

HOUSE BILL No. 2042

By Representative Highland

1-7

1 AN ACT concerning retirement and pensions; enacting the Kansas thrift
2 savings plan act; providing terms, conditions and requirements related
3 thereto; relating to plan document, membership, benefits, contributions,
4 distributions and prospective plan changes by the legislature.
5

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

7 Section 1. (a) The provisions of sections 1 through 14, and
8 amendments thereto, shall be known and may be cited as the Kansas thrift
9 savings plan act, and shall be effective on and after July 1, 2024.

10 (b) The provisions of this act shall not apply to members of the
11 Kansas police and firemen's retirement system, K.S.A. 74-4951 et seq.,
12 and amendments thereto, and the retirement system for judges, K.S.A. 20-
13 2601 et seq., and amendments thereto, or to members of the Kansas public
14 employees retirement system as provided in K.S.A. 74-4901 et seq., 74-
15 49,201 et seq. and K.S.A. 74-49,301 et seq., and amendments thereto,
16 except as specifically provided in this act.

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

20 (a) "Act" means the Kansas thrift savings plan act, sections 1 through
21 14, and amendments thereto;

22 (b) "active plan member" means a thrift savings plan member who is
23 actively employed by a participating employer;

24 (c) "covered position" means a position with an affiliated employer
25 that is eligible for membership in the Kansas public employees retirement
26 system pursuant to the provisions of K.S.A. 74-4901 et seq., and
27 amendments thereto;

28 (d) "defined benefit plan" means the defined benefit plan for the
29 Kansas public employees retirement system, K.S.A. 74-4901 et seq., 74-
30 49,201 et seq., and 74-49,301 et seq., and amendments thereto, the Kansas
31 police and firemen's retirement system, K.S.A. 74-4951 et seq., and
32 amendments thereto, and the retirement system for judges, K.S.A. 20-2601
33 et seq., and amendments thereto;

34 (e) "first employed" means: (1) An employee who has not been an
35 employee in a covered position of any participating employer prior to July
36 1, 2024, and is employed by a participating employer in a covered position

1 on or after July 1, 2024; or (2) an employee who is a former member of the
2 system who withdrew contribution accounts before July 1, 2024, and who
3 is again employed by a participating employer in a covered position on or
4 after July 1, 2024; and

5 (f) "plan" or "thrift savings plan" means the thrift savings plan
6 established by section 3, and amendments thereto.

7 Sec. 3. (a) The board shall establish a separate thrift savings plan in
8 accordance with the provisions of this act. The plan shall be established as
9 a pension plan for the exclusive benefit of members and their beneficiaries
10 and as a qualified governmental plan pursuant to sections 401(a) and
11 414(d) of the federal internal revenue code and its implementing
12 regulations. Retirement accounts shall be established for each thrift
13 savings plan member. Assets of the plan shall be held in trust. The plan is
14 established in addition to any retirement, pension, deferred compensation
15 or other benefit plan administered by the state or a political subdivision
16 thereof.

17 (b) The board may enter into an agreement or agreements with
18 approved insurers, investment managers or other contracting parties
19 whereby benefits or investment services under the thrift savings plan
20 would be made available to participants. The board may enter into an
21 agreement with one or more qualified private firms for consolidated billing
22 services, participant enrollment services, communications services,
23 participant account recordkeeping services and other services related to the
24 administration of the thrift savings plan.

25 (c) No significant costs shall be incurred by the state as a result of the
26 administration of this act unless such costs are recovered by one or both of
27 the following means: (1) A service charge collected from all participants;
28 or (2) credit allowances or reimbursement of specified plan expenses as
29 provided under agreements with one or more qualified private firms
30 entered into pursuant to subsection (b). The amount of any such significant
31 costs incurred and to be recovered by the state shall be determined by the
32 board.

33 (d) The board is authorized to negotiate and enter into contracts with
34 qualified insurers, investment managers and other contracting parties for
35 the purposes of implementing and providing essential services for the thrift
36 savings plan, including acquisition of actuarial, investment, consulting,
37 auditing and other services necessary therefor. Contracts entered into
38 under this act shall be subject to the provisions of K.S.A. 75-3739, and
39 amendments thereto, and shall not be negotiated in accordance with the
40 provisions of K.S.A. 75-37,102, and amendments thereto, or K.S.A. 75-
41 37,132, and amendments thereto.

42 Sec. 4. The legislature may from time to time prospectively change
43 the statutory provisions governing the plan, and expressly reserves the

1 right to do so. The state of Kansas shall not be responsible for any loss
2 incurred by any member under the plan established pursuant to this act.

3 Sec. 5. An eligible employee of the defined benefit plan who is first
4 employed on or after July 1, 2024, may elect, within 14 days of
5 commencement of employment in a covered position with a participating
6 employer, to become a member of the thrift savings plan upon filing with
7 the board a one-time irrevocable election to become or not become a
8 member of the thrift savings plan. An election to become a member of the
9 thrift savings plan terminates any eligibility to be a member of the defined
10 benefit plan. In the event that any employee fails to file an election to
11 become a member of thrift savings plan, it shall be presumed that such
12 employee has elected to become a member of the defined benefit plan.
13 Elections under this section shall be on a form and in a manner prescribed
14 by the board.

15 Sec. 6. (a) This section shall not be implemented until the board has
16 obtained approval from the federal internal revenue service. The board
17 may implement the remainder of this act prior to implementation of this
18 section. This section is severable from the remainder of this act and shall
19 be repealed if the federal internal revenue service refuses to grant such
20 approval or issues an adverse decision.

21 (b) Except as otherwise provided in this act, an active member of the
22 defined benefit plan on July 1, 2024, or an inactive non-vested member
23 who is again employed by a participating employer in a covered position
24 on or after July 1, 2024, may elect to become a member of the thrift
25 savings plan by making an election within a 90-day period established by
26 the board.

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

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

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

33 (4) An election to become a member of the thrift savings plan is for
34 all of such member's credited service. An election to become a thrift
35 savings plan member terminates active membership in the defined benefit
36 plan and the service of such member on and after July 1, 2024, in the thrift
37 savings plan shall not be credited for the purposes of the defined benefit
38 plan. The system shall calculate the actuarial present value of such
39 member's accrued retirement benefit for all credited service prior to July 1,
40 2024, and shall transfer a lump-sum amount equal to such actuarial present
41 value to such member's rollover account.

42 (d) A member in either the defined benefit plan or the thrift savings
43 plan who becomes inactive after an election under this section and who

1 returns to active membership remains in the plan previously elected.

2 (e) A member of the defined benefit plan who is subject to a domestic
3 relations order or an execution or income-withholding order may not
4 transfer to the thrift savings plan unless the order is modified to apply
5 under the thrift savings plan.

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

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

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

21 Sec. 7. The board shall accept the rollover of contributions and the
22 income on those contributions from another eligible retirement plan to the
23 member's rollover account only to the extent allowed under the federal
24 internal revenue code.

25 Sec. 8. (a) A thrift savings plan member's mandatory contribution
26 account includes the member's contributions and the income on those
27 contributions and is vested from the date that the employee becomes a
28 member of the plan.

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

33 (c) A thrift savings plan member's rollover account includes the
34 member's rollovers of contributions made pursuant to section 6 or 7, and
35 amendments thereto, and income on those contributions and are vested
36 from the date that the contributions are credited to the account.

37 (d) If the thrift savings plan member's employer contribution account
38 is not vested upon termination of plan membership, as provided in this
39 section, the employer contributions and income are forfeited as provided in
40 section 9, and amendments thereto.

41 Sec. 9. (a) An active thrift savings plan member shall contribute 3%
42 of compensation to the thrift savings plan. These contributions shall be
43 picked up by the employer via a salary reduction as provided in section

1 414(h)(2) of the federal internal revenue code.

2 (b) An active plan member's employer shall contribute the following:

3 (1) 4% of compensation to the active plan member's employer
4 contribution account; and

5 (2) an additional 0.5% of compensation to the active plan member's
6 employer contribution account if such member contributes 4% of
7 compensation to the plan or an additional 1% of compensation if such
8 member contributes 5% or more of compensation to the plan.

9 (d) Forfeitures of employer contributions and investment income on
10 the employer contributions may not be used to increase a plan member's
11 retirement account. The board shall allocate the forfeitures under this
12 section to meet the plan's administrative expenses, including startup
13 expenses.

14 Sec. 10. (a) (1) The board shall require in any agreement or
15 agreements with entities pursuant to section 3, and amendments thereto,
16 that at least the following investment alternatives under the thrift savings
17 plan are offered to members, including:

18 (A) A government securities investment fund;

19 (B) a fixed income index investment fund;

20 (C) a common stock index investment fund;

21 (D) a small capitalization stock index investment fund;

22 (E) an international stock index investment fund; and

23 (F) hybrid funds mixing and matching various investment funds,
24 tailored to projected retirement years.

25 (2) (A) The board shall select an index that is a commonly recognized
26 index comprised of common stock the aggregate market value of which is
27 a reasonably complete representation of the United States equity markets.

28 (B) The common stock index investment fund shall be invested in a
29 portfolio designed to replicate the performance of the index selected under
30 paragraph (2)(A). The portfolio shall be designed such that, to the extent
31 practicable, the percentage of the large capitalization stock index
32 investment fund that is invested in each stock is the same as the percentage
33 determined by dividing the aggregate market value of all shares of that
34 stock by the aggregate market value of all shares of all stocks included in
35 such index.

36 (3) (A) The board shall select an index that is a commonly recognized
37 index comprised of common stock the aggregate market value of which
38 represents the United States equity markets excluding the common stocks
39 included in the common stock index investment fund.

40 (B) The small capitalization stock index investment fund shall be
41 invested in a portfolio designed to replicate the performance of the index
42 in paragraph (3)(A). The portfolio shall be designed such that, to the extent
43 practicable, the percentage of the small capitalization stock index

1 investment fund that is invested in each stock is the same as the percentage
2 determined by dividing the aggregate market value of all shares of that
3 stock by the aggregate market value of all shares of all stocks included in
4 such index.

5 (4) (A) The board shall select an index that is a commonly recognized
6 index comprised of stock the aggregate market value of which is a
7 reasonably complete representation of the international equity markets
8 excluding the United States equity markets.

9 (B) The international stock index investment fund shall be invested in
10 a portfolio designed to replicate the performance of the index in paragraph
11 (4)(A). The portfolio shall be designed such that, to the extent practicable,
12 the percentage of the international stock index investment fund that is
13 invested in each stock is the same percentage determined by dividing the
14 aggregate market value of all shares of that stock by the aggregate market
15 value of all shares of all stocks included in such index.

16 (b) The legislature may from time to time review the suitability and
17 management of investment alternatives established by this section and may
18 change the alternatives to be offered, and expressly reserves the right to do
19 so. The board shall notify affected plan members of potential changes
20 before any changes become effective.

21 (c) The board shall establish a default investment option for any plan
22 member who does not have an effective investment direction. The board
23 may utilize the government securities investment fund established
24 pursuant to this section as the default investment fund.

25 (d) Assets within each member's account shall be invested as directed
26 by the member within the investment alternatives established by the board.

27 (e) A plan member may elect the investment funds and alternatives
28 referred to in this section into which the sums in the member's accounts are
29 to be invested or reinvested. The board shall develop and make available
30 to all plan members an electronic means for investment allocation
31 elections. Elections to allocate existing account balances among the
32 various investment alternatives referred to in this section shall be
33 permitted on a daily basis. Elections to allocate future contributions among
34 the various investment alternatives referred to in this section shall be
35 permitted on a monthly basis. All investment elections shall be made in
36 1% increments. The sum of the percentages elected for all investment
37 alternatives shall equal 100%.

38 Sec. 11. Any time after termination of service, a plan member or the
39 plan member's beneficiary may terminate plan membership by filing a
40 written application with the board and removing the plan member's vested
41 account balance from the plan through any combination of the following
42 payout options, each of which is subject to the provisions of the plan
43 document and the federal internal revenue code and the applicable

1 regulations of the federal internal revenue service:

2 (a) A direct rollover to an eligible retirement plan;

3 (b) a regular rollover to an eligible retirement plan;

4 (c) a lump-sum distribution of the plan member's vested account
5 balance; or

6 (d) an optional form of distribution offered by the board under section
7 12, and amendments thereto.

8 Sec. 12. (a) Subject to the provisions of the plan document, a plan
9 member, after termination of service, may leave the plan member's vested
10 account balance in the plan, and the plan member is eligible for a
11 distribution as provided in this section.

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

15 (c) A plan member who is less than 70½ years of age who returns to
16 service may not continue to receive a distribution under this section while
17 actively employed in a covered position.

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

22 (e) The plan document may specify minimum account balances for
23 purposes of allowing benefit payment options and rollovers in accordance
24 with the federal internal revenue code.

25 Sec. 13. A plan member's beneficiary shall be determined as provided
26 in the defined benefit plan regulations. Upon filing a written application
27 with the board after the death of a plan member, the plan member's
28 beneficiary is entitled to the plan member's vested account balance.

29 Sec. 14. Before termination of service, a plan member may not
30 receive a refund of any portion of the plan member's vested account
31 balance.

32 Sec. 15. This act shall take effect and be in force from and after its
33 publication in the statute book.