MEMORANDUM

To: Senate Financial Institutions and Insurance

From: Alan D. Conroy, Executive Director
Jarod Waltner, Planning and Research Officer

Date: March 13, 2024

Subject: House Bill 2711; Working After Retirement

HB 2711 as amended by the House Committee makes several changes to the current working after retirement. The changes include:

1. Increasing the KPERS compensation threshold for the 30% employer contribution rate.
2. Increase the KP&F retiree earnings limit.
3. Adding a working after retirement exemption for nurses and direct support workers at community developmental disability organizations.

Current KPERS Working After Retirement Rules
When a member retires from KPERS, there are statutory rules regarding that retiree returning to work for a KPERS employer in a covered position. The statutory rules, which have been in place since 2017, include:

1. **Waiting Period.** Members who retire before age 62 have a 180-day waiting period before being rehired by a KPERS employer. Members who retire at age 62 or later have a 60-day waiting period.
2. **No Prearrangements.** Before retirement and during the waiting period, retirees and employers cannot communicate in any way about returning to work.
3. **Employer Contributions.** If a retiree returns to work in a covered position, the employer makes contributions to KPERS to help fund the System. Employers pay the statutory contribution rate (currently 12.57% for the State/School Group) for the first $25,000 of the retiree's salary, and a 30% contribution rate on earnings over $25,000.

   Some employers may adjust the salary paid to a retiree to shift the cost of the contributions to the retiree, but statutorily the contribution is an employer contribution.

KPERS retirees who return to work do not have an earnings limitation.

If a KPERS, KP&F or Judges member retires and goes to work for a private company or other non-KPERS employer, there are no restrictions.

KP&F and Judges retirees can return to work for a KPERS employer without considering working after retirement rules. Because they are separate plans, the KP&F or Judges retiree is enrolled as an active member of KPERS and could eventually be eligible for a separate KPERS retirement benefit.

KPERS

A summary of the current KPERS working after retirement rules is included in Attachment A.

Current KP&F Working After Retirement Rules
KP&F working after retirement has a different structure than KPERS working after retirement.

- KP&F members have a 30-day waiting period before they can return to a KP&F employer.
- Only if the KP&F member returns to same employer, there is a $25,000 annual earnings limit that resets each calendar year. When the retiree reaches the $25,000 earnings limit they must choose to stop receiving their retirement benefit for the remainder of the calendar year or stop working for the KP&F employer.

In 2023, there were 5 KP&F retirees that reached the $25,000 earnings limit.

Changes in HB 2711
30% Employer Contribution Threshold
HB 2711 changes to the statutory threshold for the 30% employer contribution from $25,000 per calendar year to $40,000 per calendar year. HB 2711 also strikes several expired sections of K.S.A. 74-4914.

The existing rules prohibiting prearrangements to return to work and the waiting period would remain the same.

KP&F Earnings Limit
HB 2711 increases the earnings KP&F retiree earnings limit from $25,000 to $40,000 per calendar year.

This would impact approximately 5 or fewer KP&F retirees each year.

Community Developmental Disability Organization Exemption
HB 2711 adds nurses and direct support workers at community developmental disability organizations (CDDOs) to the list of retiree positions that are not subject employer working after retirement contributions.

Retirees must still observe the appropriate waiting period and prohibition on prearranged return to work.

According to the CDDOs, approximately this would impact 27-54 retirees each year.

KPERS Working After Retirement Experience
In the 12/31/2022 KPERS actuarial valuation there were about 4,500 retirees with reported compensation during the calendar year, with about 1,900 in exempt positions (i.e., non-covered positions, elected officials, state nurses) and about 2,600 positions in covered positions.

Of the 2,600 covered working after retirement positions, about 1,550 received less than $25,000 in compensation and 1,050 received more than $25,000 in compensation during the calendar year.

KPERS does not collect position information for retirees who return to work, so we do not know how many retirees are working as teachers, in management positions, or any other position. However, if a retiree is working in a position that is less than 1,000 hours for State and Local employers or less than 630 hours for School employers, they are considered non-covered positions and not subject to working after retirement contributions.

Actuarial Cost Implications

30% Employer Contribution Threshold

The actuarial cost implications of HB 2711 are based on two factors:

1. The loss of expected employer contributions due to the change.
2. Potentially changing the pattern of retirement or hiring behavior by changing the working after retirement rules.

Based on the data for the calendar year 2022, the estimated employer contributions for working after retirement based on the existing $25,000 threshold, were approximately $13.1 million. If the compensation limit for the 30% contribution rate had been $40,000 during calendar year 2022, the total contributions would be reduced by $2.0 million to $11.1 million, about 15% lower. The difference of about $2.0 million would directly reduce the assets and therefore increase the unfunded actuarial liability.

However, given the total KPERS (State, School and Local) employer contribution is more than $1.0 billion, the loss of $2.0 million annually does not greatly impact the long-term funding of KPERS and would not be actuarially significant.

As the threshold for the 30% contribution rate increases, it becomes more attractive for employers to rehire retirees rather than seeking to fill the job with a new employee. This has the potential to encourage active members to retire earlier than they would otherwise and then return to work because of the financial incentives. If retirement behavior changes and members retire earlier, it can create a negative actuarial impact that was not expected or intended. However, this cost cannot be easily quantified.

Any impact on member behavior and plan funding would be reflected in future actuarial valuations and employer contribution rates.

KP&F Earnings Limit

KP&F working after retirement is much more limited than KPERS working after retirement. Employers only report when a KP&F retiree has reached the earnings limitation. In 2023 there 5 KP&F retirees who exceeded the $25,000 earnings limitation during the calendar year. Increasing the earnings limitation to $40,000 is not expected to have a meaningful impact on KP&F funding.

Community Developmental Disability Organization Exemption

The higher end of the estimate is an additional 54 retirees that would be exempt from working after retirement employer contributions. This represents about 1% of all retirees returning to work. This would reduce the total amount of contributions paid to KPERS for working after retirement, but the size of the group is not large enough to have a meaningful impact.

Administrative Costs
The changes in HB 2711 would require some technical work to the pension administration system and updating of publications and education efforts. These items can be accomplished within the existing appropriation request.

I would be pleased to respond to any questions the Committee has regarding HB 2711.

Attachment

KPERS Working After Retirement

Who is included & why?

Working After Retirement rules **apply** to all KPERS retirees returning to work for any KPERS employer. These statutory provisions were put in place to comply with **IRS regulations**.

The rules **don't apply** to non-KPERS employers.

Waiting period

All KPERS retirees have a waiting period before they can go back to work for **any** KPERS employer.

Before age 62	Age 62 +
180 days	**60** days

No prearrangement to return to work

Members cannot make "prearrangements" to return to work while still employed or during the waiting period. There should be **no communication** in any way about an interest or intent to return to work with a KPERS employer.

Statutory penalty for violations

Retirees who violate these rules will have their **benefit suspended** starting the month they returned to work and ending six months after they end employment. They must also **repay benefits** paid while working after retirement.

No earnings limit

KPERS retirees do not have an earnings limit, and they **do not** make member contributions.

Employer contributions

Employers **pay contributions** on salaries of retirees who return to work in positions covered by KPERS benefits. Covered positions are not seasonal or temporary and meet other membership requirements.

Retiree Earnings	Rate Type	***Local*** (CY24)	***State/School*** (FY24)
First $25,000	Regular employer rate	9.26%	12.57%
More than $25,000	Working After Retirement rate	30%	30%

Statutory exceptions

These positions do follow the prearrangement and waiting-period rules, but do not pay employer contributions.

- Positions covered by the Board of Regents Mandatory Retirement Plan
- State/local elected officials (30-day wait, no wait if filling vacant office)
- Legislative staff, election poll workers, State hospital nurses