

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 23

As Amended by Senate Committee of the Whole

Brief*

SB 23, as amended, would amend law governing the Kansas Public Employees Retirement Trust Fund and investment standards to increase a statutory limitation (“cap”) on alternative investments, from 15.0 percent to 20.0 percent, placed on the KPERS Board of Trustees (Board).

Under current law, enacted in 2012, the investment of alternative assets by the Board is limited to 15.0 percent of the total investment assets of the fund as a percentage of the Retirement System’s total investments. “Alternative investment” is defined in trust fund law to include a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash, or real estate (e.g., private equity, private credit, hedge funds, infrastructure, and commodities).

Background

The bill was introduced by the Joint Committee on Pensions, Investments and Benefits. A companion bill, HB 2103, has been introduced in the House.

[*Note:* The Joint Committee met in December 2022 and, as one of the topics discussed, reviewed a request from the KPERS Board of Trustees to remove the alternative investments cap, while maintaining other statutory criteria placed on the investment of alternative assets. The Joint Committee recommended the introduction of this legislation.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

In its November 2023 meeting, the Joint Committee again considered the topic of SB 23 and HB 2103 and recommended passage of legislation addressing the statutory alternative investment cap and that such legislation be amended to make the change in Board authority effective on publication in the *Kansas Register*.]

Senate Committee on Financial Institutions and Insurance

In the Senate Committee hearing on February 1, 2023, the Executive Director and the Chief Investment Officer, KPERS, provided **proponent** testimony on behalf of the Board, stating if KPERS were to reach the 15.0 percent alternative investments cap, new investments in private equity and infrastructure would stop and could not be resumed until exposure fell below the cap. The representatives indicated this restriction would limit KPERS' ability to diversify these investments across economic cycles, increasing risk, and could result in KPERS losing access to top tier investment managers, potentially reducing return.

No other testimony was provided.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to increase the cap on alternative investments from 15.0 percent to 20.0 percent and to remove a provision delegating the selection of the overall cap to the Board that was included in the bill, as introduced. The Senate Committee of the Whole amendment also updates statutory references to incorporate 2023 changes to pensions investment law. [*Note*: The Senate Committee of the Whole adopted two amendments to SB 23; the amendments modify the same section of law; one would maintain the policy of the underlying bill to eliminate the statutory cap and delegate authority to the KPERS Board to establish such limitation. The second amendment restores

current law, as updated by changes in 2023, with the 15.0 percent cap and increases this limitation to 20.0 percent.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KPERS indicates enactment of the bill would have no fiscal effect.

Retirement System; KPERS Board of Trustees; investment policy; alternative investments