

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Jay Emler at 6:45 p.m. on February 12, 2009, at the Rail of the State Capitol.

All members were present except:
Senator Ty Masterson - excused

Committee staff present:
Alan Conroy, Kansas Legislative Research Department
J G Scott, Kansas Legislative Research Department
Jill Wolters, Office of Revisor of Statutes
Gordon Self, Office of Revisor of Statutes
Melinda Gaul, Chief of Staff

Discussion and Action on SB 219 - Moratorium on employer contributions for death and disability benefits under KPERS.

Gordon Self, Revisor of Statutes, presented a proposed balloon to **SB 219**, amending the bill to accelerate the nine-month suspension of payment of required participating employer contributions to the Kansas Public Employees Retirement System (KPERS) for the group insurance reserve fund for employee death and disability benefits to commence on March 1, 2009, and end on November 30, 2009 (Attachment 1).

Senator Teichman moved to accept the amendment to **SB 219**. The motion was seconded by Senator McGinn. Motion carried on a voice vote.

Senator Lee moved to recommend **SB 219** as amended favorable for passage. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Adjournment

The next meeting is scheduled for February 16, 2009.

The meeting was adjourned at 6:50 p.m.

SENATE BILL No. 219

By Committee on Ways and Means

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9 AN ACT concerning retirement and pensions; relating to the Kansas
10 public employees retirement system; death and disability benefits; em-
11 ployer contributions; amending K.S.A. 2008 Supp. 74-4927 and re-
12 pealing the existing section.

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

14 Section 1. K.S.A. 2008 Supp. 74-4927 is hereby amended to read as
15 follows: 74-4927. (1) The board may establish a plan of death and long-
16 term disability benefits to be paid to the members of the retirement
17 system as provided by this section. The long-term disability benefit shall
18 be payable in accordance with the terms of such plan as established by
19 the board, except that for any member who is disabled prior to the ef-
20 fective date of this act, the annual disability benefit amount shall be an
21 amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on
22 the date such disability commenced. Such plan shall provide that:

23 (A) For deaths occurring prior to January 1, 1987, the right to receive
24 such death benefit shall cease upon the member's attainment of age 70
25 or date of retirement whichever first occurs. The right to receive such
26 long-term disability benefit shall cease (i) for a member who becomes
27 eligible for such benefit before attaining age 60, upon the date that such
28 member attains age 65 or the date of such member's retirement, which-
29 ever first occurs, and (ii) for a member who becomes eligible for such
30 benefit at or after attaining age 60, the date that such member has re-
31 ceived such benefit for a period of five years, or upon the date of such
32 member's retirement, whichever first occurs.

33 (B) Long-term disability benefit payments shall be in lieu of any ac-
34 cidental total disability benefit that a member may be eligible to receive
35 under subsection (3) of K.S.A. 74-4916 and amendments thereto. The
36 member must make an initial application for social security disability ben-
37 efits and, if denied such benefits, the member must pursue and exhaust
38 all administrative remedies of the social security administration which
39 include, but are not limited to, reconsideration and hearings. Such plan
40 may provide that any amount which a member receives as a social security
41 benefit or a disability benefit or compensation from any source by reason
42 of any employment including, but not limited to, workers compensation
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Proposed Committee Amendments to SB No. 219

Prepared by: Gordon Self
Office of Revisor of Statutes

February 11, 2009

Senate Ways & Means Cmte
Date 2-12-2009
Attachment 1

1 benefits may be deducted from the amount of long-term disability benefit
2 payments under such plan. However, in no event shall the amount of
3 long-term disability benefit payments under such plan be reduced by any
4 amounts a member receives as a supplemental disability benefit or com-
5 pensation from any source by reason of the member's employment, pro-
6 vided such supplemental disability benefit or compensation is based solely
7 upon the portion of the member's monthly compensation that exceeds
8 the maximum monthly compensation taken into account under such plan.

9 As used in this paragraph, "maximum monthly compensation" means the
10 dollar amount that results from dividing the maximum monthly disability
11 benefit payable under such plan by the percentage of compensation that
12 is used to calculate disability benefit payments under such plan. During
13 the period in which such member is pursuing such administrative reme-
14 dies prior to a final decision of the social security administration, social
15 security disability benefits may be estimated and may be deducted from
16 the amount of long-term disability benefit payments under such plan. If
17 the social security benefit, workers compensation benefit, other income
18 or wages or other disability benefit by reason of employment other than
19 a supplemental benefit based solely on compensation in excess of the
20 maximum monthly compensation taken into account under such plan, or
21 any part thereof, is paid in a lump-sum, the amount of the reduction shall
22 be calculated on a monthly basis over the period of time for which the
23 lump-sum is given. As used in this section, "workers compensation ben-
24 efits" means the total award of disability benefit payments under the
25 workers compensation act notwithstanding any payment of attorney fees
26 from such benefits as provided in the workers compensation act.

27 (C) The plan may include other provisions relating to qualifications
28 for benefits; schedules and graduation of benefits; limitations of eligibility
29 for benefits by reason of termination of employment or membership;
30 conversion privileges; limitations of eligibility for benefits by reason of
31 leaves of absence, military service or other interruptions in service; lim-
32 itations on the condition of long-term disability benefit payment by reason
33 of improved health; requirements for medical examinations or reports; or
34 any other reasonable provisions as established by rule and regulation of
35 uniform application adopted by the board.

36 (D) Any visually impaired person who is in training at and employed
37 by a sheltered workshop for the blind operated by the secretary of social
38 and rehabilitation services and who would otherwise be eligible for the
39 long-term disability benefit as described in this section shall not be eli-
40 gible to receive such benefit due to visual impairment as such impairment
41 shall be determined to be a preexisting condition.

42 (2) (A) In the event that a member becomes eligible for a long-term
43 disability benefit under the plan authorized by this section such member

1 shall be given participating service credit for the entire period of such
2 disability. Such member's final average salary shall be computed in ac-
3 cordance with subsection (17) of K.S.A. 74-4902 and amendments thereto
4 except that the years of participating service used in such computation
5 shall be the years of salaried participating service.

6 (B) In the event that a member eligible for a long-term disability
7 benefit under the plan authorized by this section shall be disabled for a
8 period of five years or more immediately preceding retirement, such
9 member's final average salary shall be adjusted upon retirement by the
10 actuarial salary assumption rates in existence during such period of dis-
11 ability. Effective July 1, 1993, such member's final average salary shall be
12 adjusted upon retirement by 5% for each year of disability after July 1,
13 1993, but before July 1, 1998. Effective July 1, 1998, such member's final
14 average salary shall be adjusted upon retirement by an amount equal to
15 the lesser of: (i) The percentage increase in the consumer price index for
16 all urban consumers as published by the bureau of labor statistics of the
17 United States department of labor minus 1%; or (ii) four percent per
18 annum, measured from the member's last day on the payroll to the month
19 that is two months prior to the month of retirement, for each year of
20 disability after July 1, 1998.

21 (C) In the event that a member eligible for a long-term disability
22 benefit under the plan authorized by this section shall be disabled for a
23 period of five years or more immediately preceding death, such member's
24 current annual rate shall be adjusted by the actuarial salary assumption
25 rates in existence during such period of disability. Effective July 1, 1993,
26 such member's current annual rate shall be adjusted upon death by 5%
27 for each year of disability after July 1, 1993, but before July 1, 1998.
28 Effective July 1, 1998, such member's current annual rate shall be ad-
29 justed upon death by an amount equal to the lesser of: (i) The percentage
30 increase in the consumer price index for all urban consumers published
31 by the bureau of labor statistics of the United States department of labor
32 minus 1%; or (ii) four percent per annum, measured from the member's
33 last day on the payroll to the month that is two months prior to the month
34 of death, for each year of disability after July 1, 1998.

35 (3) (A) To carry out the legislative intent to provide, within the funds
36 made available therefor, the broadest possible coverage for members who
37 are in active employment or involuntarily absent from such active em-
38 ployment, the plan of death and long-term disability benefits shall be
39 subject to adjustment from time to time by the board within the limita-
40 tions of this section. The plan may include terms and provisions which
41 are consistent with the terms and provisions of group life and long-term
42 disability policies usually issued to those employers who employ a large
43 number of employees. The board shall have the authority to establish and

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1 adjust from time to time the procedures for financing and administering
2 the plan of death and long-term disability benefits authorized by this
3 section. Either the insured death benefit or the insured disability benefit
4 or both such benefits may be financed directly by the system or by one
5 or more insurance companies authorized and licensed to transact group
6 life and group accident and health insurance in this state.

7 (B) The board may contract with one or more insurance companies,
8 which are authorized and licensed to transact group life and group acci-
9 dent and health insurance in Kansas, to underwrite or to administer or
10 to both underwrite and administer either the insured death benefit or the
11 long-term disability benefit or both such benefits. Each such contract with
12 an insurance company under this subsection shall be entered into on the
13 basis of competitive bids solicited and administered by the board. Such
14 competitive bids shall be based on specifications prepared by the board.

15 (i) In the event the board purchases one or more policies of group
16 insurance from such company or companies to provide either the insured
17 death benefit or the long-term disability benefit or both such benefits,
18 the board shall have the authority to subsequently cancel one or more of
19 such policies and, notwithstanding any other provision of law, to release
20 each company which issued any such canceled policy from any liability
21 for future benefits under any such policy and to have the reserves estab-
22 lished by such company under any such canceled policy returned to the
23 system for deposit in the group insurance reserve of the fund.

24 (ii) In addition, the board shall have the authority to cancel any policy
25 or policies of group life and long-term disability insurance in existence
26 on the effective date of this act and, notwithstanding any other provision
27 of law, to release each company which issued any such canceled policy
28 from any liability for future benefits under any such policy and to have
29 the reserves established by such company under any such canceled policy
30 returned to the system for deposit in the group insurance reserve of the
31 fund. Notwithstanding any other provision of law, no premium tax shall
32 be due or payable by any such company or companies on any such policy
33 or policies purchased by the board nor shall any brokerage fees or com-
34 missions be paid thereon.

35 (4) (A) There is hereby created in the state treasury the group in-
36 surance reserve fund. Investment income of the fund shall be added or
37 credited to the fund as provided by law. The cost of the plan of death
38 and long-term disability benefits shall be paid from the group insurance
39 reserve fund, which shall be administered by the board. Except as oth-
40 erwise provided by this subsection, for the period commencing July 1,
41 2005, and ending June 30, 2006, each participating employer shall ap-
42 propriate and pay to the system in such manner as the board shall pre-
43 scribe in addition to the employee and employer retirement contributions

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1 an amount equal to .8% of the amount of compensation on which the
 2 members' contributions to the Kansas public employees retirement sys-
 3 tem are based for deposit in the group insurance reserve fund. For the
 4 period commencing July 1, 2006, and all periods thereafter, each partic-
 5 ipating employer shall appropriate and pay to the system in such manner
 6 as the board shall prescribe in addition to the employee and employer
 7 retirement contributions an amount equal to 1.0% of the amount of com-
 8 pensation on which the members' contributions to the Kansas public em-
 9 ployees retirement system are based for deposit in the group insurance
 10 reserve fund. Notwithstanding the provisions of this subsection, no par-
 11 ticipating employer shall appropriate and pay to the system any amount
 12 provided for by this subsection for deposit in the group insurance reserve
 13 fund for the period commencing on ~~April 1, 2000, and ending on De-~~
 14 ~~cember 31, 2001, for the period commencing July 1, 2002, and ending~~
 15 ~~December 31, 2002, or for the period commencing April 1, 2003, and~~
 16 ~~ending on June 30, 2004 July 1, 2009, and ending on March 31, 2010.~~

March 1, 2009

17 (B) The director of the budget and the governor shall include in the
 18 budget and in the budget request for appropriations for personal services
 19 a sum to pay the state's contribution to the group insurance reserve fund
 20 as provided by this section and shall present the same to the legislature
 21 for allowances and appropriation.

22 (C) The provisions of subsection (4) of K.S.A. 74-4920 and amend-
 23 ments thereto shall apply for the purpose of providing the funds to make
 24 the contributions to be deposited to the group insurance reserve fund.

25 (D) Any dividend or retrospective rate credit allowed by an insurance
 26 company or companies shall be credited to the group insurance reserve
 27 fund and the board may take such amounts into consideration in deter-
 28 mining the amounts of the benefits under the plan authorized by this
 29 section.

30 (5) The death benefit provided under the plan of death and long-
 31 term disability benefits authorized by this section shall be known and
 32 referred to as insured death benefit. The long-term disability benefit pro-
 33 vided under the plan of death and long-term disability benefits authorized
 34 by this section shall be known and referred to as long-term disability
 35 benefit.

36 (6) The board is hereby authorized to establish an optional death
 37 benefit plan for employees and spouses and dependents of employees.
 38 Except as provided in subsection (7), such optional death benefit plan
 39 shall be made available to all employees who are covered or may hereafter
 40 become covered by the plan of death and long-term disability benefits
 41 authorized by this section. The cost of the optional death benefit plan
 42 shall be paid by the applicant either by means of a system of payroll
 43 deductions or direct payment to the board. The board shall have the

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1 authority and discretion to establish such terms, conditions, specifications
 2 and coverages as it may deem to be in the best interest of the state of
 3 Kansas and its employees which should include term death benefits for
 4 the person's period of active state employment regardless of age, but in
 5 no case, shall the maximum allowable coverage be less than \$200,000.
 6 The cost of the optional death benefit plan shall not be established on
 7 such a basis as to unreasonably discriminate against any particular age
 8 group. The board shall have full administrative responsibility, discretion
 9 and authority to establish and continue such optional death benefit plan
 10 and the director of accounts and reports of the department of adminis-
 11 tration shall when requested by the board and from funds appropriated
 12 or available for such purpose establish a system to make periodic deduc-
 13 tions from state payrolls to cover the cost of the optional death benefit
 14 plan coverage under the provisions of this subsection (6) and shall remit
 15 all deductions together with appropriate accounting reports to the system.
 16 There is hereby created in the state treasury the optional death benefit
 17 plan reserve fund. Investment income of the fund shall be added or cred-
 18 ited to the fund as provided by law. All funds received by the board,
 19 whether in the form of direct payments, payroll deductions or otherwise,
 20 shall be accounted for separately from all other funds of the retirement
 21 system and shall be paid into the optional death benefit plan reserve fund,
 22 from which the board is authorized to make the appropriate payments
 23 and to pay the ongoing costs of administration of such optional death
 24 benefit plan as may be incurred in carrying out the provisions of this
 25 subsection (6).

26 (7) Any employer other than the state of Kansas which is currently a
 27 participating employer of the Kansas public employees retirement system
 28 or is in the process of affiliating with the Kansas public employees retire-
 29 ment system may also elect to affiliate for the purposes of subsection (6).
 30 All such employers shall make application for affiliation with such system,
 31 to be effective on January 1 or July 1 next following application.

32 (8) For purposes of the death benefit provided under the plan of
 33 death and long-term disability benefits authorized by this section and the
 34 optional death benefit plan authorized by subsection (6), commencing on
 35 the effective date of this act, in the case of medical or financial hardship
 36 of the member as determined by the executive director, or otherwise
 37 commencing January 1, 2005, the member may name a beneficiary or
 38 beneficiaries other than the beneficiary or beneficiaries named by the
 39 member to receive other benefits as provided by the provisions of K.S.A.
 40 74-4901 et seq., and amendments thereto.

41 Sec. 2. K.S.A. 2008 Supp. 74-4927 is hereby repealed.

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