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300 SW TENTH AVENUE ▪ SUITE 24-E ▪ TOPEKA, KS 66612 ▪ (785) 296-2321

MEMORANDUM

To: Chairman Johnson and members of the Joint Committee on Pensions, Investments and Benefits.

From: David Wiese, Assistant Revisor

Date: November 27, 2017

Subject: 2017 House Substitute for SB 21, working after retirement provisions and other related 2017 legislation.

House Substitute for Senate Bill No. 21, passed during the 2017 session, amended several provisions relating to working after retirement for KPERS members. Certain provisions of the bill became effective July 1, 2017 while other provisions will become effective January 1, 2018.

Provisions effective July 1, 2017:

1. An exemption from the $25,000 annual earnings limitation and employer contribution requirement for all state and local elected officials. Additionally, the required waiting period before a retiant could return to work in an elected office was reduced from 60 to 30 days, unless a retirant is filling a vacant office, in which case there is no waiting period.

2. An exemption for independent contractors and employees of third-party entities. The exemption exists so long as all the following apply:

    a. The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;
    b. The activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and
    c. The retirant meets the classification of independent contractor as provided in K.S.A. 2017 Supp. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.

3. An exemption for substitute teachers that only applies to substitutes working without a contract.

New working after retirement provisions effective January 1, 2018:

A. New working after retirement rule commencing January 1, 2018. For all retirements after 1/1/18, there will be a 180-day waiting period if a retirant retires prior to age 62 and a 60-day waiting period if the retirant retires at age 62 or older.

B. There will be no annual earnings limitation for all retirants regardless of retirement date.

C. If a retirant is employed in a covered position, the participating employer shall pay to the system the statutory employer contribution rate on the first $25,000 of a retirant's compensation in a calendar year and a 30% contribution rate on all compensation in excess of $25,000 in a calendar year. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.

D. If a retirant is employed in a non-covered position, the participating employer does not make contributions to the system.

E. Prearranged agreements for employment continue to be prohibited.

F. Employers are required to enroll and report to the system when compensation is paid to any retirant.

G. Retirants who are specifically exempt from current working after retirement provisions would continue to be exempt from the new 1/1/18 rule. (Licensed nurses, Law enforcement training center, KP&F, Judges and Regents retirement systems, Substitute teachers without a contract, Poll workers, State and local elected officials and Independent contractors/3rd party entities)

H. No retirants shall make contributions to the system or receive credit for service while employed under the working after retirement rule.

I. January 1, 2018, is also the sunset date of current special exemptions for hardship, special education and hard-to-fill positions. On and after such date, retirants under these exemptions will be covered under the new rule.

Additional 2017 Working After Retirement Legislation

In 2017 Senate Bill No. 205 the legislature enacted a specific exemption, effective July 1, 2017, from KPERS working after retirement provisions for individuals who are members of the state board of regents retirement plan.