

MINUTES OF THE SELECT COMMITTEE ON KPERS

The meeting was called to order by Chairman Richard Carlson at 5:00 P.M. on March 12, 2007, in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Julian Efird, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

Kristy Stallings, City of Overland Park

Others attending:

See attached list.

- Attachment 1 Amendment to **HB 2558**
- Attachment 2 Fiscal Note on **SB 232**
- Attachment 3 Testimony on **SB 232** by Kristy Stallings
- Attachment 4 Written testimony on **SB 232** by Whitney Damron, on behalf of the City of Topeka
- Attachment 5 Written testimony on **SB 232** by Larry R. Baer, Assistant General Counsel, League of Kansas Municipalities

**Discussion and Action on HB 2558 - Enacting the Kansas Public Employees Retirement System Act of 2009.**

Representative Yoder made a motion to recommend **HB 2558** favorable for passage. The motion was seconded by Representative Lane. Motion carried on a voice vote.

Representative Flaherty made a motion to amend **HB 2558** to include language amending K.S.A. 2006 Supp. 72-5413 (Attachment 1). The motion was seconded by Representative Lane. Motion failed on a 3-4 vote.

The Committee suggested that the amendment be addressed by the House Appropriations Subcommittee on KPERS, who is working a number of pieces of legislation directed at changes for retirees as opposed to amending the language into **HB 2558**, legislation that would establish a new plan for KPERS.

**Discussion and Action on HB 2557 - Permanent COLA for certain KPERS retirants and increase in employee and employer contributions related thereto.**

Representative Yoder made a motion to recommend **HB 2557** for an interim study. The motion was seconded by Representative Schwartz. Motion carried on a voice vote.

**Hearing on SB 232 - Municipalities; postemployment benefits other than retirement; authorization.**

The fiscal note on **SB 232** was distributed to the Committee (Attachment 2).

Julian Efird, Legislative Research Department, explained that **SB 232**, as amended by the Senate Ways and Means Committee, would allow a taxing subdivision to create a trust fund to hold or invest assets of postemployment benefits bonds. Additionally, the bill would allow the taxing subdivision to participate in a multi-employer trust fund. The bill would expand the definition of "other postemployment benefits" to include postemployment healthcare, life insurance and other benefits.

Responding to a question from the Committee, Dr. Efird stated that the legislation was requested

CONTINUATION SHEET

MINUTES OF THE Select Committee on KPERS at 5:00 P.M. on March 12, 2007, in Room 234-N of the Capitol.

by a local entity and would clarify how a taxing subdivision would account for, fund and report post-employment benefits.

Chairman Carlson recognized Kristy Stallings, Deputy City Manager of the City of Overland Park, who presented testimony in support of **SB 232** (Attachment 3). Ms. Stallings stated that the City of Overland Park requested the legislation to allow governmental entities to establish and contribute to a trust in order to fund future liabilities for "other post-employment benefits" such as healthcare, life insurance and other related benefits extended to retirees. The legislation would allow the entity to appropriate funds on an annual basis.

Responding to questions from the Committee, Ms. Stallings indicated that currently the benefits are paid on a "pay-as-you-go" basis. By reserving funds and investing over time, the benefits would be more manageable and assured for the future. Ms. Stallings stated that the legislation allows for a mill levy for allocating funds on an annual basis.

Written testimony in support of **SB 232** was received from:

- Whitney Damron, on behalf of the City of Topeka (Attachment 4).
- Larry R. Baer, Assistant General Counsel, League of Kansas Municipalities (Attachment 5).

There were no opponents or neutral presenters to appear before the Committee.

**The hearing on SB 232 was closed.**

The meeting was adjourned at 5:20 p.m. The next meeting of the Committee will be held at 5:00 p.m. on March 15, 2007.

  
Richard Carlson, Chairman



## Proposed Amendment to HOUSE BILL NO. 2558

Add the following amendatory sections:

Sec. 16. K.S.A. 2006 Supp. 72-5413 is hereby amended to read as follows: 72-5413. As used in this act and in acts amendatory thereof or supplemental thereto:

(a) The term "persons" includes one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(b) "Board of education" means the board of education of any school district, the board of control of any area vocational-technical school, and the board of trustees of any community college.

(c) "Professional employee" means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity, but shall not mean any such person who is an administrative employee ~~and, commencing in the 2006-2007 school year, shall not mean any person who is a retirant from school employment of the Kansas public employees retirement system, regardless of whether an agreement between a board of education and an exclusive representative of professional employees that covers terms and conditions of professional service provides to the contrary.~~

(d) "Administrative employee" means, in the case of a school district, any person who is employed by a board of education in an administrative capacity and who is fulfilling duties for which an administrator's certificate is required under K.S.A. 72-7513, and amendments thereto; and, in the case of an area vocational-technical school or community college, any person who is employed by the board of control or the board of trustees in an administrative capacity and who is acting in that capacity and who has authority, in the interest of the board of control or the board of trustees, to hire, transfer, suspend, layoff, recall,

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promote, discharge, assign, reward or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(e) "Professional employees' organizations" means any one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or part, of engaging in professional negotiation with boards of education with respect to the terms and conditions of professional service.

(f) "Representative" means any professional employees' organization or any person it authorizes or designates to act in its behalf or any person a board of education authorizes or designates to act in its behalf.

(g) "Professional negotiation" means meeting, conferring, consulting and discussing in a good faith effort by both parties to reach agreement with respect to the terms and conditions of professional service.

(h) "Mediation" means the effort through interpretation and advice by an impartial third party to assist in reconciling a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation between a board of education or its representatives and representatives of the recognized professional employees' organization.

(i) "Fact-finding" means the investigation by an individual or board of a dispute concerning terms and conditions of professional service which arose in the course of professional negotiation, and the submission of a report by such individual or board to the parties to such dispute which includes a determination of the issues involved, findings of fact regarding such issues, and the recommendation of the fact-finding individual or board for resolution of the dispute.

(j) "Strike" means an action taken for the purpose of



coercing a change in the terms and conditions of professional service or the rights, privileges or obligations thereof, through any failure by concerted action with others to report for duty including, but not limited to, any work stoppage, slowdown, or refusal to work.

(k) "Lockout" means action taken by a board of education to provoke interruptions of or prevent the continuity of work normally and usually performed by the professional employees for the purpose of coercing professional employees into relinquishing rights guaranteed by this act and the act of which this section is amendatory.

(l) (1) "Terms and conditions of professional service" means (A) salaries and wages, including pay for duties under supplemental contracts; hours and amounts of work; vacation allowance, holiday, sick, extended, sabbatical, and other leave, and number of holidays; retirement; insurance benefits; wearing apparel; pay for overtime; jury duty; grievance procedure; including binding arbitration of grievances; disciplinary procedure; resignations; termination and nonrenewal of contracts; reemployment of professional employees; terms and form of the individual professional employee contract; probationary period; professional employee appraisal procedures; each of the foregoing being a term and condition of professional service, regardless of its impact on the employee or on the operation of the educational system; (B) matters which relate to privileges to be granted the recognized professional employees' organization including, but not limited to, voluntary payroll deductions; use of school or college facilities for meetings; dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit on school or college premises through direct contact with members of the bargaining unit, the use of bulletin boards on or about the facility, and the use of the school or college mail system to the extent permitted by law; reasonable leaves of absence for members of the bargaining unit for organizational purposes such as engaging in

professional negotiation and partaking of instructional programs properly related to the representation of the bargaining unit; any of the foregoing privileges which are granted the recognized professional employees' organization through the professional negotiation process shall not be granted to any other professional employees' organization; and (C) such other matters as the parties mutually agree upon as properly related to professional service including, but not limited to, employment incentive or retention bonuses authorized under K.S.A. 72-8246 and amendments thereto.

(2) Nothing in this act, and amendments thereto, shall authorize the diminution of any right, duty or obligation of either the professional employee or the board of education which have been fixed by statute or by the constitution of this state. Except as otherwise expressly provided in this subsection (1), the fact that any matter may be the subject of a statute or the constitution of this state does not preclude negotiation thereon so long as the negotiation proposal would not prevent the fulfillment of the statutory or constitutional objective.

(3) Matters which relate to the duration of the school term, and specifically to consideration and determination by a board of education of the question of the development and adoption of a policy to provide for a school term consisting of school hours, are not included within the meaning of terms and conditions of professional service and are not subject to professional negotiation.

(m) "Secretary" means the secretary of labor or a designee thereof.

(n) "Statutory declaration of impasse date" means June 1 in the current school year.

(o) "Supplemental contracts" means contracts for employment duties other than those services covered in the principal or primary contract of employment of the professional employee and shall include, but not be limited to, such services as coaching, supervising, directing and assisting extracurricular activities,

chaperoning, ticket-taking, lunchroom supervision, and other similar and related activities.

Sec. 17. K.S.A. 2006 Supp. 72-5436 is hereby amended to read as follows: 72-5436. As used in this act: (a) "Teacher" means any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in any area vocational-technical school or community college. The term "teacher" does not include within its meaning any supervisors, principals or superintendents or any persons employed under the authority of K.S.A. 72-8202b, and amendments thereto, or any persons employed in an administrative capacity by any area vocational-technical school or community college, ~~or commencing in the 2006-2007 school year, any person who is a retirant from school employment of the Kansas public employees retirement system.~~

(b) "Board" means the board of education of any school district, the board of control of any area vocational-technical school and the board of trustees of any community college.



February 13, 2007

The Honorable Dwayne Umbarger, Chairperson  
Senate Committee on Ways and Means  
Statehouse, Room 120-S  
Topeka, Kansas 66612

Dear Senator Umbarger:

SUBJECT: Fiscal Note for SB 232 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 232 is respectfully submitted to your committee.

SB 232 would allow local governments to establish a trust or participate in a multi-employer trust for the purpose of holding or investing post-employment benefit funds. Post-employment benefits include healthcare, life insurance, and other benefits provided by a local government that are separate from a pension plan. The bill would allow a local government to establish a board or a commission to manage and invest the post-employment benefits funds. The investment limitations for local government funds provided in KSA 12-1675 and the Cash Basis Law would not apply to the investment of post-employment benefit funds.

Local governments could incur administrative costs from the provision that allows them to establish a board to manage or invest the post-employment benefit funds. Because it is not known how many local governments would establish an investment board to manage post-employment benefit funds, no fiscal effect can be estimated.

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Judy Moler, KS Association of Counties  
Larry Baer, LKM  
Steve Neske, Revenue



The City of  
**Overland  
Park**  
KANSAS

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8500 Santa Fe Drive  
Overland Park, Kansas 66212  
www.opkansas.org

**Testimony Before the House Select Committee on KPERS  
Regarding Senate Bill 232**

March 12, 2007

Good Afternoon. My name is Kristy Stallings, Deputy City Manager of the City of Overland Park. I would like to thank the Committee for the opportunity to appear today on behalf of the City in support of Senate Bill 232. Overland Park requested and supports this legislation, which will create the authority for governmental entities to establish and contribute to a trust in order to fund future liabilities for "other post-employment benefits" for its retirees. "Other post-employment benefits," commonly referred to as "OPEB," include healthcare, life insurance and other related benefits extended to retirees. Currently the authority to create such a trust does not exist.

In 2004, the Governmental Accounting Standards Board (GASB) issued statement 45, which addresses how governmental entities should account for and report OPEB costs and obligations. GASB establishes standards for state and local governmental accounting and financial reporting. Financial reporting which complies with GASB plays an important role in fulfilling a government's duty to be accountable to the public, legislative bodies and those who finance that government.

The GASB 45 statement requires governmental employers to account for and report the annual cost of OPEB in essentially the same manner as they do for pensions. Annual OPEB costs will be based on actuarially determined amounts that, if paid on an ongoing basis, would provide sufficient resources to pay benefits as they come due. In addition the statement sets out an implementation schedule based on an entity's total annual revenues. Overland Park will be required to comply beginning with its FY 2007 financial statements.

Although proposed Senate Bill 232 establishes statutory authority to fund OPEB costs, GASB 45 does not mandate such funding. Disclosure of unfunded liability is all that is legally required. Funding an OPEB plan with a trust will enable a governmental entity to better manage the long-term financial impact of OPEB liabilities. If a trust fund is created pursuant to the authority in proposed Senate Bill 232, it will be exempt from budget laws in the same manner as many other reserve funds in Kansas (e.g., capital improvements fund (KSA 12-1,118), the risk management reserve fund (KSA 12-2615), etc.

While governmental entities are free to continue pay-as-you go funding of OPEB obligations, Senate Bill 232, if enacted, would enable a response to annual OPEB costs will significantly exceed a governmental employer's cash outlay. Because annual OPEB obligations are expected to es

**House Select Committee on  
KPERS**

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decade due to the impending retirement of baby boomers and healthcare cost inflation, pre-funding OPEB costs through a trust will permit governments to manage these future costs. In order to take advantage of the benefits of pre-funding OPEB costs, proposed Senate Bill 232 permits governmental entities to create trusts to fund these costs, and exempts such trusts from statutory cash basis laws that require funds to be currently available in order to incur future indebtedness.

GASB 45 also states that the discount rate to value OPEB costs must reflect expected returns on assets used to pay benefits. If a benefit plan is unfunded, the interest rate that can be used to calculate the annual liability must be at a rate similar to that earned on unrestricted general assets. If OPEB costs are funded in advance in a separate trust, the assets may be invested in longer-term investments with higher expected returns, thereby enabling a lower annual required contribution.

To take advantage of the long-term investment opportunities available through the creation of a trust, proposed Senate Bill 232 would permit governmental entities to invest trust funds outside of the statutory limitations on the investment of municipal funds. Notwithstanding the expansion of investment authority, Senate Bill 232 requires that the investment and management of the assets of an OPEB trust comply with the statutory "prudent investor rule." (KSA 58-24a01 *et seq.*). Absent such expanded investment authority, statutory restrictions on fund investments would likely mean a lower rate of return on assets, and additional burdens on the governmental employer in funding future OPEB costs.

There were two primary amendments made in the Senate Ways & Means Committee that should be explained. Both were requested by the Department of Administration. First, the Department of Administration preferred that the exemption to the cash basis law be placed in the cash basis statute. This is reflected in Section 2 of the bill.

The second substantive amendment clarifies that funds intended for the trust are subject to the state budget law until they are placed in the trust. This language had been on page 1, lines 40-41 of the bill, and can now be found in subsection (f) on page 3, lines 7-15. Finally, it should be noted that subsection (e) (1-3) is simply a reordering of the language that was originally subsection (d) of the bill as introduced.

The City of Overland Park has determined that in order to most effectively manage its OPEB liability, as well as its overall financial position, establishing a trust to fund OPEB benefits is in the City's best interest. Passage of SB 232 will provide the benefit of this funding mechanism to Overland Park and other governmental entities that choose to finance important OPEB benefits in such a manner. Therefore, on behalf of the City of Overland Park, I respectfully request that you approve Senate Bill 232.



**SUBMITTED TESTIMONY**

TO: The Select Committee on KPERS  
FROM: Whitney Damron  
RE: SB 232 – Municipalities; Post-employment Benefits.  
DATE: March 12, 2007

Members of the Select Committee on KPERS:

Included with this cover page is a copy of a letter in support of SB 232 that was provided to the Senate Committee on Ways and Means.

On behalf of the City of Topeka, we respectfully request your support of this legislation.

Thank you.

Whitney Damron

Attachment



# CITY OF TOPEKA

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Financial Services Department  
215 SE 7<sup>th</sup> Street, Rm 358  
Topeka, KS 66603  
Telephone: 785-368-3970

Jim Langford, Budget and Finance Director  
jlangford@topeka.org  
Fax: 785-368-3975  
www.topeka.org

Honorable Dwayne Umbarger, Chairperson  
Senate Ways and Means Committee  
Room 123-S Statehouse  
Topeka, KS 66612

RE: SB 232 Other Postemployment Benefits

Dear Senator Umbarger,

As the Budget and Finance Director for the City of Topeka, I endorse SB 232 and encourage the Senate Ways and Means Committee to pass the bill on for consideration by the full Senate. The City of Topeka currently is having an actuarial valuation performed to determine its liability for other post-employment benefits under the Governmental Accounting Standards Board (GASB) ruling number 45. This liability will come from making health insurance benefits available to employees who retire from City employment. Since the City does not yet know the liability, it has not determined the manner in which it will manage the liability's impact on its financial position. SB 232 would allow a local government in Kansas to establish a trust to fund the cost of providing these future benefits. This flexibility in managing the liability would be valuable. Thank you for your consideration, and do not hesitate to contact me with any questions. Thank you.

Sincerely,

Jim Langford  
Budget and Finance Director

cc: Norton Bonaparte, City Manager  
Brenden Long, City Attorney  
file



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League of Kansas Municipalities

Date: March 12, 2007  
To: House Select Committee on KPERS  
From: Larry R. Baer  
Assistant General Counsel  
Re: SB 232 – Written Testimony in Support

Thank you for allowing me to present written testimony in support of SB 232, as amended by the Senate Committee on Ways and Means, on behalf of the League of Kansas Municipalities and its 627 member cities.

About two and one-half years ago the Governmental Accountings Standards Board (GASB) issued two statements, 43 and 45, that impact some of the cities in Kansas. The statements require cities to account for “other post-employment benefits” (OPEB) in a manner similar to the way that pension benefits are accounted for. These benefits generally consist of healthcare and life insurance benefits for retirees.

Simply stated, GASB 43 and 45 are intended to better measure and report OPEB liabilities. GASB does not require a city to fund the liability. But it does require that the city’s audit note the liability in the annual audit report and that actuarial computation of those liabilities be done on a regular basis. The new standards also require that if a city chooses to fund the liabilities that those funds be irrevocably invested in a trust or plan.

It is this last requirement that SB 232 addresses. SB 232 allows a city to either establish its own trust or trusts or join with others to do so; provide for management and investment of the trust; and, provide for the organization of the members of the management team. It would also exempt such trusts from cash basis laws and limitations on investments currently placed upon cities.

Although SB 232 would be applicable to a relative few cities in Kansas, it is needed by those cities to allow them to completely comply with the above stated changes. For this reason, the League supports SB 232, as amended by the Senate Committee on Ways and Means, and asks that you pass it out favorably.

Again, thank you for allowing me to submit written testimony.





League of Kansas Municipalities

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