

STATE AFFAIRS COMMITTEE

March 29, 1967

The meeting was called to order by the Chairman, with all members present except Messrs. Boyer, Brown and Buchele, who were excused.

Senate Bill 129 was presented, and Mrs. Genay Newby explained the bill. She stated that the bill proposed to give legal recognition to the marriage ceremony of the Baha'i religion; that this is a world-wide religion, having been in existence since 1844; that the general principle of the beliefs is the "oneness of all mankind; that at the present time it is necessary to have their own ceremony, plus a civil ceremony in order to be legally married; and that this bill would place them on a level with other religions in Kansas.

Professor Gary Larson of Washburn University reiterated much of what Mrs. Newby had said, and urged the favorable consideration of this bill.

Mr. Rogers inquired about the basic beliefs and Mrs. Newby explained they believed in God and that the prophets are simply a chapter in the book; that everybody is a member of the human race and that they believe in the unity of mankind. Mr. Rogers inquired how the leaders are selected, and Mrs. Newby explained that each local group elects nine members by secret ballot each year, and they are responsible for administering the group. She explained that each member has an obligation to explore for himself and is responsible for himself. Mr. Rogers then inquired how the marriage ceremony was performed and Mrs. Newby explained that there must always be parental consent; that they take their vows in front of two of the nine members and pledge that they will abide by the rules of God and that they will continue to seek truth in accordance with their faith.

Mr. John Corkhill then appeared to discuss Senate Bill 109, and presented amendments (see attached) stating that this meets with the approval of the Senate, and deals with service-connected accidental disability cases; that this bill does what the Board of Trustees had in mind when the bill was enacted previously. Mr. John Bower supported what Mr. Corkhill had to say, and urged favorable consideration of the bill.

Mr. Corkhill then discussed SB 7, which he explained dealt with the crediting of prior service, and stated that it was the result of a Legislative Council Study (see attached).

Mr. Corkhill proceeded to explain SB 385, stating that this involves the matter of the state waiving an amount of money that was unlawfully paid to Dr. Gregory who was employed at Larned at

the time they were having so much difficulty there; that he had retired and moved out of State, but came back and filled in, not realizing that under the employees retirement system he could not legally be paid; that he actually did the work and filled a real need and that the State was grateful, and wanted to waive this amount that was paid to him.

Mr. Unruh presented amendments on H.B. 1451, which would cover all active, inactive and emergency funds. The Chairman stated that the Committee seemed pretty well agreed on this when it was previously discussed. Thereupon, Mr. Unruh moved that the amendments be adopted. Motion was seconded by Mr. Doyen and carried unanimously. Mr. Fribley then moved that the bill be recommended favorably, as amended. Upon second by Mr. Doyen, the motion carried unanimously.

Mr. Fribley moved that the proposed amendments to SB 109 be adopted. Motion was seconded by Mr. Andrews and carried unanimously. Thereupon, Mr. Fribley moved that the bill, as amended be favorably recommended. Motion was seconded by Mr. Rogers and carried unanimously.

Thereupon, Mr. Fribley moved that SB 385 be recommended for passage. Motion was seconded by Mr. Buchele and carried unanimously.

Mr. Fribley moved that SB 129 be recommended for a passage. Motion was seconded by Mr. Ford and carried unanimously.

Meeting was adjourned.

MARGARET GENTRY, Secretary

REPORTS OF STANDING COMMITTEES

MR. CHAIRMAN:

Your committee on State Affairs

Recommends that Senate Bill No. 109

"An Act relating to the public employees retirement system; providing procedures for claiming benefits; establishing employee's right to benefits; providing for termination of benefits under certain circumstances; amending K. S. A. 1965 Supp. 74-4916 and repealing the existing section.

Be amended:

On page 1, preceding line 1, by inserting new sections 1 and 2 to read as follows:

"Section 1. K. S. A. 1965 Supp. 74-4902 is hereby amended to read as follows: 74-4902. As used in K. S. A. 74-4901 to 74-4924 74-4927, both sections inclusive, ~~section-8-of-this-act and K. S. A. 74-4926~~, as amended and supplemented, the following words and phrases shall have the following meanings respectively ascribed to each of them, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions," the sum of all contributions by a member to the system which shall be credited to his account, with interest allowed thereon;

(2) "Act," K. S. A. 74-4901 to 74-4924 74-4927, both sections inclusive, as amended and supplemented, ~~K. S. A. 74-4926 and section-8-of-this-act~~;

(3) "Actuarial equivalent," an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system;

(4) "Actuarial tables," the actuarial tables approved and in use by the board at any given time;

(5) "Actuary," the actuary or firm of actuaries employed or retained by the board at any given time;

COMMITTEE

(6) "Agent," the individual designated by each participating employer through whom system transactions and communication shall be directed;

(7) "Beneficiary," any natural person or persons named by a member to receive any benefits as provided for by this act. If there is no named beneficiary living at time of member's death, any benefits provided for by this act shall be paid to:

- (a) the member's surviving spouse;
- (b) the member's dependent child or children;
- (c) the member's dependent parent or parents;
- (d) the member's nondependent child or children;
- (e) the member's nondependent parent or parents;
- (f) the estate of the deceased member;

in the order of preference as hereinabove set out. Any payment made to a named beneficiary shall be a full discharge and release to the system from any further claims. Any payment made to a beneficiary as provided in clauses (a), (b), (c), (d), (e), or (f) above as determined by the board shall be a full discharge and release to the system from any further claims. Whenever any payment is payable to more than one beneficiary such payment shall be made to such beneficiaries jointly. Any benefits payable to a beneficiary or beneficiaries who are minor children or incompetent persons shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed guardian of such beneficiaries: Provided, however, In those cases where the benefit involves only the payment of the member's accumulated contributions with interest as provided by this act in an amount not to exceed five hundred dollars (\$500), the board is hereby authorized in its discretion without the appointment of a guardian or the giving of a bond to pay such amount as is due to the minor or minors themselves, any payment so made shall be a full discharge and release to the system from any further claims;

(8) "Board of trustees," "board" or "trustees," the managing body of the system which shall be known as the Kansas public employees retirement system board of trustees;

(9) "Compensation," all salary, wages, and fees, exclusive of payment for overtime, payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but shall not include compensation as reimbursement for traveling or moving expenses;

(10) "Credited service," the sum of participating service and prior service;

(11) "Dependent," a parent or child of a member who is dependent upon the member for at least half of his support;

(12) "Effective date," the date upon which the system becomes effective by operation of law;

(13) "Eligible employer," the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned whose employees are covered by social security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of the state of Kansas which is in operation on the entry date.

If a class or several classes of employees of any above defined employers are covered by social security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of the state of Kansas which is in operation on the entry date, such employer shall be deemed an eligible employer but only with respect to that class or those classes of employees;

Nothing contained in this subsection shall prevent or be construed as preventing any person who is covered by or eligible

for or will become eligible for retirement benefits under the state school retirement system if he is not a current contributing member to the state school retirement system from being an employee if the person is otherwise an employee within the definition contained in subsection 14 of this section and with respect to such persons the employer shall be deemed an eligible employer: Provided, That this provision shall not be construed as entitling any such person to prior service credit or participating service credit for any of the time that he was employed in school service as that term is defined in K. S. A. 1965 Supp. 72-5501.

(14) "Employee," any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year, but not including:

(a) Any employee who is covered by or eligible for or who will become eligible for another retirement plan authorized under any other law of this state in operation on the entry date, except this definition shall not exclude any person as defined herein who is covered only by social security; (b) any person covered by or eligible for or who will become eligible for a retirement annuity under the provisions of K. S. A. 74-4925 except as otherwise specifically provided in said K. S. A. 74-4925 (3); (c) any employee who is a contributing member of the United States civil service retirement system; (d) any employee or class of employees specifically exempted by law: Provided, That nothing contained in this subsection shall prevent or be construed as preventing any person who is covered by or eligible for or will become eligible for retirement benefits under the state school retirement system if he is not a current contributing member to the state school retirement system from being an employee if the

person is an appointed or an elective officer or employee of a participating employer and his employment is not seasonable or temporary and requires at least one thousand (1,000) hours of work per year and if he is not within the exceptions specified in clauses (b), (c), or (d) of this subsection but this proviso shall not be construed as entitling any such person to prior service credit or participating service credit for any of the time that he was employed in school service as that term is defined in K. S. A. 72-5501;

(15) "Entry date," the date as of which an eligible employer joins the system. The first entry date pursuant to this act shall be January 1, 1962;

(16) "Executive secretary," the managing officer of the system employed by the board under this act;

(17) "Final average salary," the average highest annual compensation paid to a member for any five (5) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment, or if participating service is less than (5) years, then the average annual compensation paid to the member during the full period of participating service if a member has less than one (1) calendar year of participating service his final average salary shall be computed by multiplying his highest monthly salary received in said year by twelve (12);

(18) "Fiscal year," of the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund," the fund created by this act for payment of expenses and benefits under the system and referred to herein as the "fund";

(20) "Leave of absence," a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one (1) year;

(21) "Member," an eligible employee who is in the system and is making the required employee contributions, or any former employee who shall have made the required contributions to the system and shall have not received a refund;

(22) "Military service," service in the armed forces of the United States in time of war or national emergency, which service is immediately preceded by a period of employment as an employee with a

participating employer and is followed by return to employment as an employee with the same or another participating employer within three (3) months immediately following discharge from such military service: Provided, That if the board shall determine that such return within three (3) months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two (2) years from the date of discharge or separation from military service.

(23) "Normal retirement date," the date on or after which a member may retire with full retirement benefits pursuant to this act, namely, the first day of the month coinciding with or following his 65th birthday;

(24) "Participating employer," an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) "Participating service," the period of employment after the entry date for which credit is granted a member;

(26) "Prior service," the period of employment of a member prior to his entry date for which credit is granted a member under this act;

(27) "Prior service annual salary," the highest annual salary (not including any amounts received as payment for overtime or as reimbursement for traveling or moving expense) received for personal services by the member from the current employer in any one of the three (3) calendar years immediately preceding January 1, 1962, or the entry date of the employer, whichever is later: Provided, That if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying his highest monthly salary received in said year by twelve (12);

(28) "Retirant," a member who has retired under the system;

(29) "Retirement benefit," a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the first day of the month in which death

occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board;

(30) "Retirement system" or "system," the Kansas public employees retirement system as established by this act and as it may be hereafter amended;

(31) "Social security," means the old age, survivors and disability insurance section of the federal social security act;

(32) "Total disability," a physical or mental disability which prevents the member from engaging, for remuneration or profit, in any occupation for which he is reasonably suited by education, training or experience.

Sec. 2. K. S. A. 1965 Supp. 74-4911 is hereby amended to read as follows: 74-4911. (1) Any employee of a participating employer other than an elected official on the entry date of such employer shall be a member of the system on either the entry date or the first day of the month coinciding with or following the completion of one (1) year of service whichever is later.

(2) Any employee other than an elected official who is employed by a participating employer after the entry date of such employer and who had not attained age fifty-nine (59) at date of employment shall be a member of the system on the first day of the month coinciding with or following completion of one (1) year of continuous service. Any employee employed after the entry date of his employer who had attained age fifty-nine (59) at date of employment shall not be a member of the system.

(3) Any employee who is an elected official and is eligible to join the system shall elect to become or not to become a member of the system within thirty (30) days after the entry date or the first day of the month coinciding with or following one (1) year of service, whichever is later. In the event that such elected

official fails to file, within the time hereinbefore prescribed, the election to become a member of the retirement system, it shall be presumed that he has elected not to become a member.

(4) Any employee other than an elected official who is in military service or on leave of absence on the entry date of his employer shall become a member of the system upon his returning to active employment or on the first day of the month coinciding with or following the completion of one (1) year of service, whichever is later.

(5) Any employee who was employed by a county which was a participating employer on date of employment and who had attained age fifty-nine (59) within ninety (90) days prior to said employment may upon making application for enrollment and paying the appropriate arrearage employee contributions become a member on the first day of the month coinciding with or following said date of employment: Provided, That the participating employer shall pay to the system the appropriate arrearage employer contributions from date of said membership and that said employer shall thereafter make the appropriate deductions from said member's compensation and shall make such employer contributions as provided in K. S. A. 74-4919 and K. S. A. 74-4920, respectively: Provided further, That after making the aforementioned application and arrearage employee and employer contributions the member shall be granted participating service credit for the appropriate period and shall thereafter be governed by all provisions of this act as are applicable to other persons who became a member of the system on the same date.; and by renumbering original sections 1, 2 and 3 as sections 3, 4 and 5, ^{respectively;} also, on page 1, in line 5, by inserting after the figure "(2)" the following: "(a)"; also, in line 8, by inserting after the word "employer" the following: "independent of all other causes";

"or such severance of one hand and one foot, and such severance

On page 2, in line 2, by inserting after the word "employer" the following: "independent of all other causes"; also, on page 2, following line 16, by inserting a new paragraph to read as follows: "(b) In construction of this section of the act there shall be no presumption that the death of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the person claiming under this subsection. In the event of the death of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that death was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of his duties in the employ of a participating employer."; also, on page 2, in line 17, by inserting before the first word "The" the following: "(c)";

On page 3, in line 5, by inserting after the word "disease" the following: "independent of all other causes";

On page 4, following line 3, by inserting a new paragraph to read as follows: "(b) In construction of this section of the act there shall be no presumption that the disability of the member was the result of an accident nor shall there be a liberal interpretation of the law or evidence in favor of the member claiming under this subsection. In the event of the disability of a member resulting from a heart, circulatory or respiratory condition there must be clear and precise evidence that disability was the result of an accident independent of all other causes which arose out of and in the course of the member's actual performance of his duties in the employ of a participating employer."; and by relettering original paragraphs (b), (c), (d), (e), (f), (g) and (h) of subsection (3) of original section 1, now renumbered section 3, as paragraphs (c), (d), (e), (f), (g), (h) and (i), ^{respectively;} also, on page 4, in line 12, by inserting after the word "eyes" the following: "or such severance of one hand and one foot, and such severance

of one hand or one foot and such loss of sight of one eye,";

On page 6, in line 8, by inserting after the word "Supp." the following: "74-4902, 74-4911 and"; also, in line 8, by striking the word "is" and inserting in lieu thereof the word "are";

In the title, line 2, by inserting after the semicolon the following: "defining certain terms; prescribing eligible employees;"; also, in line 4, by inserting after the word "Supp." the following: "74-4902, 74-4911 and"; also, in line 5, by striking the word "section" and inserting in lieu thereof the word "sections";

And the bill be passed as amended.

PROPOSAL No. 23

A PROPOSAL directing the Kansas legislative council to conduct a study of the cost and feasibility of increasing the coverage of the Kansas public employees retirement act by permitting certain members or retirants to apply for prior service credit with a participating employer other than their entry date employer and to make a report of its study, together with its recommendations to the 1967 general session of the legislature [to carry out 1965 House concurrent resolution No. 535].

This proposal was assigned to the legislative budget committee.

House bill 1029 was introduced in the 1965 legislative session to allow additional prior service credits for members of the Kansas public employees retirement system (KPERS) for service with a participating employer other than their "entry-date" employer. To qualify for the additional credit, the bill provided that a member of the system must: (1) Have been employed by a participating employer on its entry date, (2) be entitled to prior service credit with his "entry-date" employer, and (3) have been employed by a participating employer on March 15, 1961. If a member met these requirements, he would have been entitled to credit for prior service with any other participating employer. (The March 15, 1961, date was included in the original law to provide a firm date for determining employers' prior service liability under the retirement system).

To illustrate, under the present law a state employee who was employed by the state on March 15, 1961, and on its entry date into the retirement system, January 1, 1962, is entitled to credit for all of his prior service *with the state* before January 1, 1962, but not for prior service with another participating employer. Under house bill 1029, he also would have received credit for such other service.

House bill 1029 was not enacted. Instead, the legislature adopted House concurrent resolution 535 which directed the legislative council to make a study of the cost and feasibility of extending prior service benefits as provided in House bill 1029.

During the 1965 session the actuarial consultant to the board of trustees of KPERS was requested to prepare an estimate of the added cost which would arise from extending prior service credits along the lines subsequently proposed in House bill 1029. On March 8, 1965, the actuary reported that the extra cost to all participating employers, both state and local, would be approxi-

mately one-tenth of one percent of payroll, or less than \$100,000 in the aggregate. The equivalent increase in benefit liability was calculated at \$2 million, which would be amortized in the normal manner as provided in the retirement act. The estimate prepared by the actuary was based on records of employees of state and county welfare departments. It was assumed that such employees constituted a representative group. However, the board of trustees was of the opinion that those employees generally had more prior service with employers other than their "entry-date" employer than did the average member of the retirement system, and therefore the estimate of added cost was on the "high side" and was a maximum figure.

The committee, through the board of trustees, requested the actuary to review the cost figures during the first actuarial experience investigation of KPERS which was conducted earlier this year. In a letter dated April 29, 1966, the actuary reported that the cost calculations were not changed as a result of that review.

On June 23, 1966, the executive secretary of KPERS reported to the council that, on the basis of the two actuarial studies, Proposal No. 23 could be adopted without an increase in the contribution rate paid by participating employers. That is, in the opinion of the actuary the added cost could be absorbed under the present four percent rate charged for funding the retirement features of the system. At this point it should be stressed that the proposed extension of prior service benefits would apply only to prior service with a *participating* employer other than the "entry-date" employer. The justification for this limitation is that all participating employers would share in absorbing the extra cost. If the proposed benefit were granted to members of the system who formerly worked for a political subdivision regardless of whether it is a participating employer, nonparticipating employers would not contribute toward the cost.

The council recommends adoption of Proposal No. 23. One of the advantages of a statewide retirement system for public employees is that employees can transfer from one participating employer to another without loss of credits earned under previous employment. Adoption of Proposal No. 23 would strengthen that advantage. Also it would eliminate the disadvantage being suffered by some employees who have worked only a relatively short time with their "entry-date" employer but who had formerly worked for a long time with another participating employer. As previously noted, adoption of

the proposal would not cause an increase in the employer contribution rate. The number of state and local government employees who would gain from the proposed extension of prior service credits is relatively small compared to the total membership of the retirement system. But the increase in benefits could be significant in individual cases. In any event, the council believes that the extension of prior service benefits is meritorious solely as a matter of equity.

A bill to carry out this report is also presented to the legislature. The bill is patterned after House bill 1029, with some clarifying technical changes suggested by the executive secretary of KPERS. House bill 1029 provided that only members or retirants who had qualifying prior service with a participating employer before June 30, 1968, would be entitled to the additional credit. We would change this date to June 30, 1970, in keeping with the principle of House bill 1029. A three-year period after the effective date of the law was suggested by the actuary to provide a reasonable amount of time for making claims for additional credit, without leaving an open-end, unknown potential liability.

The council submits the foregoing report on Proposal No. 23, together with Bill No. 1 to the proper committees of the 1967 legislature.