

Approved February 12, 1992

Date

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS & BENEFITS

The meeting was called to order by Representative Don Rezac at
Chairperson

12:07 a.m./p.m. on February 5, 1992 in room 521-S of the Capitol.

All members were present except:

Rep. Barbara Allen (excused)
Rep. Walker Hendrix (excused)
Rep. Aldie Ensminger (excused)

Rep. Bill Wisdom (excused)
Rep. Robert Watson (excused)
Rep. Ken Grotewiel (excused)

Committee staff present:

Alan Conroy, Legislative Research
Richard Ryan, Legislative Research
Gordon Self, Revisor's Office
Juanita Blasdel, Committee Secretary

Conferees appearing before the committee:

Jim Snyder - Ks. Funeral Directors & Embalmers Assoc.
Meredith Williams - Executive Director KPERS.

Others attending: see attached sheet

Meeting was called to order by Chairman Rezac at 12:07 p.m. at which time he called on Alan Conroy of Legislative Research to give a brief on HB 2752 for hearings.

HB 2752 - Assignment of lump-sum death benefit

The chairman then introduced Jim Snyder of Kansas Funeral Directors and Embalmers Association who spoke as a proponent of this bill from a handout (Attachment #1). Mr. Snyder introduced Murna Biggs, who was in attendance to answer any questions for which he might not have the answers. She is a licensed Kansas funeral director and a licensed Kansas embalmer. He felt this bill was necessary in order for the funeral home which provides the funeral of the retirant to receive payment for their services. This has been a big problem because in many instances the beneficiary does not use the money to help offset the funeral expenses.

Questions were then asked of Mr. Snyder.

Meredith Williams, Executive Director of KPERS, then spoke saying they had no position on this bill but would like the committee to clarify some of the language. He would like clarification as to who the "authorized representative" is.

There was quite a bit of discussion following Mr. Williams' remarks. Chairman Rezac then asked that Representative Amos and Mr. Snyder of Kansas Funeral Directors get together with Mr. Williams of KPERS to get this clarification.

Hearings were then closed on HB 2752.

Chairman Rezac then called on Alan Conroy of staff to give some brief comments on HB 2198 and HB 2773 which were dicussed in committee last week, as a number of the committee were not present at that meeting. Representative Rezac then announced that action would be taken on these two bills next week. It was brought up by Representative Sader the possibility of putting HB 2198 into HB 2773. This will be considered in the meeting next week. Representative Reinhardt will be asked to attend the meeting next week for any questions on HB 2773, which was drafted by him. Representative Rezac told the committee that the other four bills already heard would be brought up for action next week also, these being HB 2039, HB 2596, HB 2597, and HB 2752, which was heard today.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS & BENEFITS

room 521-S Statehouse, at 12:07 a.m./p.m. on February 5, 199

The chairman entertained a motion to approve the minutes of the previous meeting. Representative Hensley made a motion to approve the minutes, seconded by Representative Amos, motion carried.

The meeting was adjourned at 12:35 p.m.

REMARKS
HOUSE BILL 2752
JIM SNYDER - BEFORE THE
HOUSE PENSIONS, INVESTMENTS & BENEFITS COMMITTEE
FEBRUARY 5, 1992

Mr. Chairman, members of the Committee. I am Jim Snyder, Executive Director of the Kansas Funeral Directors Association--an organization consisting of approximately 95% of the 320 funeral homes in Kansas. I am here to testify favorably on House Bill 2752.

With me, today, is Murna Biggs. Murna is a licensed Kansas funeral director and a licensed Kansas embalmer. Presently, she is the manager of the Newcomer-Diffenderfer Funeral Home here in Topeka, and if there are any questions at the end of my presentation I cannot answer, I am sure Murna can.

All this bill does is provide that the death benefits available to KPERS retirants may be assigned by the beneficiary to the funeral home providing the funeral of the retirant. This is a very simple procedure and presently is done quite often with insurance policies.

I have included a copy of the present Kansas insurance law which provides for the assignment of those funds, and a copy of the assignment form used for this purpose. As you can see, the form is very simple and with a slight modification could be used for the purpose of this bill. In fact, my organization would be happy to provide these, or any other form approved by KPERS, to all the funeral homes in the State.

I don't wish to go into a lot of detail here, but this bill has become necessary because of experiences across the state. In a couple of instances of which I am aware, the beneficiary was not involved in the funeral arrangements. In one case, the beneficiary did use the money to help offset the funeral expenses, but in another situation, the money was spent elsewhere--even though the statute specifically states it is a death benefit of the retirant.

Page 2 - Snyder

In both instances, the KPERS people did make an effort to help the funeral home, but because the present law did not allow assignments, were unable to assist. House Bill 2752 would correct this and make the KPERS statute consistent with the present practice regarding other insurance and death benefits.

As KPERS retirants are provided funerals, this bill not only insures the payment to the funeral home, but makes the process much easier for those making the funeral arrangements.

I shall be happy to answer any questions.

#1

INSURANCE PROCEEDS ASSIGNMENT

For value received and for the funeral services and burial or other disposition of the body of (the insured), I hereby assign and transfer to....., the sum
(Name of Funeral Home or Mortuary)
of..... dollars (\$.....) or so much thereof as is available from the proceeds of Policy Number of the..... Insurance Co., which may be or is due me as beneficiary, or by reason of some other qualification.

I hereby instruct and authorize the..... Insurance Co. to pay over to..... the sum
(Name of Funeral Home or Mortuary)
of..... dollars (\$.....) which payment shall constitute a release and certificate by me for such assigned and paid proceeds.

.....
Signed (Beneficiary)

STATE OF, COUNTY, SS:

Personally appeared before me, a Notary Public in and for said..... County,, the above mentioned..... who, first being duly sworn, says that the above facts are true to the best of..... knowledge and belief, and says that the execution of the above assignment is..... voluntary act and deed, being under no restraint whatever.

Dated.....

.....
Notary Public

#2

KSA 40-439 & 440

any domestic life insurance company which establishes one or more separate accounts pursuant to this section, may in its charter or bylaws to provide for the voting rights and procedures for the execution of contracts under such separate accounts relating to investment policy, investment advisory services and selection of independent public accountants, in relation to the administration of the assets in any such separate account and such other matters as the company deems necessary in the management of the assets in any such separate account.

This provision shall not in any way conflict with existing laws pertaining to the voting rights of the company's policyholders.

The commissioner shall have the sole and exclusive jurisdiction and authority to regulate the issuance and sale of such contracts and to promulgate such reasonable rules and regulations as may be necessary to carry out the purposes and provisions of this act and such contracts, the companies may issue them, and the agents or other persons who sell them, shall not be subject to the provisions of article 12 of chapter 17 of the Kansas Statutes Annotated nor to the provisions of the securities commissioner of this state.

History: L. 1967, ch. 259, § 1; L. 1968, ch. 382, § 1; L. 1972, ch. 182, § 1; July 1.

40-437. Establishment of separate accounts; application of other laws; variable annuity requirements. Except for subsections (1), (4), (5), (6), (7), (8), (9) and (11) of K.S.A. 40-420; subsections (1), (2) and (3) of K.S.A. 40-421; K.S.A. 40-427, 40-428, 40-429 and subsection (1) of K.S.A. 40-434, and except as otherwise provided in this act, all pertinent provisions of the insurance laws of this state shall apply to separate accounts and contracts relating to variable life insurance. Any individual variable life insurance contract, delivered or issued for delivery in this state shall contain a reinstatement and nonforfeiture provision appropriate to such a contract. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain a grace provision appropriate to such a contract. The reserve liability for such contracts shall be established in accordance with actuarial procedures that take into account the variable nature of the benefits and any mortality guarantees.

History: L. 1967, ch. 259, § 2; L. 1968, ch. 382, § 2; L. 1972, ch. 182, § 2; L. 1978, ch. 175, § 3; July 1.

40-438. Same; severability. If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1967, ch. 259, § 3; July 1.

40-439. Assignment of rights and privileges under life and accident and health insurance policies. No provision in K.S.A. 40-434 and 40-435 or any other law shall be construed as prohibiting a person whose life is insured under a policy of group life or accident and health insurance or the policyowner of an individual life or accident and health policy from making an assignment of all or any part of his rights and privileges under such policy including specifically, but not by way of limitation, any right to designate a beneficiary or beneficiaries thereunder and any right to have an individual policy issued to him in accordance with subsections (8), (9) or (10) of K.S.A. 40-434 and 40-435. Subject to the terms of the policy relating to assignment of such rights and privileges thereunder, such an assignment by an insured or the policyowner, made either before or after the effective date of this section, is valid for the purpose of vesting in the assignee, in accordance with any provisions included therein as to the time at which it is to be effective, all of such rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue in accordance with subsections (8), (9) or (10) of K.S.A. 40-434 and 40-435 prior to receipt of notice of the assignment.

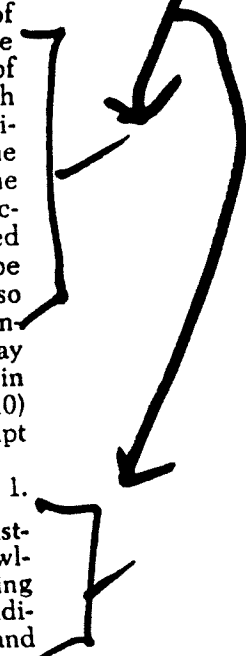
History: L. 1969, ch. 239, § 1; July 1.

40-440. Same; act acknowledges existing right of assignment. This act acknowledges, declares and codifies the existing right of assignment of interests under individual and group life and accident and health insurance policies.

History: L. 1969, ch. 239, § 2; July 1.

40-441. Designation of trustee under will as beneficiary of life insurance policy.

PROVIDER'S USUAL ASSIGNMENT



Session of 1992

HOUSE BILL No. 2752

By Committee on Pensions, Investments and Benefits

1-23

8 AN ACT concerning the Kansas public employees retirement system;
9 relating to assignment of lump-sum death benefit; amending
10 K.S.A. 1991 Supp. 74-4923 and repealing the existing section.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1991 Supp. 74-4923 is hereby amended to read
14 as follows: 74-4923. (a) No alteration, amendment or repeal of this
15 act shall affect the then existing rights of members and beneficiaries
16 but shall be effective only as to rights which would otherwise accrue
17 under this act as a result of services rendered by an employee after
18 the alteration, amendment or repeal. This subsection shall not apply
19 to any alteration or amendment of this act which provides greater
20 benefits to members or beneficiaries, but any increase of benefits
21 shall only be applicable to benefits payable on the first day of the
22 month coinciding with or following the effective date of the alteration
23 or amendment.

24 (b) Any annuity, benefits, funds, property or rights created by,
25 or accruing to any person under the provisions of K.S.A. 74-4901
26 *et seq.* or K.S.A. 74-4951 *et seq.*, and any acts amendatory thereof
27 or supplemental thereto, shall be exempt from any tax of the state
28 of Kansas or any political subdivision or taxing body of the state;
29 shall not be subject to execution, garnishment or attachment, or any
30 other process or claim whatsoever, except such annuity or benefit
31 or any accumulated contributions due and owing from the system
32 to such person are subject to decrees for child support or mainte-
33 nance, or both, as provided in K.S.A. 60-1610 and amendments
34 thereto; and shall be unassignable, *except that the lump-sum death*
35 *benefit payable to a retirant pursuant to the provisions of K.S.A.*
36 *74-4989 and amendments thereto may be assignable to a funeral*
37 *establishment providing funeral services to such retirant by author-*
38 *ized representatives of such retirant.* The Kansas public employees
39 retirement system shall not be a party to any action under article
40 16 of chapter 60 of the Kansas Statutes Annotated and is subject to
41 orders from such actions issued by the district court of the county
42 where such action was filed. Such orders from such actions shall
43 specify either a specific amount or specific percentage of the amount

1 of the pension or benefit or any accumulated contributions due and
2 owing from the system to be distributed by the system pursuant to
3 this act.

4 (c) In any case where a state agency is owed a debt or where a
5 participating employer under the Kansas public employees retire-
6 ment system or under the Kansas police and firemen's retirement
7 system has been required to pay and has paid an arrearage obligation
8 of the amount of contributions of a member which were not paid
9 at the time required and where the employment of the member by
10 the state agency or participating employer has been terminated and
11 the member is eligible to withdraw accumulated contributions in
12 accordance with K.S.A. 74-4917 and 74-4963, and amendments
13 thereto, the state agency or participating employer shall be paid
14 from the member's account in the fund an amount equal to the debt
15 or the amount of contributions of the member paid by the partici-
16 pating employer pursuant to an arrearage obligation, upon application
17 to the board therefor accompanied by certification of the amount to
18 be paid to the state agency or participating employer. If any appli-
19 cation and certification under this subsection are not received by
20 the board prior to the withdrawal of accumulated contributions by
21 the member, the board shall not be liable to pay and shall not pay
22 any amount from the fund pursuant to any such application and
23 certification.

24 Sec. 2. K.S.A. 1991 Supp. 74-4923 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after
26 its publication in the statute book.

in K.S.A. 74-4965 and
 h. 302, § 29; July 1.
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 302, § 30; L. 1991,

OF CERTAIN SYSTEMS

101.5(1).
employees §§ 243 to 248.

ING SYSTEMS BY KPERS STEES

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(2) Any member who is not otherwise eligible for service credit as provided for in subsection (1)(a) of K.S.A. 74-4913 or subsection (1)(a) of K.S.A. 74-4936 and amendments thereto, may be granted credit for the service upon the attainment of 38 quarters of participating service in any retirement system as defined in subsection (3)(b) or upon retirement.
 (3) As used in this section:
 (a) "Member" means a person who has attained membership in a retirement system, who has not retired under such retirement system and who has not withdrawn such person's accumulated contributions for such retirement system; and
 (b) "retirement system" means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges.
 History: L. 1982, ch. 319, § 1; L. 1984, ch. 289, § 16; L. 1991, ch. 237, § 20; July 1.

Research and Practice Aids:
 Officers and Public Employees 101.5(1).
 C.J.S. Officers and Public Employees §§ 243 to 248.

SYSTEMS ADMINISTERED BY KPERS BOARD

74-4989. Lump-sum death benefit for retirants. (1) Upon the death of a retirant, the board of trustees of the Kansas public employees retirement system shall pay a lump-sum death benefit which shall not exceed \$2,500 for such retirant, less any amount payable for funeral benefits under the applicable provisions of any local police or fire pension plan, as defined by subsection (c) of K.S.A. 12-5001 and amendments thereto.

(2) As used in this section, "retirant" means any person who is a member or special member of the Kansas public employees retirement system, the Kansas police and firemen's retirement system, the state school retirement system or the retirement system for judges and who has retired.

History: L. 1982, ch. 319, § 2; L. 1983, ch. 254, § 18; L. 1985, ch. 254, § 21; L. 1986, ch. 294, § 13; L. 1987, ch. 299, § 32; July 1.

74-4990. Contribution arrearage obligations; reports; remittance; purchase of service credit by member. (1) An arrearage obligation shall arise when it is ascertained that required contributions have not been made to the Kansas public employees retirement system at the required time. Such arrearage obligation shall be met by the employer by preparing a report on the appropriate form to

correct all previous quarterly reports affected by the arrearage obligation. Such report shall be submitted by the employer with the first quarterly report after such an arrearage obligation is discovered or as the board of trustees of the system may otherwise prescribe. The proper remittance to cover employer contributions in arrearage shall accompany such report or as the board of trustees of the system may otherwise prescribe. The amounts due for an arrearage obligation shall be based upon the compensation paid to the member and at the rates in effect at the time the contributions were originally due to be paid to the system.

(2) In the event the proper remittance to cover employee contributions in arrearage does not accompany such report, service credits for that period of employment involving the arrearage obligation may be purchased by the member as participating service at any time prior to retirement by making application therefor and paying to the system a single lump-sum amount determined by the system's actuary using (a) the member's then current annual rate of compensation, or if not actively employed, the member's annual rate of compensation when last participating and (b) the actuarial assumptions and tables currently in use by the system.

(3) Any member may purchase participating service credits for that period of employment involving the arrearage obligation as described in this section by electing to effect such purchase by means of having employee contributions as provided in K.S.A. 74-4919 and amendments thereto deducted at 8% or 12% of such member's compensation in lieu of a lump-sum amount as provided in this section. Such deductions shall commence at the beginning of the quarter following such election and shall remain in effect until all quarters of such service have been purchased.

History: L. 1982, ch. 319, § 11; L. 1990, ch. 282, § 19; July 1.

ELECTED STATE OFFICERS

74-4991.

Research and Practice Aids:
 States 64.1(1).
 C.J.S. States §§ 104 to 115.

74-4992. Membership in public employees retirement system authorized for members of the legislature; certain elections concerning membership or participation; repurchase of previously forfeited legislative