SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2711

As Amended by Senate Committee of the Whole

Brief*

HB 2711, as amended, would amend the Kansas Public Employees Retirement System (KPERS or Retirement System) working-after-retirement provisions and increase the lump-sum death benefit for a KPERS retiree.

Amendments to working-after-retirement provisions would:

- Add a new category of positions exempt from working-after-retirement employer contributions;
- Increase a retirant threshold amount from $25,000 to $40,000 for the specified 30.0 percent employer contribution; and
- Increase the earnings limit from $25,000 to $40,000 for retired Kansas Police and Firemen's Retirement System (KP&F) members returning to employment with a previous employer.

The bill would also make a clarifying amendment to law governing Retirement System membership waiting periods for the entities exempted from working-after-retirement rules in the bill.

*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

Exemption from Working-after-retirement Rules; Membership Waiting Period

The bill would create a new category of positions exempt from working-after-retirement employer contributions by adding licensed nurses and direct support workers at a KPERS-affiliated community developmental disability organization (CDDO) or a community service provider affiliated with a CDDO to the list of exempted positions.

[*Note:* If exempted from the requirements, the participating employer (CDDO) would not have to enroll retirees into KPERS or report compensation to the Retirement System. The participating employer would not make contributions to KPERS. However, retirees would still be required to serve their 60- or 180-day waiting period, as applicable before returning to covered employment, provided there is no prearranged agreement for employment.]

The bill would also make a clarifying amendment to law governing Retirement System membership waiting periods to provide the waiting period applies to the KPERS-affiliated CDDOs or a community service provider affiliated with a CDDO.

Contribution Rates Paid for Covered Positions; Threshold on Retirant Compensation

Under current law, when a KPERS retirant ("retiree") returns to work for a KPERS-affiliated employer in a covered position, the participating employer is required to pay a 30.0 percent "assessment" on compensation paid to the retiree that exceeds the $25,000 threshold amount. The bill would increase this threshold from $25,000 to $40,000 per calendar year.

[*Note:* Participating employers are required to make contributions to KPERS to help finance the Retirement System. The working-after-retirement law requires employers to pay the statutory contribution rate for the first $25,000 of the retirant's salary and a 30.0 percent contribution rate ("assessment") on earnings over the $25,000 threshold.]

Earnings Limit—KP&F Members, Returning to Work with Previous Employer

The bill would increase from $25,000 to $40,000 the earnings limit on KP&F members who have retired and return to work for a previous employer.

Lump-Sum Death Benefit for KPERS Retirees

The bill would also increase the lump-sum death benefit for a KPERS retiree from $4,000 to $6,000, beginning on July 1, 2024.

Technical Changes

The bill would also make technical updates to remove working-after-retirement exceptions that expired January 1, 2018.

Background

HB 2711 was introduced by the House Committee on Financial Institutions and Pensions at the request of Representative Hoye.

[*Note:* The Senate Committee of the Whole inserted provisions pertaining to the KPERS lump-sum death benefit (SB 172, as recommended by the Senate Committee on Ways and Means).]

HB 2711 (Working After Retirement)

House Committee on Financial Institutions and Pensions

In the House Committee hearing on February 19, 2024, a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association and a representative of Big Lakes Developmental Center, Inc., provided **proponent** testimony, generally stating HB 2711 would assist agencies and organizations in hiring retired persons into certain positions to help address staff shortages and improve recruitment efforts. The law enforcement organization representative requested consideration of an amendment to a similar limitation in statutes governing KP&F members returning to work after retirement. The Big Lakes representative requested consideration for a working-after-retirement rules exemption that had been discussed in the 2023 Session.

Written-only proponent testimony was submitted by representatives of the Kansas Association of School Boards, Kansas National Education Association (KNEA), and Starkey, Inc. These representatives indicated the increased threshold amount would help employers address staff shortages and recruitment, without the additional cost of the 30.0 percent assessment.

Neutral information provided by a representative of KPERS outlined the working-after-retirement experience in the Retirement System and the working-after-retirement rules (*e.g.,* specified waiting periods, no permitted prearrangements between retirees and employers, and employer contributions). The information highlighted the current employer contribution rates for a retiree returning to work in a KPERS-covered position, which are based on the retiree's salary: employers pay the statutory contribution rate (currently 12.57 percent for the State/School Group) for the first $25,000 of the retiree's salary and a 30.0 contribution rate on earnings over $25,000.

The KPERS conferee's testimony also addressed the working-after-retirement experience, noting in the December 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 and about 2,600 in covered positions. The conferee also explained actuarial cost implications (further noted in the bill's fiscal note), explaining actuarial cost is based on two factors: the loss of expected employer contributions due to the proposed change (retirant compensation threshold amount increase) and the potential change in the pattern of retirement or hiring behavior by changing the working-after-retirement rules. Based on data for calendar year 2022, employer contributions for working after retirement based on the existing $25,000 threshold were estimated to be about $13.1 million. If the compensation limit had been $50,000 (as in the bill as introduced), total contributions would be reduced by $2.7 million—about 20 percent lower. This difference would directly reduce the assets (to the Trust Fund) and, therefore, increase the unfunded actuarial liability.

No other testimony was presented.

The House Committee amended the bill to:

- Reduce the retirant threshold amount on a KPERS retiree working after retirement in a covered position with a participating employer to $40,000 (the amount in the bill, as introduced, increased the threshold from $25,000 to $50,000);
- Insert provisions adding an exemption for retirants employed by a CDDO to working-after-retirement rules (this language was also included in HB 2272, as recommended by this House Committee); and
- Insert provisions pertaining to an earnings limitation on retired KP&F members returning to work with a previous employer, in the same amount

as specified for other KPERS members by the bill, as amended.

Senate Committee on Financial Institutions and Insurance

In the Senate Committee hearing on March 13, 2024, Representatives Hoye and Clifford and representatives of Big Lakes Developmental Center, Inc., and the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association provided **proponent** testimony generally stating support for the various working-after-retirement provisions included in the bill and the contributions retirees make to various state and local KPERS employers, including the impact in addressing staff shortages and recruitment challenges.

Written-only proponent testimony was submitted by representatives of the KNEA and MCDS (Multi Community Diversified Services, McPherson).

Neutral information was provided by a representative of KPERS. The conferee reviewed KPERS working-after-retirement rules including the waiting period, prohibition on prearrangements, and employer contributions when a retiree returns to work in a covered position. Addressing the House Committee amendments, the KPERS conferee indicated the existing rules prohibiting prearrangements to return to work and the waiting period would remain the same (increasing the statutory threshold for the 30 percent employer contribution from $25,000 to $40,000). The conferee indicated the increase in the KP&F retiree earnings limit would impact five or fewer KP&F retirees each year. The conferee indicated the exemption for CDDOs would impact 27 to 54 retirees annually.

No other testimony was presented.

The Senate Committee amended the bill to modify the working-after-retirement exemption for CDDOs to also include community service providers affiliated with a CDDO. The amendment also inserted existing law that prescribes KPERS membership waiting periods. Under current law, employees employed in direct support positions of an affiliated employer under KSA 19-4001 and as defined under KSA 39-1803 may become members of the Retirement System following the completion of a two-year training period. The Senate Committee modified references in both the working-after-retirement exemption created by the bill and in the membership waiting period law to provide the exemption and waiting period would apply to either the CDDO or the affiliated provider.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to add provisions pertaining to the increase of the KPERS lump-sum death benefit for KPERS retirees (SB 172, as recommended by the Senate Committee on Ways and Means).

SB 172 (Lump-Sum Death Benefit)

In the Senate Committee hearing on February 15, 2023, Senator McGinn testified as a **proponent**, stating the current death benefit amount has remained unchanged for 30 years. Additionally, Senator McGinn indicated the minimum costs for cremations and burials currently average around $7,000 and $11,000 respectively.

Representatives from the Kansas Funeral Directors Association (KFDA) and the Kansas National Education Association also provided proponent testimony, generally emphasizing the last increase in death benefits occurred in 1993. Additionally, the KFDA representative indicated the national median cost of an adult funeral with viewing and burial for calendar year 2021 was $7,848.

Neutral testimony provided by a representative of the Kansas Coalition of Public Retirees noted the rising funeral costs, but requested consideration for a cost-of-living adjustment for current KPERS retirees.

The Executive Director of KPERS provided neutral information, indicating there are approximately 4,000 KPERS retiree deaths each year, and the cost of paying those benefits totals about $14.0 million per year. Speaking to actuarial costs, the Executive Director explained the bill would increase the KPERS unfunded actuarial liability (UAL), which could be offset by a one-time appropriation or amortized over a 20-year period.

On January 9, 2024, the bill was withdrawn from the Senate Calendar and re-referred to the Senate Committee on Ways and Means. Following discussion on January 30, 2024, the Senate Committee again recommended the bill be passed.

[*Note:* House Sub. for SB 172 would create the Kansas Land and Military Installation Protection Act.]

Fiscal Information

HB 2711 (Working After Retirement)

According to the fiscal note prepared by the Division of the Budget on HB 2711, as introduced, KPERS indicates provisions from enactment of the bill could be implemented within its existing staffing levels and any costs would be negligible. [*Note:* Additional information from this fiscal estimate is noted above in the KPERS neutral testimony.]

KPERS provided additional information following the House Committee action on the bill to address provisions modified by or added to the bill.

- *Increasing the employer contribution rate threshold.* KPERS indicates the bill, as amended, would reduce the employer contribution by approximately $2.0 million, assuming similar working-after-retirement experience in the future. This amount represents about 0.2 percent of total employer contribution for the State/School Group;

- *Working-after-retirement contribution exemption.* Similar to prior analysis provided on HB 2272, KPERS indicates the estimated number of direct care support positions was one to two positions per facility at the 27 CDDOs. Using the higher end of the estimate, these 54 retirees represent about 1.0 percent of all retirees returning to work and do not represent a large enough group to present a meaningful impact on cost estimates; and

- *Increasing the KP&F retiree earnings limitation.* KP&F retirees remain under a structure that existed prior to 2017, when KPERS working after retirement was changed to include employer contributions but no retiree earnings limit. KP&F employers therefore only report when a KP&F retiree has reached the earnings limitation. In 2023, five KP&F retirees exceeded the limitation during the calendar year. Increasing this limitation to $40,000 is not expected to have a meaningful impact on KP&F funding.

SB 172 (Lump-Sum Death Benefit)

According to updated fiscal information provided by KPERS, the KPERS actuary indicates SB 172 would increase the total UAL by approximately $106.1 million, including $76.6 million for the State/School Group. This actuarial cost could be funded with either a one-time payment for State employers of $77.5 million or amortized over a 20-year period. If funded with a one-time payment in full, the increase in employer contribution rate would be approximately 0.1 percent depending on the group. If amortized, the employer contribution for the State/School Group would increase by about 0.10 percent, totaling about $9.66 million in additional contributions for FY 2025.

SB 172–Estimated Fiscal Effect
(Dollars in Millions)

KPERS Group	UAL Est. Increase	Additional Contributions FY 2024	Additional Contributions FY 2025
State/School	$ 76.60	$ 6.76	$ 6.90
KP&F–State	0.60	0.05	0.05
Judges	0.30	0.03	0.03
Subtotal–State	*$ 77.50*	*$ 6.84*	*$ 6.98*
Local	$ 24.90	$ 2.24	$ 2.33
KP&F–Local	3.70	0.33	0.35
Subtotal–Local	*$ 28.60*	*$ 2.57*	*$ 2.68*
TOTAL	**$ 106.10**	**$ 9.41**	**$ 9.66**

The KPERS actuary also notes the UAL increase for local employers is about $28.6 million.

Retirement System; KPERS; working after retirement; employer contributions; retirant compensation threshold; exemption from working-after-retirement rules; community developmental disability organizations; affiliated community service providers; KP&F; earnings limitation; lump-sum death benefit