

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS

The meeting was called to order by REPRESENTATIVE VERNON WILLIAMS at
Chairperson

9:00 a.m. Thursday, February 26, 1987 in room 527-S of the Capitol.
a.m./p.m. on

All members were present except: Representatives Duncan, Sutter
-excused.

Committee staff present:

Richard Ryan
Alan Conroy
Gordon Self
Rosalie Black

Conferees appearing before the committee: See attached list. (Attachment 1)

The meeting was called to order by Representative Williams, Chairman, to hear HB 2411 and HB 2232.

HOUSE BILL 2411 - Hearing

Ellyn Rullestad, Senior Auditor, Legislative Post Audit, reported the reason for an audit conducted last November was that newly hired unclassified employees at Regents' schools were being placed in a retirement annuity plan without meeting statutory requirements. She added it is not clear whether the Legislature intended for these employees to be immediately eligible for a retirement plan. If the Legislature did not intend for these employees to be immediately eligible for a retirement plan, there is an annual cost to the state of approximately \$250,000.

Attachment 2.

Ted Ayres, General Counsel, Kansas Board of Regents, recommended several options but preferred that there would be no requirement of a waiting period for any individual who could provide evidence of participation in any pension program for a minimum of one year immediately prior to employment in a Regents' institution. Attachment 3.

Marshall Crowther, Executive Secretary, KPERS, although not involved with the TIAA-CREF program, stated that if the preferred recommendation by the Board of Regents is accepted it's possible an employee of eleven months would not receive recognition as far as entry into a retirement plan.

HOUSE BILL 2232 - Hearing

Ellyn Rullestad, Senior Auditor, Legislative Post Audit, discussed

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS,
room 527-S, Statehouse, at 9:00 a.m. a.m./p.m. on February 26, 1987

HOUSE BILL 2232 - Hearing (continued)

HB 2232 which included exclusion of KP&F members from health and respiratory presumption of death and disability if the member has used tobacco products five years before death or disability. She pointed out disability provisions existing in surrounding states. Attachment 4.

Kenneth Hobbs, Fire Chief of Lenexa; Bob Giffin, Highway Patrol; and James Todd, Kansas State Firefighters Association questioned how a decision would be made to determine whether damage to heart and lungs is personal or from exposure to a service-connected disability. Attachment 5.

Marshall Crowther, Executive Secretary, KPERS, told committee members that terminology used in HB 2232 in Lines 80-82, especially the term "regularly" in using tobacco products, would initially make this type of question end up in court. He suggested using language indicating disability or death benefits would not be paid if a member of KP&F contributed to his/her lack of well-being by smoking tobacco products.

Mr. Crowther added it is unknown whether employer contribution rates would go up or down if HB 2232 passes.

The meeting adjourned at 10:00 a.m.

Rep. Vandyke

Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

2-26-78

NAME ADDRESS ORGANIZATION BILL NO.

Kenneth Hobbs 9620 Plumm Terrace - Fla. Dist 06215- 2232

Joe Thibodeau Lawrence KS FFA 2232

Alan Cochet Englewood St. Michael's Office 2232

Bruce (Will) ... Tapelle A D W P

Thursday, February 26, 1987

HB 2411 - Entry into retirement annuity plan at Regents' Institutions.

✓ Ellyn Rullestad, Legislative Post Audit

in show
~~Fred Sudermann, W.S.U.~~

✓ ~~TED AYRES (AIRS) Board of Regents~~

TED AYRES, Board of Regents

✓ Marshall Crowther

HB 2232 - Exclusion of KP&F members from health and respiratory presumption of death and disability if user of tobacco products five years before death or disability.

✓ Ellyn Rullestad, Legislative Post Audit

~~Ray Bailiff, President, Kansas State Troopers Association~~

✓ Kenneth Hobbs, Fire Chief of Lenexa

✓ BOB GIFFIN, Highway Patrol

✓ JAMES TODD - Kansas ^{State} Firefighters Assoc.

✓ Marshall Crowther

**Presentation to the House Pensions, Investments, and Benefits
Committee - February 26, 1987**

Ellyn Rullestad, Legislative Post Audit

Legislative Post Audit released a performance audit concerning entry into retirement annuity plans at the Regents' institutions this past November. The concern that prompted the audit was that newly hired unclassified employees at Regents' schools are being placed in a retirement annuity plan without meeting the statutory requirements.

Generally, State law requires that new employees wait two years before they can participate in the retirement program. Two exceptions to this requirement are provided: first, an employee can begin immediate participation if he has a valid retirement annuity contract at the time he begins work. Second, the employee can begin immediate participation if he has two years of service out of the last five with a KPERS employer.

We looked at the files of the 406 employees hired by the Regents' institutions over the past two years who had been placed in a retirement plan immediately. We found the following:

- 23 were ineligible because they received their contract after begin work
- 285 had a valid contract when they began work
- 98 had two years of service with a KPERS employer.

Of the 285 with a valid contract, 126 obtained their contract just before beginning work. For example, they may have obtained their contract the day before they came to work for the first time. These employees are meeting the letter of the law - they have a contract before they begin work. However, it is not clear whether the Legislature intended for these employees to be immediately eligible for a retirement plan. If the Legislature did not intend for these employees to be immediately eligible for a retirement plan, there is an annual cost to the State of about \$250,000. House bill 2411 would clarify the intent of the statute by requiring the new employee to have had at least six months of prior contributions made on his behalf before being eligible for immediate participation in a retirement plan.

We also found that 98 new employees had at least two years of service with a KPERS employer. Six of those employees had been employed while they were students. Thus, they were employed by a KPERS employer, but were not actually eligible for participation in KPERS. House bill 2411 clarifies Legislative intent in this area as while by requiring that previous service with a KPERS employer be in a position that would be eligible for KPERS participation.



KANSAS BOARD OF REGENTS

SUITE 609 • CAPITOL TOWER • 400 SW EIGHTH • TOPEKA, KANSAS 66603-3911 • (913) 296-3421

January 16, 1987

Mr. James Wilson
Assistant Advisor
Revisor of Statute's Office
Statehouse
Topeka, Kansas 66612

RE: K.S.A. 74-4925

Jim:

This will be a follow-up to our earlier discussions in reference to the above statute vis-a-vis the eligibility period. As a follow-up to the brief review of options I previously forwarded to Senator Bogina, I would like to submit the following for your attention.

A systemwide Regents Benefits Committee has reviewed the various options discussed with the Post-Audit Committee and submitted to the Senator, and would like to express a preference for option 3. This option, with modifications suggested by the Committee, would be as follows:

1. One year waiting period.
2. During the one-year waiting period, the employee could optionally contribute to the voluntary tax-sheltered annuity program of the Board of Regents.
3. There would be no required waiting period for any individual who could provide acceptable evidence of actual participation in any valid employer pension program for a minimum of one year immediately prior to his/her employment with a Regents institution.
4. There would be no waiting period for specifically defined prior employment with employers covered by the Kansas Public Employees Retirement System.

Jim, I would like to provide the following commentary in reference to the above and as modified by that previously submitted:

1. We have clarified that the voluntary contributions would be to the voluntary tax-sheltered annuity program (it is now our understanding of the Tax Reform Act of 1986 that all employees, as of 1989, must be immediately eligible upon employment for such elective programs).

ATTACHMENT 3

2-26-87

Mr. James Wilson
January 16, 1987
Page 2

2. We have added the requirement of a minimum one year's participation in an existing pension program in an effort to help provide some more definite guidelines to the campus.

It is hoped the above provides you with some helpful information. I would be happy to discuss this with you and/or attempt to answer further questions at your convenience and/or wish.

Best regards,

Ted D. Ayres
General Counsel

TDA:bf

cc: Senator August Bogina
Dr. Stanley Z. Koplik
Dr. Richard Mann

**Presentation to the House Pensions, Investments, and Benefits
Committee - February 26, 1987**

**Ellyn Rullestad
Legislative Post Audit**

House bill 2232 amends the definition of service-connected disability or death to mean any death or disability resulting from a heart or lung disease if the member has not regularly used any tobacco products during the five years immediately preceding application for such death or disability benefit.

Legislative Post Audit released a performance audit of the Kansas Police and Firemen's Retirement System in January 1986. One of the things we did for that audit was to review the files of people who had retired on disability from the Police and Firemen's Retirement System. We examined 44 files of recent disabled retirants and determined the reason for the disability. We found that 20 of those received a disability retirement due to either heart or lung problems. A total of 17 of the disabilities were heart-related, while the other three were lung problems. Because these problems are currently considered service-related if the member has five years of service, in all cases, the disability was determined to be service-related. Our data did not show whether or not the disabled member had used tobacco products.

Our more recent audit of the Police and Firemen's Retirement System looked at the disability provisions that exist in surrounding states. We found that in Iowa, heart and lung problems are considered to be service-related. The statute specifically reads that "disease... shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases." The disability in this case is considered accidental and there is no service requirement for it. In Missouri, heart and lung problems are considered service-related only for firemen with at least five years of service. The statute provides that the member must have passed a physical examination within five years prior to the time a claim is made for such disability and that the examination must have failed to reveal any evidence of such a condition before the disability is allowed.

James T. ...

STATISTICS FROM SURVIVAL IN THE FIRE FIGHTING PROFESSION

Let us first consider the probability that the firefighter is subject to an increased risk and accelerated form of the garden variety coronary heart disease. The basis is really quite simple. The emotional stress of hearing the go-alarm is enough to cause chemicals to be discharged into the blood stream, chemicals which cause arteries to constrict and cause blood to clot while it increases the work of the heart.

Add to this the extreme environmental stress, the stress of extreme heat, of extreme cold, of extreme humidity and pile on top of this the physical stress of carrying 80 pounds of hose up two flights of stairs under these conditions. The next very obvious contributing factor is the environment that the firefighter is exposed to. So long as there is smoke and insufficient oxygen for complete combustion there is always carbon monoxide. The scat 100, 200, 300 parts per million that are encountered in industry or in dense traffice are considered to play an important role in the development of coronary heart disease. The carbon monoxy-hemoglobin produced by smoking cigarettes is considered to be the mechanism whereby cigarette smoking causes accelerated coronary heart disease.

These values are negligible in comparison to the 5,000 to 20,000 part per million that are frequently obtained in aburning building. They are negligible in contrast to the carbon monoxy hemoglobin levels of 30 to 45% that have been demonstrated in the blood of firefighters after active firefighting. The next aspect of this toxic environment that is universally present is inadequate oxygen. The oxygen content in a burning building room may be as low as 5%, it is frequently below 10% and is usually below 15%. The carbon monoxide content in a burning room is very frequently in excess of the level considered safe with the best demand type of breathing apparatus. In addition, hosts of other toxic gases are very frequently present in the area of active combustion. These gases include oxides of sulfur, oxides of nitrogen, hydrogen sulfide, phosgene gas, hydrogen chloride, and hydrogen cyanide. All of these mechanisms would cause acceleration of ischemic heart disease and heart cell damage with or without acceleration of the coronary arteriosclerosis.

Another mechanism which appears evident from my observations is primary lung disease. Exposure to products of combustion causes pulmonary edema, that is, fluid in the lungs, or drowning. At the time when the lungs are filled with water they cannot properly absorb oxygen or discharge carbon dioxide. Exercise test at this time will frequently show positive indicating the deprivation of heart cells of adequate oxygen to meet their needs, as a result of this pulmonary edema or as a result of direct damage to the heart cells by the toxic gases mentioned. Heart cell damage would occur without hardening of the arteries and I believe this is the reason for the heart damage in my three patients who did not have any hardening of the arteries.

1. The firefighter is the victim of an accelerated course of coronary heart disease because of his occupation.
2. The firefighter is heir to an unique and unusual type of heart cell damage because of his occupation. These are certainly testable hypotheses.

through breathing polluted air? Do repeated, "sub-lethal" smoke exposures damage organs or systems other than the lungs? Is the increasing use of plastics

immolation problems, whether fire service members or civilians, will continue to be treated by physicians without fire service experience, and they must be given the knowledge to do the job properly.

TABLE I

CHANGES IN PULMONARY FUNCTION AFTER SMOKE EXPOSURE *

Test	Control	After Fire	Difference	% Change
FVC (ml)	4590.75	4435.13	-155.63	-3.4
FEV (ml)	3740.70	3599.88	-140.83	-3.8
FEF ₁ (L/min)	502.15	466.95	- 35.20	-7.0
FEF ₂ (L/min)	254.00	234.58	- 19.43	-7.7

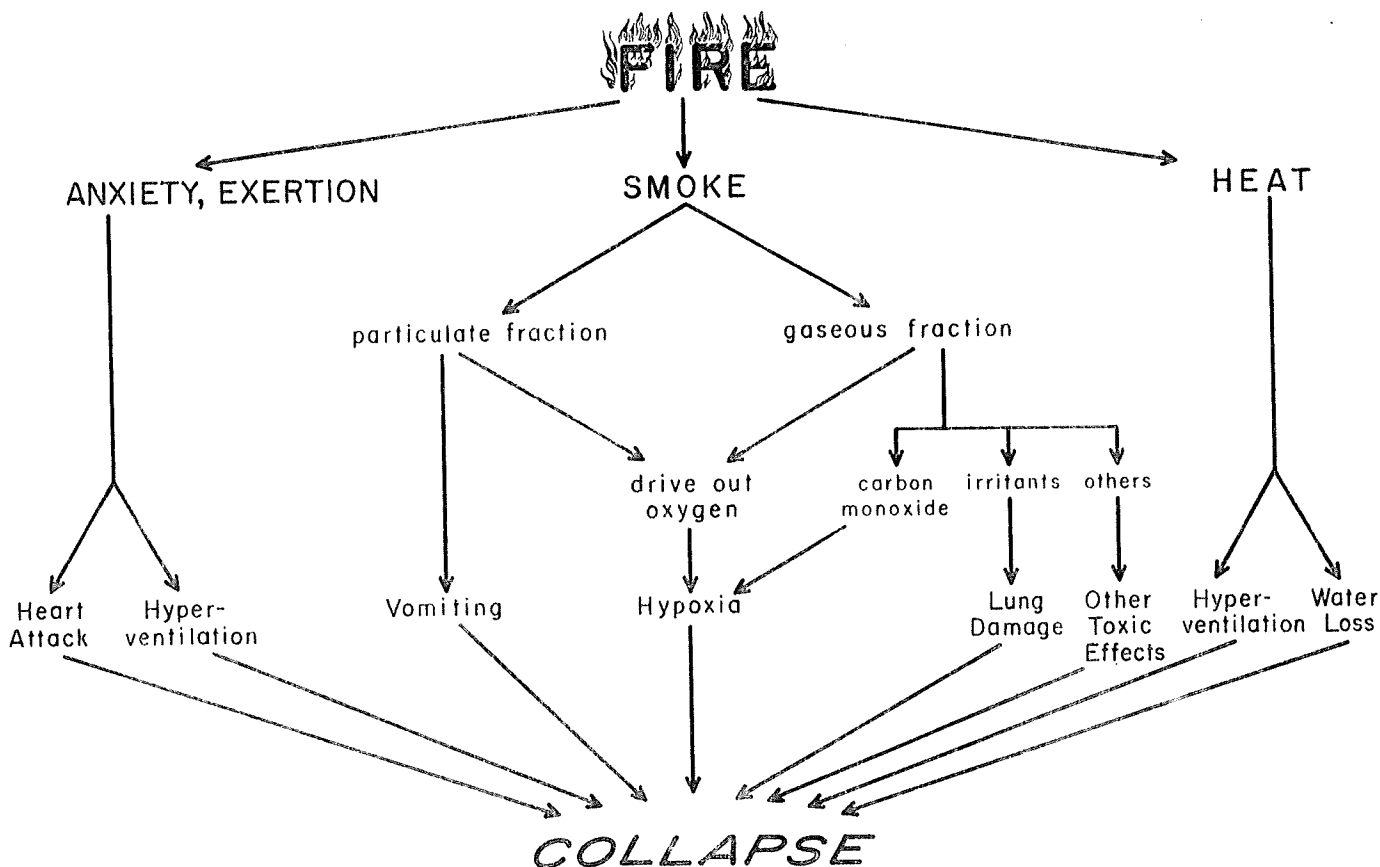
* Average values in 40 firefighters studied.

TABLE II

CHANGES IN PULMONARY FUNCTION AFTER EXPOSURE TO PULMONARY IRRITANTS *

Test	Control	After Fire	Difference	% Change
FVC (ml)	4310.00	3290.00	-1020.00	-23.7
FEV (ml)	3390.00	2200.00	-1190.00	-35.0
FEF ₁ (L/min)	364.00	146.00	- 118.00	-59.7
FEF ₂ (L/min)	197.60	122.20	- 75.40	-38.0

* Average values in 5 firefighters studied.



Overcome by Smoke?