

Approved April 7, 1989
Date

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS

The meeting was called to order by Rep. Vernon L. Williams at
Chairperson

8:04 a.m./~~p.m.~~ on March 27, 1989 in room 527-S of the Capitol.

All members were present except:

Rep. Barbara Allen - Excused
Rep. Lawrence Wilbert - Excused
Committee staff present:

Gordon Self-Revisor's Office
Marshall Crowther-KPERS
Jack Hawn-KPERS
Mary Meier-Secretary

Conferees appearing before the committee:

Rep. Michael O'Neal
Rep. Sheila Hochhauser
Ellsworth Gerritz
Charles Dodson, KAPE

Rep. Williams, Chairman, announced the opening of hearing on HB2229.

The first proponent was Rep. Michael O'Neal, one of the bill's sponsors, who gave an overview of the bill, and responded to questions regarding legislators' taking action with respect to their compensation.

There was no discussion, and Chairman Williams declared the hearing on HB2229 closed.

Chairman Williams then announced the opening of hearing on HB2360. Rep. Hochhauser appeared as a sponsor and proponent of the bill. She presented written testimony (Attachment 1), giving an overview of its contents, stressing that the bill will terminate the program in a constitutional way which the public will understand.

Chairman Williams recognized her presentation and research, expressing his appreciation.

The next proponent was Ellsworth Gerritz, who strongly urged the passage of this bill, noting the cost of doing so would be the cheapest "way out."

There were no opponents, and Chairman Williams declared the hearing on HB2360 closed.

Chairman Williams then announced opening of hearing on HB2366, and asked for proponents and opponents of the bill. There being none, and no discussion, the hearing on HB2366 was declared closed.

Chairman Williams then announced the opening of hearing on HB2416. He stated that this bill was introduced by the Pensions, Investments and Benefits Committee, and provided that the annual factor be reduced to equate with the 5% contribution. He announced that the factor did not equate, and with that in mind would not support the bill as written, but offered a Conceptual Amendment to HB2416, which he read to the Committee and asked that they consider. (Attachment 2).

At that time Charles Dodson, KAPE, appeared as an opponent to all of the bills heard this date. He offered a collective written testimony (Attachment 3) and stated that he had talked to many members of his organization and that they were unanimously supportive of the position that the issue is one of policy decision and that retirement benefits should not be diminished for any group.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS,
room 527-S, Statehouse, at 8:04 a.m./~~p.m.~~^{xx} on March 27, 1989.

After a short discussion following Mr. Dodson's testimony, Chairman Williams proceeded with an explanation of the Conceptual Amendment to HB2416. He said that this amendment would virtually remove the language of HB2416 and replace it with the conceptual amendment. Also include language of HB2409 pertaining to maintenance of contribution level selected. It was MOVED by Rep. Sutter and SECONDED by Rep. Shallenburger that the conceptual amendment to HB2416 be adopted and that HB2416 as amended be passed favorably. On voice vote, the MOTION passed.

On questioning, Chairman Williams indicated it was not his intention to have further action on other bills.

Minutes of meetings on March 8, 9, 14, 15 and 16 were approved as submitted.

The meeting adjourned at 9:05 a.m.



Representative Vernon L. Williams
Chairman

3-H 89
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Please PRINT Name, Address, the organization you represent, and the Number of the Bill in which you are interested. Thank you.

NAME	ADDRESS	ORGANIZATION	BILL NO.
B Covey	Topeka	KRTA	
C Dodson	Topeka	KAPE	
EM Gerritz	Manhattan Ks		
HAROLD PITTS	TOPEKA	KRTA	
Marshall Cuthbert		KPERS	
Jack Hawn		KPERS	
Charles L. Stewart	Topeka	U.S.A.	

TESTIMONY OF REPRESENTATIVE SHEILA HOCHHAUSER

HOUSE BILL 2360

COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS

MARCH 27, 1989

Mr. Chairman and House Colleagues:

I appreciate the opportunity to speak with you about House Bill 2360. As you know, the enactment of special member benefits in the Kansas Public Employees Retirement System (KPERs) for elected officials has proven to be controversial. The special member benefits may be modest in comparison with the retirement benefits received by elected officials in other states, as was pointed out by John W. Macklin, a national expert on public pension plans whom you consulted. They are, however, generous when compared with the retirement benefits paid to other public employees in Kansas, such as retired teachers, firefighters, and classified state employees.

Enhancement of the compensation package for elected state officials may well be necessary to attract the best and the brightest in Kansas to serve in public office. As a first-term legislator, I am learning how our service in the Kansas Legislature demands sacrifices in our personal lives, in the lives of our families, and in our abilities to earn a living. To encourage Kansas' talented citizens, in the primes of their lives, to serve in the Legislature, perhaps we should engage our constituents in a candid discussion of whether legislative pay should be increased. Raising legislative retirement benefits, which will not be paid out to many new legislators for 20, 30, or even 40 years, would not seem to accomplish the goal of making public service more inviting.

House Bill 2360, which I cosponsored with Republicans and Democrats, quite simply repeals the special member benefits for all legislators for terms served in the Legislature after 1990. The special member benefits will be paid for all terms served before the legislative session beginning in January, 1991. Perhaps the best way to explain how this will work is to use an example. If a legislator with twelve years of service were to retire after the session ending in 1992, he or she would receive the special, higher benefits for the first ten years of legislative service and the regular KPERs benefit for the last two years of legislative service.

The theory underlying House Bill 2360 is that each term of legislative service is a separate contract between the state and the legislator. Like any contract, the contract provisions can be changed for future dealings between the parties, but not for dealings that took place in the past. Therefore, the special, enhanced retirement benefits for this present legislative term and for all legislative terms served by a legislator in the past would

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ATTACHMENT 1*

not be affected by the repealing provisions of House Bill 2360. This means that any legislator who had elected to be a special member and who retired before the legislative session beginning in January, 1991, would receive the special benefits for all of his or her years of service in the Kansas Legislature.

House Bill 2360 does not attempt to repeal the special member benefits for all legislators at the moment of its passage by the Legislature. In the opinion of our Attorney General and our Legislative Counsel, to do that would be unconstitutional. An unconstitutional repeal would most likely be successfully challenged in court and result in no repeal of the special member benefits. However, House Bill 2360 does more than simply end the time for electing to be a special member of KPERS, which is the only thing that will be accomplished under the provisions of several other bills you will hear about this morning.

The idea for House Bill 2360 came to me after I read the legal opinion of Robert Coldsnow, our Legislative Counsel, on whether it would be constitutional to repeal the special member KPERS provisions for elected officials. Chairman Williams requested Mr. Coldsnow's legal opinion, and I want to commend him and thank him for doing so. The last paragraph of that opinion states the following:

. . . As to those members of KPERS who have become special members under the provisions of the 1988 Act, it is my opinion that any legislative modification of the 1988 Act, or repeal thereof, would not affect covered special members for any covered governmental service prior to the modification or repeal, and such legislation would be invalid if it attempted to affect prior service. Assuming some form of membership in KPERS would still be available to those defined as "elected state officials" in the 1988 Act, those "elected state officials" continuing in governmental service, in effect, would then have a multiple tier benefit plan.

House Bill 2360 would place the multiple tier benefit plan noted by Mr. Coldsnow into effect. In my opinion as a lawyer, and it appears, in Mr. Coldsnow's opinion, House Bill 2360 would be constitutional. It does not attempt to affect prior legislative service, so, unlike other proposed bills you may review, it will not be invalid.

I urge you to thoroughly discuss HB 2360 and to recommend it favorably to the full House for consideration. This will show the citizens of Kansas we are serious about being fair. As these issues are complicated, I will be pleased to try to answer any questions you may have. Gordon Self, of the Revisor's office, who carefully researched this area of the law before drafting this bill, should be able to address questions I cannot answer.

CONCEPTUAL AMENDMENT TO HOUSE BILL 2416

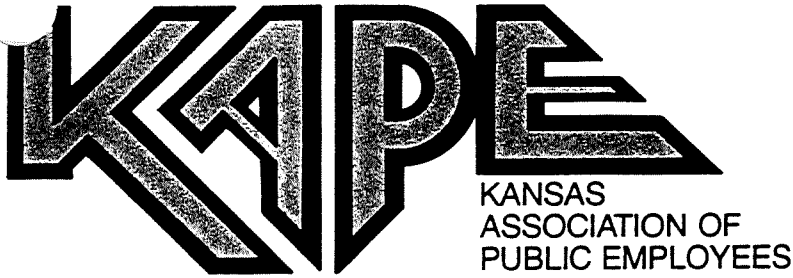
All elected state officials who have exercised their election for special provisions (special members) will have the election continue in effect until the end of their current term. At the end of their current term, their retirement status will revert to that prior to the election. Any rights and benefits accruing prior to the end of the term under the special provisions will remain in effect.

At the commencement of a new term, elected state officials may elect to be subject to the special provisions (special members). Those so electing will make employee contributions in the amount certified by KPERS on the advice of the actuary needed to pay the additional cost of benefits to be earned under the special provision, and the employer contribution rate will be the same as for all other KPERS employees.

Such elections must be made within 30 days of taking the oath of office and will remain in effect until written cancellation or the end of service as an elected official. All new elected officials who first take office after the effective date may elect the special provisions, but will pay all additional costs.

Any elected state officials who make elections after the effective date of this legislation would no longer have leadership pay included in their compensation base for contributions and benefits. Any electing the special provisions who are purchasing or who purchase service credit by double deductions would pay double the employee rate.

*House P.I.B.
3-27-89
ATTACHMENT 2*



Charles Dodson
March 16, 1989

House Bills 2229, 2360, 2366 and 2414

Mr. Chairman, members of the Committee, thank you for this opportunity to appear in opposition to HB 2229, HB 2360, HB 2366 and HB 2416.

During the 1987 interim session there was discussion by the Joint Ways and Means Committee about making some adjustments to the retirement act which would have had the effect of lowering the retirement pay for some KPERS participants. As you may recall, the question evolved around a perceived inequity on payments for accumulated sick leave. You gave us the opportunity to express our opinions and we appreciate it.

Our presentation at that time did not deal with the subjective evaluation of whether such payments should have been authorized in the first place, but rather on the policy consideration of granting a retirement enhancement and then canceling such enhancement.

We believed strongly that once a benefit was in "The Act" it must remain. As I recall, a court case or two was cited during the hearings as confirmation of the relationship between the employer and employee as it related to the retirement provisions. Although the political will to remove those lump-sum payments from counting for retirement purposes was strong at that time, you resisted, and in so doing protected the integrity of the retirement act.

The retirement act is once more under siege. The political will is extremely strong to make a change. And, once more, Mr. Chairman and members of the Committee, we ask you to come to the defense of the retirement act. Once more, we ask you to resist making a decision based on the political will or on an after the fact subjective evaluation as to whether the amendment should have been made. Instead we ask you to reinforce the confidence of the thousands of KPERS participants that once this legislature tells any employee or group of employees that they can base their retirement decisions on a given set of circumstances, they can bet their retirement that it will stay at least at that level.



The most important issue before you today is the policy decision you will be making if you diminish the retirement benefits for any group. It really doesn't matter whether the changes are prospective or retroactive. It doesn't matter whether you set up a two tiered retirement system for future participants or for current participants. For the organization I represent here today, the issues of national ranking, equity or need take a back seat to the overriding policy considerations and implications these bills represent.

The policy to date has allowed all KPERS participants to have confidence in the retirement system. Once that confidence is damaged, recovery will be difficult. When one must make financial plans for retirement twenty or thirty years in advance, confidence is critical.

During the summer of 1987 you gave the confidence destroying measures a fair hearing and then they were considered no more. In this instance that is a very good precedent.