

## CITIES OF THE SECOND CLASS

**14-10a01. Definition.** The word "duty" or "duties" as used in this act means any act performed by a policeman or fireman for the protection of life or property regardless of time or place.

**History:** L. 1945, ch. 144, § 1; July 1.

**14-10a02. Pension funds for police and fire departments; establishment, maintenance and funding; tax levy, use of proceeds; employee benefits contribution fund.** The governing bodies of all cities of the second class, with a population in excess of 6,000 located in counties having a population of 10,000 or more, maintaining an organized police and fire department, may establish and maintain a separate pension fund for each department, which shall be set aside and used exclusively for the payment of pensions and disability benefits as authorized in K.S.A. 14-10a01 *et seq.* and amendments thereto. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion. Each such pension fund shall be maintained and funded in accordance with the minimum funding standards prescribed in K.S.A. 12-5002 and amendments thereto. For the purpose of creating, maintaining and funding such pension funds, the governing body of each such city of the second class is hereby authorized and shall:

(a) Accept gifts, grants, bequests, gratuities or any other money and credit the same to the pension fund designated by the donor;

(b) levy an assessment against each officer and member of each department equal to 7% of such officer's or member's monthly salary or compensation, such assessment amount to be deducted from the regular payroll and to be transferred into such pension fund;

(c) place into such funds the proceeds of all lost or stolen securities, money or personal property which shall remain unclaimed in possession of any department of the city for six months, together with the proceeds of all unclaimed or confiscated property of any nature which shall have been in custody of the police department for a period of six months. The city is authorized to sell at public auction such property and place the proceeds into such pension funds in equal shares;

(d) transfer into such pension funds the unencumbered balance, including investments, in any existing pension fund or funds, except that if there is more than one pension fund existing in such city then each of such existing funds, other than the firemen's and policemen's relief funds, shall be transferred into the new pension fund of a like classification. Upon the termination of any pension fund or funds, the rights of members to benefits accrued at the date of termination to the extent funded or to the amount in members' accounts at the date of termination are nonforfeitable;

(e) carry forward the balance in such funds at the close of each budget year as revenue for the next ensuing year;

(f) transfer into said fund any proceeds from any municipally owned utility at the discretion of the governing body;

(g) levy annually at the time for the levying of taxes for city purposes, a tax upon all of the taxable tangible property in such city for each pension fund to make annual contributions to each pension fund as required under K.S.A. 12-5002 and amendments thereto and to maintain and fund each pension fund on an actuarial reserve basis in accordance with the provisions of K.S.A. 14-10a05 and amendments thereto and to pay a portion of the principal and interest on bonds issued by such city under the authority of K.S.A. 12-1774, and amendments thereto. In lieu of levying the tax authorized in this section, the annual contribution required of the city may be paid from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto; and

(h) administer such funds in the manner required to satisfy the applicable qualification requirements for governmental plans as specified in the federal internal revenue code of 1954 or 1986, as in effect on July 1, 1998, and as applicable for a governmental plan in accordance with the provisions of K.S.A. 2001 Supp. 74-49,123 and amendments thereto.

**History:** L. 1945, ch. 144, § 2; L. 1970, ch. 81, § 15; L. 1975, ch. 494, § 27; L. 1976, ch. 89, § 5; L. 1978, ch. 67, § 5; L. 1979, ch. 52, § 76; L. 1998, ch. 64, § 10; July 1.

**AGO:** 85-171, 82-168

**14-10a03. Benefit and disability benefit rights under prior laws saved.** This act shall not affect the rights nor decrease the pension or disability or retirement benefits of any officer or member of any fire or police department, or his or her dependent or dependents, who has been killed, permanently disabled, or retired under any previously authorized and existing pension or retirement system, nor shall any officer or any member of any fire or police department in service at the time of the effective date of this act, who is at said time entitled to a pension or disability benefit, receive any deduction in the pension or disability benefit to which he or she is entitled under existing laws in force at the effective date of this act. All such pensions and benefits shall be paid from the policemen's pension fund or the firemen's pension fund created by this act, as the case may be.

**History:** L. 1945, ch. 144, § 3; July 1.

**14-10a04. Board of trustees for each fund; president and secretary; treasurer.** The pension funds established under the provisions of this act shall be administered as follows: Each fund shall be administered by a board of trustees which shall consist of the mayor of said city, the chief officer of the department and three delegates-at-large from the department, to be elected by the officers and members thereof at an annual meeting to be called by the

chief officer of the department and held on the first Tuesday of July of each year, whose term of office shall be for one year, one of said boards shall be known as the "board of trustees of the firemen's pension fund," and the other as the "board of trustees of the policemen's pension fund." The board shall elect, from their members, a president and secretary. The city treasurer shall be ex officio treasurer of said boards, and as such shall have charge of the funds and securities provided for herein. No member of the board of trustees or the treasurer shall receive any compensation for services.

**History:** L. 1945, ch. 144, § 4; July 1.

**14-10a05. Pension funds; tax levy, use of proceeds; investment.** (a) The amount of money derived from taxes levied, except for an amount to pay a portion of the principal and interest on bonds issued by such city under the authority of K.S.A. 12-1774 and amendments thereto, and all money received from assessments, dues and donations for the benefit of such funds shall constitute pension trust funds to be known and designated, respectively, as the policemen's pension fund and the firemen's pension fund. Such pension funds shall be devoted exclusively to and for the purposes enumerated in this section. All moneys derived from the taxes levied and money received from other sources as enumerated in this section shall be paid into the policemen's pension fund or the firemen's pension fund, as the case may be, until the amount in such pension fund equals the total of the actuarially determined liabilities which are attributable to all members in active service and to all persons who are receiving, or who are entitled to receive in the future, pensions and other benefits from such fund. Further tax levies shall be made only for the purpose of maintaining each pension fund at such level.

(b) All moneys accumulated under the provisions of this act shall be deposited by the treasurer in the same manner as other city funds, except that the board of trustees, at their option, may invest any of such reserve funds in:

(1) Investments authorized by K.S.A. 12-1675 and amendments thereto, in the manner prescribed therein;

(2) direct obligation bonds of the United States of America maturing, or redeemable at par and accrued interest, within three years from date of purchase; or

(3) bonds of any municipality in the state of Kansas, the total bonded indebtedness of which is less than 15% of the total assessed tangible valuation of such municipality. Such bonds shall mature within five years from the date of purchase.

**History:** L. 1945, ch. 144, § 5; L. 1976, ch. 89, § 6; L. 1977, ch. 54, § 19; L. 1979, ch. 52, § 77; L. 1998, ch. 64, § 11; July 1.

**14-10a06. Membership fee and contributions by officers and members of department; refunds; limitations.** Every new officer and member of such police and fire departments shall be required to pay to the treasurer of such board a membership fee of \$5. There shall be deducted

from the salary of every officer and member of each department an amount equal to 7% of such officer's or member's monthly salary, which shall be paid into the respective pension funds. Any officer or member, whose services, for any reason whatsoever, are terminated with the department shall be entitled, upon demand, to be paid within 30 days after such demand, the total amount of the deduction from such officer's or member's salary paid into such fund, less 50% thereof. In the event such officer or member should renew such officer's or member's services with such department the officer or member shall, as a condition of employment and subject to the provisions of subsection (h) of K.S.A. 14-10a02 and amendments thereto, return to such fund the amount withdrawn.

**History:** L. 1945, ch. 144, § 6; L. 1976, ch. 89, § 7; L. 1998, ch. 64, § 12; July 1.

**14-10a07. Payment to spouses or children of deceased policemen or firemen.** (a) If any officer or member of a police or fire department, while in the performance of such officer's or member's duties, is killed or dies as a result of an injury received, or dies of any disease contracted by reason of such officer's or member's occupation as a policeman or fireman, or dies after having retired and leaves a spouse, such spouse, shall receive a monthly pension in an amount equal to 50% of the monthly salary of such deceased officer or member, if such spouse was lawfully married to such policeman or fireman at the time of such policeman's or fireman's retirement. Commencing on the effective date of this act, any surviving spouse, who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such spouse's remarriage, shall be entitled to once again receive benefits pursuant to this section, except that such surviving spouse shall not be entitled to recover any benefits not received after the termination of benefits by reason of such surviving spouse's remarriage but before the effective date of this act. In the event there is no surviving spouse, then any child or children of the deceased, shall receive, in equal shares a monthly amount equal to 50% of the monthly salary received at the time of death, such sums to be paid until such child or children attain the age of 18 years or until such child or children attain the age of 23 years, if such child or children are full-time students as provided in K.S.A. 74-49,117 and amendments thereto. Commencing on the effective date of this act, any child who was receiving benefits pursuant to this section and who had such benefits terminated by reason of such child's marriage, shall be entitled to once again receive benefits pursuant to this section subject to the limitations contained in this section, except that such child shall not be entitled to recover any benefits not received after the termination of benefits by reason of such child's marriage but before the effective date of this act.

(b) If any officer or member of such fire or police department, after having become eligible for retirement as provided in K.S.A. 14-10a08 and amendments thereto, is killed while not in the performance of such officer's or

member's official duties, or dies, an amount equal to 50% of such officer's or member's monthly salary shall be paid to such persons for the periods of time provided in subsection (a) and shall be subject to all the limitations provided in subsection (a).

(c) Payments to the surviving spouse, child or children under the provisions of subsection (a) or (b) must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

**History:** L. 1945, ch. 144, § 7; L. 1976, ch. 89, § 8; L. 1989, ch. 232, § 2; L. 1992, ch. 321, § 4; L. 1998, ch. 64, § 13; L. 2000, ch. 152, § 3; L. 2001, ch. 209, § 2; May 31.

**14-10a08. Payments upon retirement or discharge from police or fire department.** Any officer or member of any such police department or fire department who has served 22 years or more on such department and has reached the age of 50 years may make application to be retired, and if such application is made the respective board of trustees shall retire such officer or member and shall pay such officer or member monthly payments in amounts equal to 50% or, for those who retire on or after July 1, 1994, 55% of such officer or member's monthly salary at the date of retirement. If such officer or member has been discharged from such department by reason of disability or any other reason other than for conviction of a felony, or if such officer or member voluntarily terminated employment with such department, after such officer or member has served 22 or more years in such department, the respective board of trustees shall order and direct that such person, upon attaining the age of 50 years, be paid monthly payments in amounts equal to 50% or, for those who retire on or after July 1, 1994, 55% of the monthly salary of such officer or member at the date of discharge. No person who retires after the effective date of this act shall be paid any benefits under the provisions of this section while such person is a nonelective officer or employee of any municipal or quasi-municipal corporation receiving compensation from public funds.

**History:** L. 1945, ch. 144, § 8; L. 1975, ch. 105, § 2; L. 1976, ch. 85, § 2; L. 1994, ch. 293, § 2; July 1.

**14-10a09. Permanent disability benefits.** Any officer or member of any such police department or fire department who shall, while a member of such department and while engaged in the performance of his or her duties as such, be permanently injured or disabled, and upon an examination by a physician or physicians appointed by the board of trustees be found to be physically or mentally disabled as a result of such permanent disability or injury so as to render the officer or member unfit for the performance of his or her duties as a policeman or fireman, shall be entitled to be retired and the board of trustees shall thereupon order his or her retirement, and upon his or her being retired the officer or member shall be paid out of the respective pension funds, monthly, a sum equal to fifty percent of the amount of monthly compensation allowed such officer or member as a salary at the time of his or her permanent injury or

disability: *Provided*, That the board of trustees may, when they deem it advisable, call back for re-examination by a physician any officer or member retired by reason of permanent disability under the provisions of this act, and if said examination discloses that said member is then able to perform his or her duties in said department, the member may be returned to service; and if said member, upon request fails or refuses to return to duty then all payments from said pension fund shall cease; and in the event such officer or member returns to duty, the time lost by reason of such injury or disability shall apply on his or her retirement time.

**History:** L. 1945, ch. 144, § 9; July 1.

**14-10a10. Certain pension benefits and rights nonassignable and exempt from taxes and legal process.** Any annuity, benefits, funds, property, or rights created by or accruing to any person under the provisions of K.S.A. 13-14a01 *et seq.* or K.S.A. 14-10a01 *et seq.* and any acts amendatory thereof or supplemental 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, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by law.

**History:** L. 1945, ch. 144, § 10; L. 1974, ch. 345, § 2; L. 1977, ch. 68, § 1; July 1.

**14-10a11. Funeral expenses.** Subject to the provisions of K.S.A. 2001 Supp. 74-49,128, and amendments thereto, whenever an active or retired fireman or policeman shall die, the board of trustees shall appropriate from the pension fund a sum of \$100 to be paid for funeral expenses for such fireman or policeman.

**History:** L. 1945, ch. 144, § 11; L. 2000, ch. 152, § 4; July 1.

**14-10a12. How pensions and benefits paid; annual report.** All pensions and benefits paid and all moneys drawn from the respective pension funds, under the provisions of this act, shall be upon order of the respective board of trustees and signed by the president and secretary of such board, and payment shall be made by the issuance of city warrants or warrant checks as provided by law, when approved and passed by the governing body. The treasurer of the board of trustees shall prepare annually a report of the receipts and expenditures for the year ending December thirty-first of the previous year, showing the money on hand, how invested, and all moneys received and paid out, which report shall be filed with the city clerk.

**History:** L. 1945, ch. 144, § 12; July 1.

**14-10a13. Service in military forces may be credited on retirement time.** Any officer or member of such police department or fire department, who leaves such department and serves in the uniformed services of the United States shall be credited by the respective board of trustees, with time or any part thereof so served, in computing such offi-

cer's or member's retirement time for pension purposes, as required by federal law, including, not limited to, when applicable, the uniformed services employment and reemployment rights act of 1994, as in effect on July 1, 1998.

**History:** L.1945, ch.144, § 13; L.1998, ch. 64, § 14; July 1.

**14-10a14. City election required; petition; exception.**

The provisions of this act shall not apply to any city unless and until the governing body of such city shall submit the question of establishing pension funds under the provisions of this act to the vote of the qualified electors of the city at a regular city election and a majority of those voting thereon shall cast their votes in the affirmative: *Provided*, That if a petition signed by not less than ten percent of the qualified electors of said city as shown by the vote for mayor at the last city election is filed with the city clerk the governing body shall be required to submit the question of establishing pension funds under the provisions of this act to a vote at the next regular city election: *Provided further*, That any such city now operating under a retirement and benefit system, or either of them, may by resolution adopt the provisions of this act without first submitting the question thereof to the voters of said city.

**History:** L. 1945, ch. 144, § 14; July 1.

**14-10a15. Invalidity of part.** If any provision of this act or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of this act, which can be given effect without the invalid provision or application, and to this extent the provisions of this act are declared to be severable.

**History:** L. 1945, ch. 144, § 15; July 1.

**14-1501. City officers and employees; appointment, prerequisites; terms; vacancies.** The board of commissioners shall appoint, by a majority vote of all the members thereof, the following officers, to wit: A city attorney, a city clerk, a city treasurer, a municipal judge of the municipal court, a city marshal, a fire chief, and such other officers, assistants and employees as they may deem necessary for the best interests of the city; but no such officer shall be appointed until the term and salary of the office to which he or she is appointed shall be prescribed by ordinance as hereinafter provided.

An ordinance prescribing a salary for any such office or position shall either (1) fix a specific salary, or (2) prescribe a minimum salary and a maximum salary, and, in the latter case, the maximum salary shall not be more than twenty-five percent (25%) greater than the minimum salary, and the salary to be paid shall be fixed within such limits by resolution of the board of commissioners but said board, at any time it deems such action advisable, may adjust or change such salary within such limits by resolution.

The board of commissioners may retain a licensed professional engineer to act in the capacity of city engineer for specifically defined duties, and provide for reasonable compensation for the services rendered. The terms of all appointive officers shall be for two (2) years and until their

successors are appointed and qualified. In case of an appointment to fill a vacancy such appointee shall only serve for the remainder of the term for which his or her predecessor was appointed.

**History:** L. 1909, ch. 82, § 22; R.S. 1923, § 14-1501; L. 1955, ch. 123, § 1; L. 1959, ch. 83, § 2; L. 1967, ch. 90, § 8; July 1.

**14-1502. Persons not eligible to office.** No person shall be eligible to any appointive office unless he or she shall be a bona fide resident of the city or of the territory within a two (2) mile radius of such city prior to his or her appointment, except that the city may hire nonresident expert employees or appoint nonresidents as a municipal judge or as law enforcement officers when deemed necessary by the board of commissioners, including the appointment of nonresidents who also serve as municipal judge or law enforcement officers of another municipality or public agency: *Provided*, That nothing herein shall authorize the appointment of nonresidents of this state.

**History:** L. 1909, ch. 82, § 23; R.S. 1923, § 14-1502; L. 1961, ch. 107, § 1; L. 1967, ch. 90, § 9; July 1.

**14-1503. Removal of appointive officers.** The board of commissioners shall have power by a majority vote of all the members thereof to remove, for cause, the city attorney, city clerk, city treasurer, police judge, city engineer, or the incumbent of any other appointive city office or employment whatever, and may by ordinance prescribe, limit or change the compensation of such officers or employees: *Provided, however*, That no fees whatever be paid to or allowed any such officer or employee as compensation for the services thereof. The chief of police, chief of the fire department, or any superintendent or foreman in charge of municipal work, may, with the consent of the board of commissioners, suspend or discharge any subordinate under his or her direction for neglect of duty or disobedience of his or her orders.

**History:** L. 1909, ch. 82, § 24; March 1; R.S. 1923, § 14-1503.