Approved MARCH 22, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS.

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

7:59 a.m./p.m. on February 28, 1989 in room 519S of the Capitol.

All members were present except:

Rep. Tim Shallenburger (Excused)
Rep. Bell Borum (Excused)

Committee staff present:

Richard Ryan, Legislative Research
Mary Meier, Committee Secretary

Others: Marshall Crowther, KPERS
Jack Hawn, KPERS

Conferees appearing before the committee:

Roger Krehbiel, Kansas Dept. of Corrections
Gary Rayls, Kansas Dept. of Corrections
William Weineke, American Federation of State, County and Municipal Employees
Rep. Denise Everhart
Charles Dodson, KAPE
Rep. Sebelius
Mark Reber

Chairman Williams announced first order of business would be hearing of HB2402, the conversion of Corrections KPERS to KP&F. He introduced Roger Krehbiel, Department of Corrections, who offered oral and written testimony (Attachment 1) in support of HB2402. Mr. Krehbiel said that Secretary Steve Davies, at the time of his appointment, established a committee to review the Dept. of Corrections KPERS program. The committee was made up of various representatives of different agencies and institutions within the department. The committee took a close and careful look at the program and offered the attached proposal (Attachment 1). He estimated for future service additional cost will be $1.4 million.

Mr. Krehbiel then introduced Gary Rayls, Dept. of Corrections, who Chairman Williams welcomed to the committee. Mr. Rayls testified as to the importance of correctional officers having an opportunity to choose their retirement system. Chairman Williams asked if a majority of the employees are former military employees. Mr. Rayls responded this is not the case now because the department can compete with the private market and hire a much younger employee and that a high percentage of new hires are more career oriented. Mr. Rayls further stated that the conversion is a one-time option and that people coming into this program would contribute 7% of their salary. In response to query by Chairman Williams he replied that these people are also covered by social security and pay 7.65% of salary up to the threshold.

Chairman Williams then introduced William Weineke, American Federation of State, County and Municipal Employees, who represented correctional officers at Kansas State Penetentiary and Kansas Corrections at Lansing. Mr. Weineke offered oral testimony in support of HB2402. He stated that Kansas is one of the few states that does not have something like this in effect; that most states would have retirement and disability program for correctional officers. Also emphasized that there has been tremendous change in number of retired military employees and that becuase of the salary structure they have been able to attract career type employees.

Rep. Sader commented that she had noticed provision for inclusion of Secretary and Deputy Secretary of Corrections in this program, and wondered if this were applicable to other cabinet secretaries. Marshall Crowther responded that the cabinet secretaries have a special retirement provision. They had been under KPERS until a couple years ago when there was an amendment which allowed cabinet secretaries and certain other designed individuals in respective legislative branches to elect not to participate in KPERS

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS AND BENEFITS,

room 519S, Statehouse, at 7:59 a.m./p.m. on February 28, 1990

and just have a percent of their salary contributed to a State Deferred Compensation Program.

Chairman Williams closed the hearing on HB2402.

Chairman Williams then opened the hearing on HB2838.

Rep. Everhart, one of the sponsors of the bill, offered oral and written testimony (Attachment 2). Chairman Williams asked the cost, to which Rep. Everhart replied that she did not know.

Charles Dodson, KAPE, spoke briefly in favor of this bill.

Marshall Crowther spoke briefly in defense of existing policy. He agreed with Rep. Everhart that it would be more fair and equitable, and that administratively it would be easier, however, KPERS is bound by existing law.

Rep. Wilbert suggested KPERS might send out a memo once a year regarding the spousal election, to which Mr. Crowther replied there were many things KPERS would like to do but are restricted by budget. He stressed that KPERS does many informational mailings, hoping to keep its membership well informed.

Chairman Williams closed the hearing on HB2838.

Chairman Williams opened the hearing on HB2940 and introduced Rep. Sebelius, sponsor and proponent of the bill which would treat employees who adopt children the same as employees who have babies, insofar as sick leave is concerned. Rep. Sebelius introduced Mark Reber, who read a letter composed by his wife which requested sick leave when adopting a child.

There were no questions, whereupon Chairman Williams closed the hearing on HB2940.

The meeting adjourned at 8:30 a.m.

Vernon Williams

Rep. Vernon L. Williams
Chairman

KANSAS DEPARTMENT OF CORRECTIONS

INTERDEPARTMENTAL MEMORANDUM

TO: Committee on Pensions, Investments and Benefits
Representative Vernon Williams, Chairperson

FROM: STEVEN J. DAVIES, Ph.D. SJD
Secretary of Corrections by Richard Koerner

DATE: February 28, 1990

SUBJECT: House Bill 2402, Conversion of Corrections KPERS to KP&F

Introduction

During the past year, Secretary Davies established a committee to review employee retirement issues with a specific emphasis on the review of the Corrections KPERS program. The committee, after a thorough review of Regular KPERS, Corrections KPERS and KP&F, made the following proposal to Secretary Davies who endorsed the proposal fully and has asked that we present it to you on his behalf.

Corrections KPERS Proposal

1. Classes to be covered:

   Correctional Officer Trainee
   Correctional Officer I & II
   Correctional Specialist I, II & III
   Correctional Manager I*, II & III
   Corrections Director I, II, III & IV
   Correctional Counselor I & II
   Unit Team Manager
   Parole Officer I & II
   Parole Supervisor
   Secretary of Corrections**
   Deputy Secretary of Corrections**

* Correctional Manager I classes located in the Central Office of the Department of Corrections to be designated as a covered position by the Secretary of Corrections.

** To remain in covered group once promoted if three years of service prior to promotion was in Corrections KPERS.

Att. 1

Our proposal establishes a new single group and eliminates the three current levels of Corrections KPERS. The position classes to be covered include those currently in Group A of Corrections KPERS and is expanded to include Parole Officers, Parole Supervisors, all Correction Directors and Correctional Manager II and III's (Deputy Directors) who previously had to be in a covered position when promoted to be covered by the program. The proposal also provides for the Secretary of Corrections and Deputy Secretaries of Corrections to be covered by the program if prior to appointment they were in a covered position for three years. Classes now covered in Group B of Correctional KPERS would have a one time option to convert to regular KPERS or remain in the current program. All new employees hired into the classes would participate in regular KPERS as all other employees in the Department. The proposed new group addresses those classes defined by statute as law enforcement personnel and those classes who directly have supervisory and management responsibilities over these classes.

2. Percent of employee's salary contributed - 7%.

It is our recommendation that the employee contribution be increased from 4% to 7% of gross wages. This increase is felt to be appropriate based on the increased benefits of the program. This amount is the same percentage as contributed for KP&F.

3. Retirement at age 55 with 20 years of service with no reduction in benefits.

Corrections, as you are aware, is a very demanding and stressful occupation. This recommendation provides the designated group of employees the opportunity to retire after attainment of age 55 and 20 years of service. The age and years of service requirement is the same as KP&F, except it does not include the provision for full retirement at age 50 with 25 years of service or age 60 with 15 years of service as KP&F.

4. Retirement Benefit - 2% x years of participating service x final average salary not to exceed 70% + 1/2 of health insurance premium.

The retirement benefit recommended is equal to that of the KP&F plus we propose it include 1/2 of the health insurance premium under the State's group health insurance program for a single membership. The current retirement rate does not provide, at age 55, a sufficient monthly benefit to retire. The actuarial studies show that since Corrections KPERS was established most persons are waiting until age 62 to retire at which time they can also draw social security benefits.

5. Final average salary = average of three highest years of annual salary.

This is a change from both KP&F and regular KPERS.

6. Vested after 20 years of participating service.

This is the same as KP&F prior to new legislation effective July 1, 1989.

7. Duty Caused Death Benefit - Definition: Service connected accident, for members with five or more years of credited service; heart disease is presumed service connected. Spouse - 50% of FAS until death or remarriage and a $50,000 lump sum payment. Each child 10% per child until age 18 or marriage or until such child or children attain the age of 23 years if such child or children are full time students.

This benefit is the same as KP&F except we do not include lung disease as presumed service connected.

8. Non-Duty Caused Death Benefit - Return member's actual contributions plus interest. Insured death benefit of 100% of annual rate of compensation payable to beneficiary.

This proposal is unchanged from the current program and is the same as regular KPERS.

9. Duty Caused Disability - Definition: Total inability to perform permanently the duties of a correctional employee. Benefit: 65% of FAS reduced by 1/2 of Worker's Compensation benefit. Continued group life insurance benefit. Participating service granted during period of disability. Minimum monthly benefit of $100 per month.

Our recommendation mirrors closely that of regular KPERS. The one significant difference is that duty caused disability is defined as the inability to perform permanently the duties of a correctional employee.

10. Non-Duty Caused Disability - Same as duty caused disability.

Implementation

The Department recommends that current employees be offered a one time option to convert to the proposed retirement program or remain with the existing program. All employees hired on or after the effective day of the proposed program would be required to participate in the program. Those employees currently covered under Corrections KPERS B, who are not covered by this proposal would have a one time option to convert to regular KPERS or remain with the current retirement program. Employees in these classes hired after the effective date of this proposal would become members of regular KPERS.

The Department is recommending that the above proposal will be for future service only. We estimate that for future service the additional cost will be 1.4 million dollars.

SJD/ERK/dsc

STATE OF KANSAS

DENISE L. EVERHART
REPRESENTATIVE, FIFTY-NINTH DISTRICT
4332 SE HEATHCLIFF
TECUMSEH, KANSAS 66542
(913) 379-0541

COMMITTEE ASSIGNMENTS
MEMBER: JUDICIARY
LABOR AND INDUSTRY
TRANSPORTATION

TOPEKA

HOUSE OF REPRESENTATIVES

Chairman Williams and members of the Pension, Investment, and Benefits Committee:

Thank you for this opportunity to appear before you today in support of HB 2838.

Presently, if an employee with more than 35 years of service dies prior to retirement his surviving spouse as beneficiary may only receive benefits as a joint annuitant under the joint and 1/2 to joint annuitant survivor option unless the member has filed his intention to elect under another option.

I sincerely believe this is an injustice, and urge you to support this legislation which would allow a surviving spouse to select any option available to the member.

I have attached to my testimony correspondence concerning this issue.

ATT. 2

September 18, 1989

Mr. Marshall Crowther
Executive Secretary
Kansas Public Employees
Retirement System
Capital Tower - 2nd Floor
400 West 8th
Topeka, Kansas 66603-3911

Re: Dwight E. "Doc" Robinson
SSN: 007-20-1640
Kansas Department of Transportation

Dear Mr. Crowther:

I am writing on behalf of my mother and my deceased father, D. E. "Doc" Robinson (September 3, 1989) regarding the manner in which my father's benefits under the Kansas Public Employees Retirement System (KPERS) will be paid to my mother. I am a Certified Public Accountant and I have been assisting my mother with her financial affairs during these difficult past two weeks.

It is my understanding from the literature provided to me by your office that, in general, upon the death of an employee, such employee's surviving spouse is entitled to a lump-sum payment of the employee's accumulated KPERS contributions. An exception to this general rule exists when an employee dies with 35 or more years of credited service prior to retirement. Under this exception (which is applicable to my father who had 40 years of credited service), the employee's surviving spouse has the option of receiving either a lump-sum payment of the employee's accumulated KPERS contributions or a monthly benefit from KPERS payable for life under a joint and 1/2 joint survivor annuity type arrangement. It is also my understanding that still another exception exists in those instances when an employees dies with 35 or more years of credited service and has "pre-selected" any other joint and survivor option. In this instance, the employee's surviving spouse can either choose from among the options outlined under the first exception for receiving KPERS benefits or can elect the option (if different) pre-selected by the employee before death.

Obviously, given a choice of all of the various joint and survivor options available from KPERS upon the death of my father, the joint and 1/2 joint survivor option is financially not the most attractive retirement benefit option to my mother. As a result, I met with Mr. Dean Kelly, Assistant Chief of Member Services, of your office to determine if my father had pre-selected a retirement benefit option. While my father had already determined that he would retire in May, 1990 and had informed many people throughout the Kansas Department of Transportation and the Governor's Office of such decision, Mr.

Mr. Marshall Crowther September 18, 1989

Kelly informed me that he had not filed an election of retirement option with your office. Consequently, Mr. Kelly informed me that my mother's only choice for a monthly benefit option payable for life from KPERS is the joint and 1/2 joint survivor option.

It seems clear to me that it is the intent of KPERS in providing the general exception for employees dying with 35 or more years of credited service to reward such long-term employment by allowing a surviving spouse to obtain the same benefits under any of the joint and survivor options that would have been received had the long-term employee lived to retirement. I find it difficult to believe and somewhat discriminatory that KPERS would carve out this wonderful and compassionate exception for the payment of benefits to surviving spouses of deceased, long-term employees and then restrict its availability and uniform application to all such affected surviving spouses. From your KPERS literature, it is my understanding that the "pre-selected" option for the payment of retirement benefits was not, in any way, binding upon my father had he lived to his retirement date. Moreover, the election form for pre-selecting such options was not even required to be completed by my father or any other KPERS employee with 35 years of credited service. My father would have also been required at the actual date of his retirement to again select a retirement benefit option (whether it was the same or different from his pre-selected option) which would then have been binding on both he and my mother until death. Again, I wish to point out the inconsistency and the impropriety of the restriction limiting the use of the exception specifically made available to surviving spouses of deceased employees with 35 or more years of credited service. It is inconceivable that my mother cannot obtain the KPERS benefits she is otherwise entitled to receive as the surviving spouse of a deceased, long-term employee under any of the joint and survivor options because of the lack of a <u>non-required</u>, <u>non-binding election</u>.

Accordingly, based on the explanation provided above, I respectfully request on behalf of my mother that you, as the Executive Secretary, exercise your powers within the administrative latitude of KPERS and grant to my mother, the surviving spouse of a deceased State of Kansas employee with 40 years of credited service, the ability to select from the joint and survivor retirement options my father would have been able to choose from had he lived to his retirement date in May of 1990. My father was a proud employee of the State of Kansas and he served Kansas faithfully with dignity and honor for 40 years. I know from my work as a CPA that, actuarially, the sum of the contributions my father made to KPERS out of his gross pay (since the inception of KPERS) plus the funds contributed to KPERS for his behalf by the Kansas Department of Transportation has more than covered the cost of any of the joint and survivor retirement options for my mother until her death. Thus, it seems only proper that my mother should receive the monthly retirement benefit from KPERS, as determined under any of the joint and survivor options, that my father had rightfully earned.

Mr. Marshall Crowther

September 18, 1989

My mother is currently not aware of the previous discussions I have had with Mr. Dean Kelly or the writing of this letter. I respectfully request that you and your office correspond only with me regarding this matter as my mother is burdened enough with my father's death. If I can be of any additional assistance in this matter, or if it is possible to discuss this matter in greater detail, please contact me immediately by telephone at 602-252-6583. Please send any written correspondence to:

Mr. Barry E. Robinson, CPA
Ernst & Young
100 West Washington, Suite 900
Phoenix, Arizona 85003

Personal and Confidential

Thank you in advance for your prompt attention to this matter and I await your immediate reply.

Sincerly,

Barry E Robinson

Barry E. Robinson

BER:lb

Copy to Mr. Joe de la Torre
Governor's Public Liaison
Office of the Governor
State Capital
Topeka, Kansas 66612-1590

Mr. Dean Kelly
Assistant Chief of Member Services
Kansas Public Employees
Retirement System
Capital Tower - 2nd Floor
400 West 8th
Topeka, Kansas 66603-3911

retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and ¾ to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (B) the percentage equal to 87% minus .5% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .5% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with ¾ of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(4) If a member, who is eligible to retire in accordance with the provisions of K.S.A. 74-4914 and amendments thereto and has less than 35 years of credited service, dies without having actually retired, the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, may elect to receive benefits as a joint annuitant under the joint and ½ to joint annuitant survivor option, calculated as if the member retired on date of death, in lieu of receiving the member's accumulated contributions.

(5) If a member, who is eligible to retire in accordance with the provisions of K.S.A. 74-4914 and amendments thereto and has 35 or more years of credited service, dies without having actually retired, the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, may elect to receive benefits as a joint annuitant under the joint and ½ to joint annuitant survivor option or any option that the member had elected to have such member's retirement benefit paid under as provided under subsection (1), calculated as if the member retired on the date of death, in lieu of receiving the member's accumulated contributions.

(6) The benefits of subsection (4) shall be available in the case of death within the first six months after the entry date of the member's participating employer.

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and ½ to joint annuitant survivor option, the joint and survivor option and the joint and ¾ to joint annuitant survivor option, shall end on the first day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount

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