemed permanent and shall not be subject to further medical examinations, except that if the board of trustees shall have reasonable grounds to question whether the member remains totally and permanently disabled, a further medical examination or examinations may be required.

(8) Refusal or neglect to submit to examination as provided in subsection (6) shall be sufficient cause for suspending or discontinuing benefit payments under this section and if such refusal or neglect shall continue for a period of one year, the member's rights in and to all benefits under this system may be revoked by the board.

(9) In the event that a member becomes disabled and is eligible for benefits provided in this section, such member shall be given participating service credit for the entire period of such disability.

(10) Any benefits provided pursuant to this section and any participating service credit given pursuant to subsection (9) shall terminate upon the earliest date such member is eligible for retirement upon attainment of the normal retirement date as provided in K.S.A. 74-4964a, and amendments thereto.

(11) Any member who has received benefits under the provisions of this section for a period of five years or more immediately preceding retirement shall have such member's final average salary adjusted upon retirement by the actuarial salary assumption rates in existence during such period. Effective July 1, 1993, each member's current annual rate shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon retirement by an amount equal to the lesser of: (1) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus one percent; or (2) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(12) All payments due under this section to a minor shall be made to a legally appointed conservator of such minor.

(13) The provisions of this section shall be effective on and after July 1, 1989 and shall apply only to members

who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a, and amendments thereto; and persons appointed or employed on or after July 1, 1989.

(14) Any member who has been receiving benefits under the provisions of this section and who returns to employment with the same or different participating employer in the system shall no longer be deemed disabled under the provisions of this section.

(15) Upon the death of a member who has been receiving benefits under the provisions of this section, if no further benefits are payable, the excess, if any, of the member's accumulated contributions over the sum of all benefits paid shall be paid to the member's beneficiary.

History: L. 1989, ch. 232, § 28; L. 1990, ch. 282, § 15; L. 1992, ch. 321, § 15; L. 1993, ch. 227, § 39; L. 1998, ch. 64, § 73; L. 1998, ch. 201, § 39; L. 1999, ch. 87, § 20; L. 2000, ch. 152, § 22; L. 2001, ch. 209, § 35; L. 2006, ch. 143, § 19; L. 2009, ch. 137, § 3; May 28.