

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS & BENEFITS

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

5:02 a.m./p.m. on February 20, 1992 in room 521-S of the Capitol.

All members were present except:
Representative Elaine Wells (excused)
Representative Barbara Allen (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:
Susan Seltsam - Governor's Office

Others attending: see attached sheet

Meeting was called to order by Chairman Rezac at 5:02 p.m. at which time hearings were again opened on SB 526.

SB 526 - KPERS creating a new board of trustees, investment practices and standards

Susan Seltsam of the Governor's Office was called on to testify on this bill. On behalf of the Governor, she advised the committee that she had strong objections to Section 1 of this bill, which restructures the Board of Trustees governing KPERS, and would like to see this section removed from the bill (Attachment #1).

The chairman mentioned that the committee had been given a copy of a report from Representative Bill Roy from the committee on Legislative Post Audit in which they were urging the Pensions Committee to amend this bill to eliminate the retirement system's authority to make direct placement investments (Attachment #2).

Representative Wisdom told the committee he was going to offer this bill on the floor whether this committee took action on it or not. He felt this was necessary due to questioning whether KPERS should be allowed to continue in the area of direct placements. There was discussion and Meredith Williams offered that it would restrict the board from potential earnings that would be advantageous. The chairman said the matter of direct placements should be discussed on the floor and not in this committee.

Gordon Self of Revisor's Office then went through the balloon amendment by amendment and discussion followed each amendment.

Representative Ensminger made a motion to change the wording "investment making" to "investment management" throughout the bill, seconded by Representative Amos, motion carried.

It was brought out that the information on Page 5, Lines 33-37 should not be in this Section 3. Representative Ensminger made a motion if deemed necessary to strike this material or whatever needs to be done if it is an editing error, this should also include the rest of Page 5 and down to Line 7 on Page 6; seconded by Representative Wisdom; motion carried. In discussion, Gordon Self was given the leeway to do whatever needs to be done to change this material.

Representative Amos moved to pass the balloon as amended; seconded by Representative Ensminger. Discussion and questions followed. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PENSIONS, INVESTMENTS & BENEFITS
room 521-S Statehouse, at 5:02 a.m./p.m. on February 20, 1992

Representative Sader moved to pass SB 526 favorably as amended; seconded by Representative Flottman.

Representative Love made a substitute motion to table the motion until next week to look the bill over. This motion dies for lack of a second; original motion carried. (Representative Love voted "no").

Representative Amos made a motion to approve the minutes of the previous meeting; seconded by Representative Hendrix; motion carried.

The chairman announced that HB 2096 would be discussed next week.

Meeting adjourned at 6:25 p.m.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

JOAN FINNEY, Governor
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TESTIMONY OF
SUSAN SELTSAM, CHIEF OF STAFF
GOVERNOR JOAN FINNEY
TO THE HOUSE COMMITTEE ON PENSIONS AND INVESTMENTS
SENATE BILL 526
FEBRUARY 20, 1992

Thank you for the opportunity to convey Governor Finney's concerns regarding Senate Bill 526.

I am here, on behalf of the Governor, to advise you formally of her very strong objections to Section 1 of Senate Bill 526 which restructures the Board of Trustees governing the Kansas Public Employees Retirement System.

Governor Finney does not concur that the best interests of public employees are served by tinkering with the structure of this Board and calling it a fix of what we have experienced.

What will more effectively insure the integrity of the future management of the public retirement monies is the resolve of both the executive branch and the legislative branch to do the jobs set out for them.

Under current law, the Governor appoints, sets policy and administers -- holding appointees directly accountable and standing, in turn, directly accountable to the electorate of this state.

The Governor and the people rely on the Legislature for appointment review and confirmation, for oversight and to exercise post audit functions.

Preserving a vigorous separated, check and balance system is the best assurance we can give public employees that we will not again experience what has occurred in the past in KPERS management and investment. Mixing responsibilities and appointees diminishes public confidence in the check and balances system.

Governor Finney raised concerns regarding the operation and investments of the KPERS fund during her campaign. Immediately upon taking office, she set about to appoint exceptional, highly qualified trustees to serve on the board -- expertise the state couldn't afford to hire.

Pensions, Investments & Benefits
Attachment #1
2-20-92

These trustees have now brought credentials and experience, including certified public accounting, investment expertise and legal expertise to the Board of Trustees. Not two, but three trustees are active KPERS system members. She has set the highest standards of accountability and the trustees are turning the results of past neglect around.

Simply adding Legislative appointees will not guarantee expert individuals who take their fiduciary responsibilities seriously, and this change has the potential of diminishing public confidence in the objectivity of the review and confirmation process, legislative oversight, audit and check and balance responsibilities.

Governor Finney asks that you remove Section 1 from this bill and that we, together, focus our energies and efforts on restoring the integrity of the fund, improving investment practices and delivering the message that the KPERS fund is one of the most sound in the nation today.

Thank you.



TOPEKA

HOUSE OF
REPRESENTATIVES

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VICE CHAIRMAN: JOINT COMMITTEE ON
LEGISLATIVE POST AUDIT
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February 20, 1992

Representative Don Rezac, Chairman
House Committee on Pensions, Investments and Benefits
Room 278-W, Statehouse
Topeka, Kansas 66612

Dear Representative Rezac:

As you know, Legislative Post Audit conducted a series of audits this past year reviewing the Kansas Public Employees Retirement System's investment practices and direct placement investments. I was chairman of the Legislative Post Audit Committee at the time those audits were conducted. Based on the results of that audit work, Post Audit concluded in a summary report that public employees' retirement funds should not be invested in the types of direct placement investments the Retirement System has made in the past.

I strongly concur that Kansas should not be in the business of investing public retirement moneys in direct placement investments. These are high-risk investments with a significant potential for loss. And, as we have clearly seen in Kansas, the potential for significant loss can turn into reality; to-date, the System has lost more than \$150 million on these risky investments, nearly a third of the total amount invested in them.

The audits also showed that such investments can be subject to significant abuse. For example, Post Audit reported that the System's investment managers made loans to companies to pay off old loans or the interest due on them, and converted loans to worthless stock. Although the System has since established some oversight procedures that attempt to minimize such risks and abuses, it is hard to tell how effective those efforts will be over the long run. In any event, oversight will be costly. Given the poor return on the System's risky direct placement investments so far, it is hard to justify the increased costs associated with adequate oversight. And, as one of our colleagues in the Senate noted,

"Guidelines cannot make a high risk investment a safe investment. We should be more concerned with the return of pension funds than the return on the funds - not the other way around."

I wholeheartedly agree. The Retirement System's assets, which public employees will rely on for a substantial portion of their retirement income, should not be used to search out the highest-yield returns. The safety of those assets must be considered as well.

Finally, I am concerned about the Retirement System's reluctance to disclose information to the public about the value of specific direct placement investments. I understand that investing public pension funds in direct placement investments sets up a conflict between the Retirement System's fiduciary responsibilities to protect the value of its investments, and its responsibilities to the taxpayers and public employees --whose moneys are being invested--to keep them informed about how well those investments are performing. As Post Audit pointed out in its summary report, however, if direct placement investments cannot be made and managed with full public knowledge, then they should not be made with public funds. **The Legislature must act to ensure that the Retirement System is held accountable for the performance of its investments, or the risk of direct placement investment losses occurring in the future will remain high.**

I respectfully urge your Committee to consider amending this bill to eliminate the Retirement System's authority to make direct placement investments.

Sincerely,



William R. Roy, Jr., Vice-Chairman
Legislative Post Audit Committee

cc: Members, House Committee on Pensions,
Investments and Benefits