

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 230440

Amending Chapter 2 of the Code of Ordinances of Kansas City, Missouri, Employees' Retirement System, by repealing Sections 2-1173, 2-1174, 2-1176, 2-1184, 2-1185 and 2-1189 and enacting in lieu thereof sections of like numbers and subject matters to change the required distribution date set by federal law, set reemployment credit criteria and change the time requirement to vest from ten to five years for employees in Tier 2 and change the composition of the Board of Trustees of the Employees' Retirement System Trust in accordance with the collective bargaining agreements between the City and its unions.

WHEREAS, the City entered into collective bargaining agreements with International Association of Firefighters Locals 42 and 3808 providing them membership in the Board of Trustees of the Employees' Retirement System; and

WHEREAS, the City entered into a collective bargaining agreement with American Federation of State, County and Municipal Employees Local 500 providing them an additional member in the Board of Trustees of the Employees' Retirement System; and

WHEREAS, in 2022 the US Congress passed SECURE 2.0 Act of 2022 that changed the ages for required distributions of the City's pensions;

WHEREAS, on January 31, 2023, the Board of Trustees of the Employees' Retirement System Trust approved changing the vesting requirements for employees in Tier 2; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2 of the Code of Ordinances of Kansas City, Missouri, Employees' Retirement System be amended by repealing Sections 2-1173, 2-1174, 2-1176, 2-1184, 2-1185 and 2-1189 and enacting in lieu thereof sections of like numbers and subject matters to read as follows.

Sec. 2-1173. Creditable service.

(a) *Computation of total amount.* Total creditable service of a member of the retirement system shall be the sum of membership service from date of employment to last day on pay status and prior service as computed under this section.

(b) *Membership service.* Membership service shall be the years and full calendar months of employment while a contributing member of this system.

(1) Solely for the purpose of determining whether a member has incurred a break in service, any leave of absence granted by an employer, up to 12 weeks, that qualifies under the Family and Medical Leave Act (FMLA) shall not be counted as a break in service for purposes of determining eligibility and vesting.

(2) *Purchase of service.*

- a. *Qualified employee.* A current member who previously served as an employee of the city but not eligible for membership in this system and who had no break in service between non-qualifying and qualifying service may purchase months of service not greater than the number of months working in a non-qualifying position.
- b. *Term for purchase.* Purchase of prior months may be done in a lump sum payment or over time as permitted by the board.
- c. *Amount.* The board shall establish the purchase price, which shall be the full cost of the service, calculated based upon the same assumptions employed in the last actuarial valuation of the system and using accepted actuarial methods.
- d. *Future service required.* To be entitled to credit a member must remain in city employment for six months from the last date of purchase. The failure to render this future service will result in no credit being given for the time that is not beyond the six month period and a refund of the principal amount deposited towards service not allowed to be credited.

(c) *Prior service.* Prior service shall be the years and full calendar months of employment preceding December 1, 1962, if continuous with membership service.

(d) *Service after retirement date.* No creditable service shall accrue to any member beyond the member's retirement date.

(e) *Reemployment generally.*

- (1) Tier 1. Except for military leave and military creditable service, as set forth in subsection (g) of this section, provided an election is made within three years after reemployment, Tier 1 members who terminate and later return to membership may receive credit for such prior service and membership service, after they have been reemployed for at least two consecutive years, and have repaid withdrawn contributions plus interest at the rate then assumed for actuarial calculation.
- (2) Tier 2. Except for military leave and military creditable service, as set forth in subsection (g) of this section, provided an election is made within four years after reemployment, Tier 2 members who terminate and later return to membership may receive credit for such prior service and membership service, after they have been reemployed for at least three consecutive years, and have repaid withdrawn contributions plus interest at the rate then assumed for actuarial calculation.
- (3) Tier 1 and 2. This election shall not be available if employer contributions have been refunded to the federal government or any other granting agency or instrumentality.

(f) *Reemployment within 30 days of termination.* A member rehired within 30 days of termination, and who does not withdraw or who re-deposits member contributions and interest, shall immediately begin membership.

(g) *Military leave and reemployment after military service.*

- (1) To the extent by the Uniformed Services Employment and Reemployment Rights Act of 1994, a member shall be entitled to creditable service considering each month of military service as a month of employment with the city.
- (2) A termination refund of contributions and interest shall not be made to a member on military leave.
- (3) A member who terminates employment, receives a refund of contributions and interest, serves in the military service and then returns to city employment, not later than three years after reemployment, may receive credit for military service. He shall repay withdrawn contributions plus interest at the rate then assumed for actuarial calculation plus member contributions for the military creditable service years.

(h) *Leave of absence.*

- (1) Upon determination by the director of human resources and the director's certification to the board of trustees that a member of this pension system has been granted, in the interest of the city, a leave of absence from city employment for a period of not less than one year and not to exceed two years, such person remains a member of this system and shall receive creditable service provided contributions are made as required for all members. Determinations by the human resources director will be made in an even-handed manner, treating all persons in the same circumstances, equally.
- (2) Persons on leave, who are not certified by the director of human resources, are deemed inactive members of this pension system.
- (3) No refund of contributions and interest shall be made to members on leave of absence.

(i) *Creditable service accrued under other city retirement plans.*

- (1) An employee, including those of the police department, transferring to employment covered by this plan may elect to claim creditable service for creditable service in another retirement plan in which the employer contribution is wholly paid by the city. The member must deposit with the board of trustees any contributions and interest withdrawn from another plan. These shall be credited to the member's account as member's contributions.

- (2) Anything to the contrary herein notwithstanding, municipal judges having vested employment or service, as defined in this division, are entitled to have such creditable service accrued in the formulation of their retirement pay under section 395.9, article XIII of the City Charter (1925) if receiving benefits under that provision.
- (3) If the employee has vested rights under another plan, no creditable service shall be allowed.
- (4) This election must be made within six months following date of employment. Membership service shall begin on the first day of the month following such election.

Sec. 2-1174. Conditions for retirement.

(a) *Application for retirement.* Any member of the retirement system may retire as provided in this division, terminating employment upon written application to the board of trustees, who shall establish the member's retirement date as of the first day of the month.

(b) *Normal retirement.*

- (1) *Tier 1.* A member may elect normal retirement on or after attaining age 65 and five years of creditable service without reduction of benefit as calculated in section 2-1176.
- (2) *Tier 2.* A member may elect normal retirement on or after attaining age 67 and ten years of creditable service without reduction of benefit as calculated in section 2-1176. Effective with retirements dated August 1, 2023, or after, a member may elect normal retirement on or after attaining age 67 and five years of creditable service without reduction of benefit as calculated in section 2-1176.

(c) *Optional retirement.*

- (1) *Tier 1 – age 60 or age plus service equals or exceeds 80.* A member may elect to retire when the total of age and years of creditable service equal or exceed 80 or the later of age 60 and ten years' creditable service, without reductions of benefit as calculated in section 2-1176.
- (2) *Tier 2 – age 62 or age plus service equals or exceeds 85.* A member may elect to retire when the total of age and years of creditable service equal or exceed 85 or the later of age 62 and ten years' creditable service, without reductions of benefit as calculated in section 2-1176.

(d) *Early retirement.* Members may elect early retirement:

- (1) *Tier 1- age 55.* Beginning at the later of age 55 or completion of ten years' creditable service. The benefit as computed in section 2-1176(a) shall be reduced by 0.5

percent for each month the effective date is prior to the first day of the month following attainment of age 60.

- (2) *Tier 1 – age 60.* Beginning at age 60, if the member has more than five but less than ten years of creditable service. The benefit as computed in section 2-1176(a) shall be reduced by 0.5 percent for each month the effective date is prior to the first day of the month following attainment of age 65.
- (3) *Tier 2 – age 57.* Beginning at the later of age 57 or completion of ten years' creditable service. The benefit as computed in section 2-1176(a) shall be reduced by 0.5 percent for each month the effective date is prior to the first day of the month following attainment of age 62.
- (4) *Tier 2 – age 62.* For retirements dated August 1, 2023, or after, beginning at age 62, if the member has more than five but less than ten years of creditable service. The benefit as computed in section 2-1176(a) shall be reduced by 0.5 percent for each month the effective date is prior to the first of the month following the attainment of age 67.

(e) *Required distributions.* Distribution of a member's interest in the retirement system shall commence not later than April 1 of the calendar year following the later of the calendar year in which the member attains the applicable age, as defined in this section, or the calendar year in which the member retires under the plan.

- (1) If a death benefit is being paid to a designated beneficiary other than the member's spouse, payments shall either:
 - a. Be completed by December 31 of the fifth calendar year following the year of the member's death; or
 - b. If there is no designated beneficiary, payment of a death benefit shall commence no later than December 31 of the fifth calendar year following the year of the member's death.
- (2) If the designated beneficiary is the member's spouse, death benefit payments shall commence no later than December 31 of the year the member would have attained age 72, 73 or 75 as applicable, paid over the life or life expectancy of the spouse, as determined under Table V of Treasury Regulations 1.72-9 as of the date the payments commence, and benefits shall be actuarially increased for the delay.
- (3) For the purposes of this section, applicable age shall mean:
 - a. In the case of an individual who attains age 72 after December 31, 2022, and age 73 before January 1, 2030, the applicable age is 73.
 - b. In the case of an individual who attains age 73 after December 31, 2029, and age 74 before January 1, 2033, the applicable age is 74.

- c. In the case of an individual who attains age 74 after December 31, 2032, the applicable age is 75.

Sec. 2-1176. Retirement benefits.

(a) *Annuity.* Upon retirement on or after November 1, 2000, as provided in section 2-1174, an annuity calculated as follows shall be payable:

- (1) If married in any jurisdiction at date of retirement, the annuity shall be two percent of the Tier 1 member's final average compensation and for a Tier 2 member shall be 1.75 percent of the member's final average compensation multiplied by years and full months of creditable service not to exceed 70 percent, except as set forth in section 2-1196, Code of Ordinances.
- (2) At date of retirement, a member may elect to receive an actuarial equivalent annuity providing that, upon death following retirement, the same actuarial equivalent annuity shall be payable to the surviving spouse provided the marriage occurred on or before the date of retirement. This election shall not be effective if the member dies within 30 days after filing application for retirement or before the date of the first payment of the retirement annuity.
- (3) If unmarried at date of retirement, the annuity shall be 2.22 percent of the Tier 1 member's final average compensation and for a Tier 2 member shall be 1.75 percent of the member's final average compensation multiplied by years and full months of creditable service not to exceed 70 percent, except as set forth in section 2-1196, Code of Ordinances.
- (4) With signed consent by the spouse, a Tier 1 married member may elect calculation as if unmarried, forfeiting a surviving spouse's annuity as provided in section 2-1185.

(b) *Withdrawal of contributions.* A member retiring under provisions of section 2-1174, except disability retirements, may elect, with signed consent of spouse, to withdraw all or a portion of the member's accumulated contributions and interest, and receive a reduced annuity. The annuity calculated in subsection (a) of this section shall be reduced an actuarially equal amount by applying factors adopted by the board of trustees upon recommendation of the retirement system's consulting actuary.

(c) *Cost-of-living adjustment – Tier 1.* An annual cost-of-living adjustment in retirement, disability and death benefits shall be paid under these conditions:

- (1) *Effective date of adjustment and applicability.* An annual cost-of-living adjustment shall be payable on pension checks to be dated May 1 of the current year and shall remain unchanged until the next effective date of adjustment. For retirements occurring on or after January 1, 2021, the adjustment shall apply to all beneficiaries

receiving benefits, except no pension of any member or beneficiary retiring after February 1 of any year shall be adjusted until May 1 of the succeeding year.

- (2) *Amount of adjustment.* The adjustment shall be three percent, each year, noncompounded.

(d) *Cost-of-living adjustment – Tier 2.* A cost-of-living adjustment is authorized under these conditions:

- (1) *Effective date of adjustment and applicability.* An annual cost-of-living adjustment shall be payable on pension checks to be dated May 1 of the current year and shall remain unchanged until the next effective date of adjustment. For retirements occurring on or after January 1, 2021, the adjustment shall apply to all beneficiaries receiving benefits, but no sooner than the May 1 following the Tier 2 member's 62nd birthday, except no pension of any member or beneficiary retiring after February 1 of any year shall be adjusted until May 1 of the succeeding year.
- (2) *Amount of adjustment.* The adjustment for a Tier 2 member shall be paid if the funding ratio of the pension fund, as shown by the system's most recent actuarial report, is equal to or greater than 80%, and will be equal to the percentage increase in the prior 12 months of the final national consumer price index for all urban consumers published prior to December 31 in advance of the next year's adjustment, but shall not exceed 2.5% and shall be noncompounded.

(e) *Health insurance subsidy.* A \$200.00 monthly retiree health insurance subsidy shall be payable to all retired members effective November 1, 2000. If a member dies before retirement as the direct and proximate result of an accident sustained in the performance of assigned duties, the member's surviving spouse shall become eligible for the health insurance subsidy described in this subsection as long as the spouse receives an annuity. No other survivors will be eligible for this health insurance subsidy following the line-of-duty death of a qualifying member.

(f) *Minimum benefit.* A minimum benefit of \$400.00 per month is established for retirees with ten or more years of creditable service. Such minimum shall apply to current as well as future retirees, effective with pension checks dated July 1, 1999, calculated prior to any reductions applied due to sections 2-1176(a)(2) and 2-1176(b). Any annual cost-of-living adjustment shall be based on the original amount without reference to this minimum.

(g) *Limitations.* Benefits with respect to a member may not exceed the maximum benefits specified under section 415 of the Federal Internal Revenue Code for governmental plans.

Sec. 2-1184. Termination benefits.

(a) *Generally.* Upon termination of employment, a member of the retirement system shall be paid all the member's accumulated contributions and interest. The member shall thereby forfeit for the member and for any possible beneficiaries all rights to any and all benefits under this retirement system.

(b) *Deferred annuity – Tier 1.* A terminated Tier 1 member with at least five years or more of creditable service who does not withdraw employee contributions may elect to receive a deferred annuity computed as provided in section 2-1176. Should the member later choose to withdraw the member's contributions and interest before annuity payments begin, the member shall forfeit all right to any and all benefits under this retirement system. The member may elect to withdraw employee contributions within the thirty-day period prior to the deferred annuity effective date, as outlined in section 2-1176(a)(4), (b).

(c) *Deferred annuity – Tier 2.* Prior to July 31, 2023, a Tier 2 member with at least ten years or more of creditable service who does not withdraw employee contributions may elect to receive a deferred annuity computed as provided in section 2-1176. Beginning July 31, 2023, a Tier 2 member with at least five years or more of creditable service who does not withdraw employee contributions may elect to receive a deferred annuity computed as provided in section 2-1176. Should the member later choose to withdraw the member's contributions and interest before annuity payments begin, the member shall forfeit all right to any and all benefits under this retirement system. The member may elect to withdraw employee contributions within the thirty-day period prior to the deferred annuity effective date, as outlined in section 2-1176(a)(4), (b).

Sec. 2-1185. Death benefits.

(a) *Death before retirement.* Upon death of a member of the retirement system for any cause prior to retirement, these amounts shall be payable as full and final settlement of any and all claims for benefits under this retirement system:

- (1) If the Tier 1 member had less than five years of creditable service or a Tier 2 member had less than ten years of creditable service or, effective July 31, 2023, a Tier 2 member had less than five years of creditable service, the member's surviving spouse shall be paid in a lump sum the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or, if none, to the executor or administrator of the member's estate.
- (2) If the Tier 1 member had five but less than 20 years of creditable service or a Tier 2 member had 10 but less than 20 years of creditable service or, effective July 31, 2023, a Tier 2 member had five but less than 20 years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement provided for in subsection (a)(1) of this section, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in sections 2-1174 and 2-1176. The effective date shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 2-1174.
- (3) If the member had 20 or more years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement provided for in subsection (a)(1) of this section, the larger of the annuity as computed in subsection (a)(2) of

this section or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

- (4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(b) *Death after retirement.* Upon death of a member for any cause after retirement, these amounts shall be payable:

- (1) The member's surviving spouse, providing the marriage occurred on or before date of retirement, shall receive an annuity equal to one-half the member's accrued annuity as computed under section 2-1174 or section 2-1176 as of the member's actual retirement date.
- (2) If the member elected the actuarial equivalent annuity provided in section 2-1176(b), the same annuity shall be continued to the surviving spouse, provided the marriage occurred on or before date of retirement.
- (3) The current life insurance carrier for the city has established a single premium group term life program based upon the premium stabilization reserve at May 1, 1993. During the program's existence only, the carrier will issue paid term insurance to members who retire on or after May 1, 1993. Upon verification of death, the carrier will issue a \$2,000.00 benefit to the member's designated beneficiary or estate.

(c) *Recovery of member contributions.*

- (1) Should the total amount paid to a member and surviving spouse be less than the member's accumulated contributions and interest, the remaining balance shall be paid to the member's beneficiary, constituting full and final settlement of any and all claims for benefits under this retirement system.
- (2) If no beneficiary is designated or survives, payment shall be made to the executor or administrator of the member's estate; provided, however, if any benefit is payable to the estate of a member, or to a person who is not competent to give a valid release, the board of trustees is authorized to pay such benefit, not exceeding \$2,000.00, to any relative by blood or affinity of the member, or a person managing the member's affairs, who is deemed by the board to be equitably entitled thereto.

(d) *Minimum surviving spouse pension.* A minimum benefit of \$200.00 per month is established for surviving spouses of members with ten or more years of creditable service. Such minimum shall apply to current as well as future surviving spouses, effective with pension checks dated July 1, 1999. Any annual cost-of-living adjustment shall be based on the original amount without reference to this minimum.

Sec. 2-1189. Board of Trustees.

(a) *Function.* The board of trustees shall manage and direct the affairs of this division. It shall have the exclusive right to interpret this division and its provisions including but not limited to any benefit or claim for benefit hereunder, determination of creditable service, final average compensation, eligibility and termination of membership.

(b) *Investments.*

- (1) The board of trustees shall be trustee of all funds created by this division and shall have full power to invest and reinvest them. Investments may include, but are not limited to, bonds of the United States government, State of Missouri, municipal corporations including school districts, corporate bonds, real estate mortgages, common and preferred stocks.
- (2) No trustee nor any member of the system shall have any direct interest in the gains or profits of any investment made by the board of trustees.

(c) *Membership.* The board of trustees shall consist of thirteen members, including the director of human resources and director of finance. Eleven shall be appointed by the mayor as follows:

- (1) One shall be a retired member of the system.
- (2) Four, other than the foregoing, shall be recognized business and/or civic leaders with financial backgrounds, such as investments, management of employees benefit plans, who are not employees of the city. At the mayor's option, one of this group may be a city council person with a financial background who shall serve as an ex-officio member of the board with a right to vote.
- (3) Two shall be active employees and members of the retirement system and one shall be a retired member as recommended by Local 500 of the American Federation of State, County and Municipal Employees union. The retired member shall have the rights and responsibilities of the trustees on the board, but non-voting, and therefore shall not be counted toward a quorum.
- (4) One shall be an active employee and member of the retirement system from IAFF Local 42 bargaining unit, as recommended by that union.
- (5) One shall be a non-voting member from the IAFF Local 3808 bargaining unit, as selected by that union. Additionally, IAFF Local 3808 shall have the right to name one alternate member to act in place of its non-voting member when the non-voting member is not present. The non-voting and alternate members shall have the rights and responsibilities of the trustees of the board, but non-voting, and therefore shall not be counted towards a quorum.

230440

The appointed members shall serve for a term of one to five years each for each initial appointment, at the expiration of which their appointed successors shall each serve a term of four years.

(d) *Compensation.* The trustees shall be reimbursed by the retirement system for all necessary expenses incurred for service on the board.

(e) *Organization.* The board of trustees shall adopt rules and regulations for administration. Each member shall be entitled to one vote. A majority of six trustees shall constitute a quorum and a majority of the quorum shall be required for any decision. The board of trustees shall elect a chairman and such other officers as it deems necessary from its membership by majority vote.

(f) *Professional services.*

- (1) The board may engage in investment, safekeeping and other services as deemed necessary. The city attorney of Kansas City, or the city attorney's designated assistant, may be the legal advisor.
- (2) At least every five years an actuarial investigation of the system shall be conducted. Results shall be reported to the city council, together with recommendations to maintain the system on a sound actuarial basis.

(g) *Records and reports.* The retirement systems administrator shall maintain records of all proceedings open to public inspection. They shall annually publish a report approved by the board showing the financial transactions for the preceding year, and the financial condition of the system.

(h) *Regulations.* The board of trustees shall prescribe such rules, regulations, forms and procedures as are necessary to administer the system.

(i) *Portability agreements.* The board of trustees may enter into cooperative agreements as set forth in RSMo 105.985, providing for the transfer of funds to other public entity retirement plans and to receive transfer of funds into this plan.

(j) *Administration.* The retirement systems administrator shall be appointed by the director of human resources. The administrator shall attend all meetings of the board of trustees, but shall not have a vote. The administrator shall conduct the operations of the system in accordance with this division and the rules and regulations, directives and resolutions of the board of trustees.



Authenticated as Passed

Quinton Lucas, Mayor

Marilyn Sanders, City Clerk

JUN 08 2023

Date Passed

Approved as to form:

Katherine Chandler

Senior Associate City Attorney