

CITIES AND MUNICIPALITIES

12-110c. Purchase of fire-fighting equipment; issuance of general obligation bonds; procedure; limitations. Any city operating a fire department may acquire fire-fighting equipment for the use of such city department and pay the cost thereof by the issuance of its general obligation bonds maturing not more than 15 years from their date. No such bonds shall be issued until the city has first published a notice of its intention to acquire such equipment, stating the cost thereof and its intention to issue its general obligation bonds under the provisions of this act. Such notice shall be published once each week for two consecutive weeks in the official city newspaper. If, within 60 days following the date of the publication of such notice, a petition signed by not less than 5% of the qualified electors of such city is filed with the city clerk, no such bonds shall be issued until the same have been approved by a majority of the qualified electors of such city voting thereon at an election called and held therefor. Such election shall be called and held in the manner provided for the calling and holding of elections under the general bond law.

History: L. 1976, ch. 66, § 1; L. 1978, ch. 99, § 9; L. 1981, ch. 173, § 8; July 1.

12-111. Fire fighting beyond territorial limits of city or township; privileges and immunities. Whenever the necessity arises during any emergency resulting from the existence of a state of war, or from fire, or any other cause, the firemen and officers of the fire department of any city or township may, together with all necessary equipment, lawfully go or be sent beyond the territorial limits of such cities or townships to any point within the state, to assist in meeting such emergency: *Provided*, The fire chief or person in charge of the fire department shall have the right in every case to determine whether or not a city or township can spare all or any portion of its fire equipment and firemen at any particular time. In such event the acts performed for such purposes by such firemen or officers, and the expenditures made for such purpose by such city or township shall be deemed conclusively to be for a public and governmental purpose and all of the immunities from liability enjoyed by a city or township when acting through its firemen or officers of the fire department for a public or governmental purpose within its territorial limits shall be enjoyed by it to the same extent when such city or township is so acting under this section or under other lawful authority beyond its territorial limits. The firemen and officers of the fire department of any city or township, when acting hereunder, or under other lawful authority, beyond the territorial limits of such city or township, shall have all of the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief, disability and other benefits, enjoyed by them while performing their respective duties within the territorial limits of such city or township.

History: L. 1943, ch. 169, § 1; March 11.

12-111a. Exemption of certain annuities, pensions and benefits of policemen and firemen from taxes and civil liability; exception, qualified domestic relations order. Except as provided further, all annuities, pensions and benefits paid, which arise from services of a policeman or fireman, by a pension and benefit plan of a city of the first or second class under a charter ordinance related to K.S.A. 13-14a01 *et seq.* or K.S.A. 14-10a01 *et seq.*, and amendments thereto, are hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body thereof and shall not be subject to execution, garnishment or attachment. Any pension benefit or annuity accruing to services of a policeman or fireman by a charter ordinance under this section shall not be exempt from claims of an alternate payee under a qualified domestic relations order. As used in this section, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the United States internal revenue code of 1954, as amended. The provisions of this section shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994.

History: L. 1974, ch. 345, § 3; L. 1994, ch. 231, § 1; July 1.

12-111b. Application of 12-111a, 13-14a10, 14-10a10 and 74-4978g. The taxation provisions of this act shall apply to all taxable years commencing after December 31, 1973.

History: L. 1974, ch. 345, § 5; July 1.

12-1617a. Delegates to firemen's association and school. The governing body of any Kansas municipality is hereby authorized to determine the number of delegates to be sent by its fire department to the annual meetings of the Kansas State Firemen's Association and to a firemen's school to be held annually under the direction of Kansas university and such association, and to pay the necessary expenses of such designated delegates to such annual meeting and to such school, such expenses to be paid in the discretion of such governing body from either the general fund or fire department fund or water department fund of such municipality.

History: L. 1929, ch. 112, § 1; March 1.

12-1680a. Acquisition of computerized police and fire vehicle locating equipment; general obligation bonds. The governing body of any city or county may acquire all or any part of the equipment necessary or desirable for the operation of a computerized program for locating and reporting on the location of police and fire vehicles, and may issue general obligation bonds of such city or county in the amount necessary for the payment of all or part of the cost thereof.

History: L. 1976, ch. 404, § 1; April 14.

12-1680c. Same; special election upon protest. In the event a sufficient protest petition is filed within the prescribed time, such system shall not be acquired and no

bonds shall be issued under the provisions of this act unless and until the issuance of such bonds shall have been approved by a majority of the qualified electors of such city or county voting on the proposition at a special election called and held for such purpose or at the next city or county primary or general election. Any special election held pursuant to the provisions of this act shall be called, noticed and held in accordance with the provisions of K.S.A. 10-120. The question to be submitted at any such election shall be in substantially the following form:

"Shall the (city/county) of _____ acquire a fully developed computerized program for location and reporting on the locating of police and fire vehicles and issue general obligation bonds in an amount of not to exceed \$ _____ to pay the cost of acquiring such system, as provided in the 1976 Laws of Kansas, chapter No. _____?"

If a majority of the qualified electors of such city or county voting thereon shall vote in favor of such proposition, the governing body thereof may proceed to acquire said computerized system and issue bonds to pay the cost thereof as if no protest petition had been filed.

History: L. 1976, ch. 404, § 3; April 14.

12-2904. Interlocal agreements by public agencies; specifications; approval of attorney general, exceptions.

(a) Subject to the limitations of subsection (g), any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, fire protection, the Kansas tort claims act or claims for civil rights violations, may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

(b) Any public agency may enter into agreements with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this act. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any public agency may enter into agreements with Native American Indian tribes for joint or cooperative actions. Such agreements shall be considered to be an interlocal agreement and shall be subject to the procedures and limitations of the interlocal cooperation act.

The provisions of this subsection shall not be construed as authorizing a public agency to enter into a gaming compact pursuant to the interlocal cooperation act.

(d) Any such agreement shall specify the following:

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto.

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(e) In addition to the requirements of subsection (d), if the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement also shall contain the following:

(1) Provision for an administrator or a joint board or one of the participating public agencies to be responsible for administering the joint or cooperative undertaking. In the case of a joint board public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

(f) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, such performance may be offered in satisfaction of the obligation or responsibility.

(g) Every agreement made hereunder, except agreements between two or more public agencies establishing a council or other organization of local governments for the study of common problems of an area or region and for the promotion of intergovernmental cooperation, prior to and as a condition precedent to its entry into force, shall be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state. The attorney general shall approve any agreement submitted hereunder unless the attorney general shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public and private agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.

History: L. 1957, ch. 100, § 4; L. 1968, ch. 221, § 2; L. 1972, ch. 48, § 1; L. 1975, ch. 74, § 1; L. 1975, ch. 75, § 1; L. 1979, ch. 55, § 1; L. 1979, ch. 56, § 1; L. 1986, ch. 83, § 1; L. 2002, ch. 126, § 2; May 23.

AGO: 97-80, 97-42, 95-38, 93-115, 90-113, 90-3, 89-43, 87-85, 85-172, 85-14, 84-22, 83-150, 83-33, 82-180, 82-90, 81-233, 81-212, 81-205, 81-41

12-3910. Consolidation of fire districts and fire departments; application of act. The provisions of this act shall apply to any fire district created by a county under chapter 19 of the Kansas Statutes Annotated, to any fire district created by a township under chapter 80 of the Kansas Statutes Annotated, to any fire district created under chapter 31 of the Kansas Statutes Annotated, and to any fire department created by the governing body of a city.

History: L. 1996, ch. 226, § 1; July 1.

AGO: 97-2

12-3911. Same; districts or departments; initiation of procedure. Upon the request of the governing body of two or more fire districts or departments, the board of county commissioners of any county, by resolution, may provide for the consolidation of fire districts and may include within the newly created district any area not currently being provided fire protection.

History: L. 1996, ch. 226, § 2; July 1.

AGO: 97-2

12-3912. Same; districts or departments in adjoining counties. If the fire districts or departments desiring to be consolidated consist of land in adjoining counties, the county commissions of both counties, by resolution, may create a new district under the provisions of this act.

History: L. 1996, ch. 226, § 3; July 1.

12-3913. Same; procedure; resolution, publication; election, when; effective date; initial mill levy of new district. (a) The resolution creating a consolidated fire district as provided by this act, shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the area subject to the proposed consolidation. If within 60 days following the last publication of the resolution, a petition in opposition thereto, signed by not less than 5% of the registered voters residing within each of the two or more areas proposed for consolidation is filed with the county election officer, the board shall order an election to be called and held within the areas proposed to be consolidated within 90 days after the filing of such petition in the manner provided for the calling and holding of elections under the general bond law. If a majority of the electors voting at such election shall approve the consolidation of such areas the board of county commissioners, by resolution, shall provide for the consolidation of such areas and define the boundaries of the area as consolidated. Any such consolidation shall be made prior to July 1 of any year to take effect on January 1 of the succeeding year.

(b) Any resolution creating a consolidated fire district shall provide for the dissolution or disorganization of the fire districts as they existed prior to the effective date of the creation of a consolidated fire district. The resolution creating a consolidated fire district also shall fix the

amount of tax, not to exceed 11 mills, that may be levied by the governing body of the consolidated fire district.

History: L. 1996, ch. 226, § 4; July 1.

12-3914. Same; governing body of consolidated district, appointment of. (a) Except as provided by subsection (b), upon the consolidation of any such areas the board of county commissioners shall appoint a governing body composed of at least three and not more than seven members who shall represent as nearly as possible, the geographical areas in the consolidated area. In the event that two counties have joined together to create a consolidated fire district, the number of members on the governing board from each county shall be determined on the basis of population, but each county represented shall have at least one appointment to the board. The members of the governing board shall be appointed as follows: Two members for a term of one year; two members for a term of two years; and three members for a term of three years. Thereafter, all members shall be appointed for a term of three years. All vacancies on the governing board shall be filled by appointment for the remainder of the unexpired term. Within 30 days after the governing body is appointed and annually thereafter, the governing body shall meet and organize by election from its membership a chairperson, vice-chairperson and treasurer. The treasurer shall give a corporate surety bond, conditioned for the faithful performance of duty and accounting for all moneys received thereby. Such bond shall be approved and be in the amount fixed by the governing body. The treasurer also shall serve as secretary to the board.

(b) The board or boards of county commissioners may serve as the governing body of the consolidated fire district or may place the supervision of the consolidated fire district under a fire district board of trustees. The board or boards of county commissioners may appoint a board of not less than three members and not more than nine members, composed of persons other than members of the board or boards of county commissioners, who shall serve at the pleasure of the board or boards of county commissioners. The fire district board of trustees, if appointed, may employ a supervisor and such other persons as may be necessary to properly operate and manage such consolidated fire district.

History: L. 1996, ch. 226, § 5; July 1.

12-3915. Same; governing body of consolidated district, powers and duties. The governing body of any fire district created pursuant to this act shall have the authority to:

(a) Levy taxes and special assessments as provided by law. Except as provided by K.S.A. 12-3913, and amendments thereto, the governing body shall fix the amount of the tax, not to exceed 11 mills, to be levied upon all taxable tangible property in the consolidated fire district;

(b) enter into contracts;

(c) acquire and dispose of real and personal property;

(d) acquire, construct, reconstruct, equip, operate, maintain and furnish buildings to house fire-fighting equipment;

(e) acquire, operate and maintain fire-fighting equipment;

(f) issue general obligation bonds and no-fund warrants;

(g) pay compensation and salaries to fire district employees;

(h) exercise eminent domain;

(i) pay the operation and maintenance expenses of the fire district and other expenses legally incurred by the district;

(j) select regular employees, provide for their compensation and furnish quarters for such employees if deemed desirable;

(k) provide for the organization of volunteer members who may be compensated for fighting fires, responding to emergencies or attending meetings;

(l) provide special clothing and equipment for such employees and volunteers;

(m) insure such employees and volunteers against accidental death and injury in the performance of their duties; and

(n) do all things necessary or desirable to maintain and operate such department so as to furnish fire protection for the inhabitants of the district and otherwise effectuate the purposes of this act.

History: L. 1996, ch. 226, § 6; L. 2002, ch. 150, § 1; July 1. **AGO:** 2001-51

12-3916. Same; transfer of property; payment of outstanding indebtedness. (a) Subject to the provisions of subsection (b), the books, papers, equipment and other real and personal property belonging to the departments consolidated pursuant to this act shall be transferred to and shall become the property of the consolidated district.

(b) All funds in the treasury of any such fire district at the time of consolidation shall be applied to the payment of any outstanding indebtedness, including bonded indebtedness, of such fire district.

History: L. 1996, ch. 226, § 7; July 1.

12-3917. Same; outstanding indebtedness; tax levy for payment of. If any fire district, at the time of such consolidation, has any outstanding indebtedness, it shall be the duty of the board of county commissioners of the county to provide for the payment of such outstanding indebtedness by providing for the levying of taxes upon all the property in that district prior to the consolidation with another district. The levy shall be entered by the county clerk on the tax roll the same as other taxes.

History: L. 1996, ch. 226, § 8; July 1.

12-3918. Same; effect on firefighters' retirement or other benefits. The consolidation of any fire district under the provisions of this act shall not affect the rights of any

firefighter serving in the department of such district to benefits under any retirement or relief association program.

History: L. 1996, ch. 226, § 9; July 1.

12-3919. Same; fire district, powers and duties. Unless otherwise specifically provided in this act, any fire district created under the provisions of this act, shall have all the duties, rights and obligations of any department created under chapter 19 of the Kansas Statutes Annotated.

History: L. 1996, ch. 226, § 10; July 1.

12-5001. Actuarial funding standards for local police or fire pension plans; definitions. As used in K.S.A. 12-5001 to 12-5006, unless the context requires otherwise: (a) "Policeman" means an employee of a city who is assigned to the police department of the city, who is engaged in law enforcement and maintenance of order, who has been specifically designated, appointed, commissioned or styled as a policeman by the governing body or city manager of the city, and whose employment as a policeman is not seasonal or temporary and requires at least one thousand (1,000) hours of work per year.

(b) "Fireman" means an employee of a city who is assigned to the fire department of the city, who is engaged in the fighting and extinguishing of fires and the protection of life and property therefrom, who has been specifically designated, appointed, commissioned or styled as a fireman by the governing body or city manager of the city, and whose employment as a fireman is not seasonal or temporary and requires at least one thousand (1,000) hours of work per year.

(c) "Local police or fire pension plan" means any pension plan, system or fund which covers the policemen of a city or the firemen of a city, or both, and which was established by and is maintained and funded by such city under:

(1) K.S.A. 13-14a01 to 13-14a14, inclusive, and acts amendatory thereof; or

(2) any part of K.S.A. 13-14a01 to 13-14a14, inclusive, and acts amendatory thereof, and one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution; or

(3) K.S.A. 14-10a01 to 14-10a15, inclusive, and acts amendatory thereof; or

(4) any part of K.S.A. 14-10a01 to 14-10a15, inclusive, and acts amendatory thereof, and one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution; or

(5) one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution.

(d) "Active member" means a person who is in active employment with a city as a policeman or fireman and who is covered by a local police or fire pension plan which is maintained and funded by such city.

(e) "Retired member" means a person who is a former policeman or fireman of a city and who is receiving or who is entitled to receive in the future a pension from a local police or fire pension plan maintained by such city, or

any other person who is receiving or who is entitled to receive in the future, a pension from a local police or fire pension plan.

(f) "Board of trustees" means the board of trustees of the Kansas public employees retirement system.

History: L. 1976, ch. 348, § 1; July 1.

12-5002. Actuarial standards imposed; minimum annual contribution rate; optional schedule of phased-in contributions; actuarial services by KPERS or private firm; rules and regulations; actuarial evaluation of proposed pension plan changes. (a) From and after January 1, 1978, no city may maintain or fund any local police or fire pension plan except in accordance with the minimum funding standards prescribed in this section.

(b) From and after January 1, 1978, and notwithstanding any other provision of law to the contrary, all cities maintaining and funding any local police or fire pension plan shall make annual contributions to each local police or fire pension plan at an annual rate of contribution which is equal to or greater than the minimum annual rate of contribution which is determined pursuant to subsections (c) or (d), except as otherwise specifically authorized pursuant to subsection (g). Such minimum annual rate of contribution shall be equal to the sum of: (1) The actuarially determined amount required to amortize over a period of not more than 20 years the accrued unfunded liabilities of such plan; and (2) the normal or ongoing costs attributable to active members.

(c) All cities which will maintain and fund one or more local police or fire pension plans on and after January 1, 1978, and which do not elect pursuant to subsection (d) to use the services of an actuary or firm of actuaries other than the actuary of the board of trustees, shall furnish to the board of trustees all necessary data, as determined by the board of trustees, at times designated by the board of trustees, but not more often than annually, from which the minimum annual rate of contribution for each such plan may be determined. Upon the basis of an actuarial analysis of such data, the board of trustees shall certify, commencing on or before June 1, 1977, and at least once every three years thereafter, to each such city the actuarially determined minimum annual rate of contribution which will be required for each such plan in accordance with subsection (b) for the ensuing calendar year. All costs involved in making certifications under this subsection shall be paid by each such city.

(d) Any city which will maintain and fund one or more local police or fire pension plans on and after January 1, 1978, may elect to use and pay for the services of an actuary or firm of actuaries other than the actuary of the board of trustees as provided in subsection (c), in order to determine the minimum annual rate of contribution for such city for all such plans. Each city so electing shall file a statement of election with the board of trustees, setting forth the name and address of the actuary or firm of actuaries selected by such city and requesting approval thereof. The board of trustees shall approve such actuary or firm of

actuaries for performance of the periodic actuarial evaluation and review of all the local police or fire pension plans maintained and funded by such city and for determination of the minimum annual contribution for each such plan in accordance with this section if the board of trustees finds that such actuary or firm of actuaries is qualified therefor. The approved actuary or firm of actuaries shall perform such actuarial evaluation and review and shall determine the minimum annual contribution for each local police or fire pension plan in accordance with this section and shall report annually thereon to the board of trustees in such form and manner as may be prescribed by rules and regulations of the board of trustees. The approval of an actuary or firm of actuaries under this subsection (d) shall be effective until the city requests approval of another actuary or firm of actuaries or until the city acts to use the services of the actuary of the board of trustees under subsection (c) by withdrawing the statement of election filed under this subsection (d).

(e) In accordance with the provisions of K.S.A. 77-415 *et seq.* and amendments thereto, the board of trustees shall adopt rules and regulations which establish actuarial standards and assumptions for the purposes of actuarial evaluation and review of local police or fire pension plans and determination of the minimum annual rates of contribution for cities maintaining and funding such plans. Whenever the amount of any benefit is to be determined on the basis of actuarial standards and assumptions, the standards and assumptions shall be specified in a way that precludes employer discretion.

(f) Prior to the adoption by a city of any proposed changes in the benefit provisions of a local police or fire pension plan or in the rate of employee contributions thereto, the governing body of the city shall obtain an actuarial evaluation of the effect of such changes, including an estimate of the minimum annual contribution which would be required under this section if such changes are adopted. Such actuarial evaluation and determination shall be conducted by the actuary of the board of trustees or by the actuary or firm of actuaries approved under subsection (d) and all costs incurred therefor shall be paid by the city.

(g) The governing body of any city which is required to make annual contributions at a minimum annual rate to each local police or fire pension plan maintained and funded by the city in accordance with this section and which determines that such minimum annual rate of contributions would place an undue initial hardship on the property taxpayers of such city, may adopt a resolution to that effect and file a certified copy of such resolution with the board of trustees prior to January 1, 1978. Any city which has filed a certified copy of such resolution with the board of trustees prior to January 1, 1978, may make annual contributions in accordance with the following schedule:

(1) Contributions for the calendar year 1978 shall be at a rate equal to or greater than the total of: (A) Thirty-three and one-third percent of the actuarially determined amount required to amortize over a period of not more than 40 years from January 1, 1978, the accrued unfunded li-

abilities of such plan which are attributable to active members; (B) 33 1/3% of the amount required to amortize over a period of not more than 20 years from January 1, 1978, the accrued unfunded liabilities of such plan which are attributable to retired members; and (C) the normal or ongoing costs attributable to active members.

(2) Contributions for the calendar year 1979 shall be at a rate equal to or greater than the total of: (A) Sixty-six and two-thirds percent of the actuarially determined amount required to amortize over a period of not more than 39 years from January 1, 1979, the accrued unfunded liabilities of such plan which are attributable to active members; (B) 66 2/3% of the amount required to amortize over a period of not more than 19 years from January 1, 1979, the accrued unfunded liabilities of such plan which are attributable to retired members; and (C) the normal or ongoing costs attributable to active members.

(3) Contributions for the calendar year 1980 and each year thereafter shall be at a rate equal to or greater than the total of: (A) One hundred percent of the actuarially determined amount required to amortize over a period of not more than 38 years from January 1, 1980, the accrued unfunded liabilities of such plan which are attributable to active members; (B) 100% of the amount required to amortize over a period of not more than 18 years from January 1, 1980, the accrued unfunded liabilities of such plan which are attributable to retired members; and (C) the normal or ongoing costs attributable to active members.

History: L. 1976, ch. 348, § 2; L. 1977, ch. 65, § 1; L. 1996, ch. 266, § 1; L. 1998, ch. 64, § 1; L. 2002, ch. 3, § 1; July 1.

12-5003. KP&F system membership election for certain active members of local police or fire pension plans; final average salary. (a) Each active member of a local police or fire pension plan, which is maintained and funded by a city which affiliates after the effective date of this act with the Kansas police and firemen's retirement system with regard to all active members and retired members of such plan as provided in K.S.A. 74-4954, who elected not to become a member of said system prior to the effective date of this act, may become a member of said system by filing a written statement of election to become a member of said system with the board of trustees on or before the entry date of such city under K.S.A. 74-4954. Failure to file such written election shall be presumed to be an election not to become a member of said system. Such election, whether to become a member or not to become a member as provided in this section, shall be irrevocable.

(b) Except as otherwise provided in this act, any active member of a local police or fire pension plan who elects to become a member of the Kansas police and firemen's retirement system as provided in this section, shall be subject to the provisions of K.S.A. 74-4951 to 74-4977, inclusive, and acts amendatory thereof or supplemental thereto.

(c) For any such active member who elects to become a member of the Kansas police and firemen's retire-

ment system as provided in this section, the term "final average salary" means the average highest annual compensation paid to such member for service as a policeman or fireman for any three of the five years immediately preceding retirement or termination of service, notwithstanding the definition of such term in K.S.A. 74-4952.

History: L. 1976, ch. 348, § 3; July 1.

12-5004. Abolition of local plans upon affiliation with KP&F system; transfer of assets to Kansas public employees retirement fund; credit of contributions; authorizing transfer endorsements, transfer of powers and duties to KPERS board of trustees. (a) On the entry date of the city which is affiliating with the Kansas police and firemen's retirement system with regard to all active members and retired members of a local police or fire pension plan as provided in K.S.A. 74-4954, such local police or fire pension plan is hereby abolished and such city is hereby authorized to transfer and shall transfer all moneys and other assets in such local police or fire pension plan to the Kansas public employees retirement fund created by K.S.A. 74-4921. For the purposes of all assets other than money, such transfer shall be at the market value of such assets at the close of business on the date of transfer, which shall be the bid price as quoted by a nationally recognized government bond dealer.

(b) On said entry date and as a part of the transfer of moneys and other assets of such local police or fire pension plan to the Kansas public employees retirement fund, the accounts in the Kansas public employees retirement fund of the active members and retired members of such local police or fire pension plan who become members or special members of the Kansas police and firemen's retirement system pursuant to this act, shall be credited with the contributions in their respective accounts in such local police or fire pension plan.

(c) On and after said entry date, the board of trustees may execute transfer endorsements for any stock or security which was transferred from such local police or fire pension plan to the Kansas public employees retirement fund pursuant to subsection (a). Any such endorsement may be made either in the name of the Kansas public employees retirement fund or in the name of such local police or fire pension plan.

(d) On said entry date, the governing body which was established to administer such local police or fire pension plan, is hereby abolished and all of the powers, duties and functions of said governing body are hereby transferred to and conferred and imposed upon the board of trustees of the Kansas public employees retirement system for the purposes of all active members and retired members of such local police or fire pension plan who become special members of the Kansas police and firemen's retirement system as provided in K.S.A. 12-5005.

(e) On and after said entry date, whenever such local police or fire pension plan is referred to or designated by a statute or contract or other document, such reference

shall be deemed to apply to the Kansas public employees retirement fund.

(f) On and after said entry date, whenever the governing body of such local police or fire pension plan is referred to or designated by a statute or contract or other document, such reference shall be deemed to apply to the board of trustees of the Kansas public employees retirement system.

History: L. 1976, ch. 348, § 4; July 1.

12-5005. Retired members and certain active members of local plans made special members of KP&F system; employee contributions; preservation of local plan entitlements for special members, exceptions; exemption from taxes and legal claims and process and nonassignable, exception for decrees for support and maintenance and qualified domestic relations orders and lump-sum death benefit assigned to a funeral establishment; employer pickup of member contributions.

(a) Every retired member of a local police or fire pension plan and every active member of the plan who is entitled to make an election to become a member of the Kansas police and firemen's retirement system pursuant to K.S.A. 12-5003 or 74-4955 and amendments thereto and who does not so elect shall become a special member of the Kansas police and firemen's retirement system on the entry date of the city which is affiliating with the Kansas police and firemen's retirement system with regard to all active members and retired members of the local police or fire pension plan under K.S.A. 74-4954 and amendments thereto.

(b) Beginning with the first payroll for services as a policeman or fireman after an active member of a local police or fire pension plan becomes a special member of the Kansas police and firemen's retirement system under this section, the city shall deduct from the compensation of each special member the greater of 7% or the percentage rate of contribution which the active member was required to contribute to the local police or fire pension plan preceding the entry date of the city, as employee contributions. The deductions shall be remitted quarterly, or as the board of trustees otherwise provides, to the executive secretary of the Kansas public employees retirement system for credit to the Kansas public employees retirement fund. All deductions shall be credited to the special members' individual accounts beginning on July 1 of the year following the entry date of the city for purposes of all active and retired members of the local police and fire pension plan.

(c) Except as otherwise provided in this act, each active member of a local police or fire pension plan who becomes a special member of the Kansas police and firemen's retirement system under this section shall be subject to the provisions of and entitled to pensions and other benefits, rights and privileges to the extent provided under the local police and fire pension plan on the day immediately preceding the entry date of the city which is affiliating with the Kansas police and firemen's retirement system with regard to all active members and retired members of the plan.

(d) Each retired member of a local police or fire pension plan who becomes a special member of the Kansas police and firemen's retirement system under this section shall be entitled to receive from the Kansas police and firemen's retirement system a pension or any other benefit to the same extent and subject to the same conditions as existed under the local police or fire pension plan on the day immediately preceding the entry date of the city which is affiliating with the system with regard to all active members and retired members of the plan under K.S.A. 74-4954 and amendments thereto, except no retired special member shall be appointed in or to a position or office for which compensation is paid for service to the same state agency, or the same police or fire department of a city, township, special district or county or the same sheriff's office of a county. This subsection shall not apply to service rendered by a retiree as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk or in any other office or position of a similar nature. However, all such benefits paid shall be paid in accordance with the applicable requirements under section 401 (a)(9) of the federal internal revenue code of 1986 as applicable to governmental plans, as in effect on July 1, 1998, and the regulations thereto, as in effect on July 1, 1998. Any retiree employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions or receive additional credit under the system for that service. This subsection, except as it relates to contributions and additional credit, shall not apply to the employment of any retiree by the state of Kansas, or any county, city, township, special district, political subdivision or instrumentality of any one or several of the aforementioned for a period of not exceeding 30 days in any one calendar year.

(e) (1) Every pension or other benefit received by any special member pursuant to subsection (c) or (d) is hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body of this state; shall not be subject to execution, garnishment, attachment or any other process or claim whatsoever, except such pension or benefit or any accumulated contributions due and owing from the system to such special member are subject to decrees for child support or maintenance, or both, as provided in K.S.A. 60-1610 and amendments thereto; and shall be unassignable, except that within 30 days after the death of a retirant the lump-sum death benefit payable to a retirant pursuant to the provisions of K.S.A. 74-4989 and amendments thereto may be assignable to a funeral establishment providing funeral services to such retirant by the beneficiary of such retirant. The Kansas public employees retirement system shall not be a party to any action under article 16 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, and is subject to orders from such actions issued by the district court of the county where such action was filed. Such orders from such actions shall specify either a specific amount or specific percentage of the amount of the pension or benefit or any accumulated contributions due and owing from the system to be distributed by the system pursuant to this act.

(2) Every pension or other benefit received by any special member pursuant to subsection (c) or (d) is hereby made and declared exempt from any tax of the state of Kansas or any political subdivision or taxing body of this state; shall not be subject to execution, garnishment, attachment or any other process or claim whatsoever, except such pension or benefit or any accumulated contributions due and owing from the system to such special members are subject to claims of an alternate payee under a qualified domestic relations order. As used in this subsection, the terms "alternate payee" and "qualified domestic relations order" shall have the meaning ascribed to them in section 414(p) of the federal internal revenue code of 1986, as in effect on July 1, 1998. The provisions of this subsection shall apply to any qualified domestic relations order which is in effect on or after July 1, 1994.

(f) (1) Subject to the provisions of K.S.A. 2001 Supp. 74-49,123 and amendments thereto, each participating employer, pursuant to the provisions of section 414(h)(2) of the federal internal revenue code of 1986, as in effect on July 1, 1998, shall pick up and pay the contributions which would otherwise be payable by members as prescribed in subsection (b) 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.

(2) 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 K.S.A. 12-5001 to 12-5007, inclusive, and amendments thereto.

(3) Member contributions picked up by the employer shall be remitted quarterly, or as the board may otherwise provide, to the executive secretary 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.

History: L. 1976, ch. 348, § 5; L. 1981, ch. 77, § 1; L. 1982, ch. 152, § 19; L. 1984, ch. 289, § 1; L. 1990, ch. 282, § 1; L. 1991, ch. 238, § 1; L. 1992, ch. 321, § 25; L. 1994, ch. 231, § 2; L. 1998, ch. 64, § 2; July 1.

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12-5006. Rate of employer contributions for members and special members of KP&F system under 12-5003, 12-5005 or 74-4955. (a) Employer contributions for active members of local police or fire pension plans who become members of the Kansas police or firemen's retirement system under K.S.A. 12-5003 or 74-4955 and for active mem-

bers of such plans who become special members of said system under K.S.A. 12-5005, shall be determined, certified, appropriated and paid to said system as provided in K.S.A. 74-4967, except that in determining the employer's prior service contribution the board, upon the recommendation of the actuary, shall include an amount to cover all liabilities (1) which shall have accrued at the time of entry into said system relating to members who become members under K.S.A. 12-5003 or 74-4955, and (2) which will be incurred relating to all special members who become special members under K.S.A. 12-5005. The foregoing liabilities of the employer shall be added to any accrued liability under the Kansas police and firemen's retirement system as the same may exist on the day immediately preceding the entry date of the employer for purposes of all such members and special members, and shall be amortized over the balance of the period heretofore established to amortize such employer accrued liability of the employer. The actuary may recommend and the board may approve a plan of paying the employer's total obligation by an annual level amount necessary to maintain the actuarial reserve integrity of the Kansas public employees retirement fund, or by an annual rate of employer contribution, or by a combination of both.

(b) The employer rate of contribution for each such employer shall apply to the amount of compensation on which members who become members under K.S.A. 12-5003 or 74-4955 and on which special members who become special members under subsection (a) of K.S.A. 12-5005 contribute. During the first fiscal year after entry date of the employer for purposes of all such members and special members, the rate shall be the same as heretofore certified by the board for any such employer who was affiliated with the Kansas police and firemen's retirement system prior to July 1, 1976, for such period.

History: L. 1976, ch. 348, § 6; July 1.

12-5007. Administration of local police and firemen's retirement system by KPERS board. The provisions of K.S.A. 12-5001 through 12-5006 and amendments thereto shall be administered by the board of trustees of the Kansas public employees retirement system. The provisions of K.S.A. 2001 Supp. 74-49,123 and amendments thereto shall apply to the administration of the provisions of K.S.A. 12-5001 through 12-5006 and amendments thereto.

History: L. 1976, ch. 348, § 7; L. 1998, ch. 64, § 3; July 1.

12-5008. Option of certain members of local police or fire pension plans for KP&F system membership. (a) Each active or inactive vested member of a local police or fire pension plan, which is maintained and funded by a city which has affiliated prior to the effective date of this act with the Kansas police and firemen's retirement system with regard to all active members and retired members of such plan as provided in K.S.A. 74-4954 and amendments thereto, who elected not to become a member of the system prior to the effective date of this act, may become a member of the system by filing a written statement of election to

become a member of the system with the board of trustees on or after July 1, 1994, but not later than December 31, 1994. As a part of such written statement of election, such active member shall elect whether to be covered by the provisions of K.S.A. 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a and amendments thereto or not to be covered by such provisions. Each election as provided by this section shall be effective on the first day of the first payroll period of the calendar quarter coinciding with or following the date of such filing. Failure to file such written statement of election shall be presumed to be an election not to become a member of the system. Such election, whether to become a member or not to become a member as provided in this section, shall be irrevocable.

(b) Except as otherwise provided in this act, any active member of a local police or fire pension plan who elects to become a member of the Kansas police and firemen's retirement system as provided in this section, shall be subject to the provisions of K.S.A. 12-5001 *et seq.* and 74-4951 *et seq.* and amendments thereto.

(c) For any such active member who elects to become a member of the Kansas police and firemen's retirement system as provided in this section, the term "final average salary" means average highest annual compensation paid to such member for service as a policeman or fireman for any three of the five years immediately preceding retirement or termination of service, notwithstanding the definition of such term in K.S.A. 74-4952 and amendments thereto. For purposes of this section, compensation includes any amount of compensation for accumulated sick leave or vacation or annual leave paid to such member. The date that such active member who elects to become a member of the system as provided in this section is first hired as an employee shall mean the date that such active member became a member of the system as provided in this act.

(d) Any benefits which first become payable on or after the effective date of this act for any such active member who elects to become a member of the Kansas police and firemen's retirement system as provided in this section, shall be reduced by an amount equal to the value of the difference between contributions actually made by such active member and contributions which would have been made had such member always been a member of the Kansas police and firemen's retirement system. The amount of reduction shall be made by the board upon the advice of the actuary at the time benefits become payable and shall continue until benefits are no longer payable. Should such a member repay in a lump sum prior to or on such member's date of retirement an amount equal to the difference between contributions actually made by the member and contributions which would have been made had such member always been a member of the Kansas police and firemen's retirement system, there shall be no reduction as provided in this section. Such member shall pay the actual amount plus interest at a rate specified by the board of trustees.

(e) Except as otherwise provided, the terms used in this act:

(1) "Policeman" means an employee of a city who is assigned to the police department of the city, who is engaged in law enforcement and maintenance of order, who has been specifically designated, appointed, commissioned or styled as a policeman by the governing body or city manager of the city, and whose employment as a policeman is not seasonal or temporary and requires at least 1,000 hours of work per year.

(2) "Fireman" means an employee of a city who is assigned to the fire department of the city, who is engaged in the fighting and extinguishing of fires and the protection of life and property therefrom, who has been specifically designated, appointed, commissioned or styled as a fireman by the governing body or city manager of the city, and whose employment as a fireman is not seasonal or temporary and requires at least 1,000 hours of work per year.

(3) "Local police or fire pension plan" means any pension plan, system or fund which covers the policemen of a city or the firemen of a city, or both, and which was established by and is maintained and funded by such city under:

(A) K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto; or

(B) any part of K.S.A. 13-14a01 to 13-14a14, inclusive, and amendments thereto, and one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution; or

(C) K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto; or

(D) any part of K.S.A. 14-10a01 to 14-10a15, inclusive, and amendments thereto, and one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution; or

(E) one or more charter ordinances adopted by such city under section 5 of article 12 of the Kansas constitution.

(4) "Active member" means a person who is in active employment with a city as a policeman or fireman and who is covered by a local police or fire pension plan which is maintained and funded by such city.

(f) The provisions of this section shall take effect on and after July 1, 1994.

History: L. 1994, ch. 293, § 37; May 5.

12-5309. Enhanced 911 task force. (a) There is hereby established an enhanced 911 task force which shall develop a strategy for funding and deploying wireless emergency telephone services. Such plan shall include suggestions for future action by the legislature with respect to deploying efficient and economical enhanced 911 services and implementing equitable and adequate means to fund such services. Specifically, the task force shall make recommendations and propose legislation, if appropriate, concerning the following: (1) The mechanism for administering wireless 911 service, with a focus on whether such service shall be administered on a centralized basis; (2) the possible formation of an oversight board to address future technological, coordination and regulatory issues related to de-

ployment of wireless emergency telephone service; (3) the fairness and adequacy of the mechanism for funding such service; (4) the method, if any, for recovering costs incurred by public safety answering points and by wireless telecommunications service providers in providing emergency telephone service; and (5) any other issues the task force deems relevant to the deployment of emergency telephone service.

(b) The task force shall consist of 14 members. Two members shall be representatives of wireless telecommunications carriers to be appointed by the governor. The remainder of the task force shall be appointed as follows: One member representing a local exchange carrier other than a rural telephone company and one member representing a rural telephone company who shall be recommended by the Kansas telecommunications industry association. Two members shall be recommended by the Kansas association of counties and two members shall be recommended by the league of Kansas municipalities. One member shall be a person with a communication disability recommended by the Kansas commission for the deaf and hard of hearing. One member shall be recommended by the Kansas emergency medical services board. One member shall be recommended by the Kansas association of fire chiefs. One member shall be recommended by the Kansas association of chiefs of police. The names of the recommended members shall be transmitted to the governor for final approval. No such recommended member shall serve unless approved by the governor. The remaining members of the task force shall include: The superintendent of the highway patrol or the superintendent's designee; the chair of the state corporation commission or the chair's designee. The governor shall designate one member as chair of the task force. All meetings shall be on call of the chair. All task force members shall serve without compensation.

(c) The task force shall report its findings and conclusion to the house committee on utilities and the senate committee on commerce during the first week of the 2001 legislative session. The state corporation commission shall provide staff support to the task force as necessary. Such staff shall prepare the report and any legislation recommended by the task force.

(d) The task force shall be and is hereby abolished on July 1, 2001.

History: L. 2000, ch. 128, § 1; Apr. 27.