Approved: February 22, 2010
Date

MINUTES OF THE HOUSE SELECT COMMITTEE ON KPERS COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 8:00 a.m. on February 1, 2010, in Room 142-S of the Capitol.

All members were present.

Committee staff present:
Gordon Self, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Carol Bertram, Committee Assistant

Conferees appearing before the Committee:
None

Others appearing before the Committee:
Representative Tom Hawk, 67th District
Glenn Deck, Executive Director, Kansas Public Employees Retirement System (KPERS)

Others attending:
See attached list.

Chair Schwartz opened the floor to bill introductions. Representative Tom Hawk, 67th District, requested the Committee consider a bill introduction on KPERS and potential furloughs so that if an employee is eligible for retirement being furloughed it would not count against them for receiving benefits. It was moved by Representative Long, seconded by Representative Lane that the Committee introduce this bill. The motion carried.

Chair Schwartz recognized Julian Efird, Kansas Legislative Research Department, who distributed copies of a memorandum in regard to statutorily authorized early and phased retirement plans. (Attachment #1) This memorandum provides background information on current state law which authorizes early and phased retirement plans for some public employees; identifies other states which enacted new early and phased retirement plans in 2009, and gives details about those recently enacted plans in other states. He went on to give background information on early retirement incentives that the Kansas Legislature has authorized school district boards of education to establish and on phased retirement plans that the Kansas Legislature has authorized the Board of Regents to develop and implement for unclassified employees of state educational institutions. Mr. Efird then reviewed information as to how other states have adopted early retirement incentives or phased retirement plans to be used as budget management tools in reducing the state workforce.

Questions followed with lengthy discussion.

Chair Schwartz recognized Glenn Deck, Executive Director, Kansas Public Employees Retirement System, for his comments on this issue. Director Deck informed the Committee of the current status of KPERS retirement programs. He emphasized the need to be able to hold positions open after a retirement as there could be a possibility of losing key people.

Questions and answers followed.

Chair Schwartz then appointed a subcommittee to work out the details to introduce a bill taking into consideration the discussions of this morning. The subcommittee will consist of Representative Schultz, Chair, and Representatives Proehl, Flaharty, Lane and Olson.

There being no further business before the Committee the meeting was adjourned at 8:45 a.m.

The next meeting of the Committee will be February 8, 2010.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

HOUSE SELECT COMMITTEE ON KAPERS

DATE: February 1, 2010

NAME	REPRESENTING
Glenn Deck	KPERS
Ernie Claudel	Coalition
Ron Gardner	KS. Coalition of Retirees
Ilene Emery	KS Dept. of Revenue
Jeff Arpin	Division of the Budget
Tom Hawk	State Rep 67th District
Edmond LeBoeuf	KDOT
Erik Sartorius	City of Overland Park
Terry Forsyth	KNEA
Dennis Phillips	KSCFF
Ed Redmon	KSCFF
Mark Tallman	KASB

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January 29, 2010

To: House Select Committee on KPERS

From: Julian Efird, Principal Analyst

Re: Statutorily Authorized Early and Phased Retirement Plans

This memorandum provides background information about current state law which authorizes early and phased retirement plans for some public employees; identifies states which enacted new early and phased retirement plans in 2009; and gives details about those recently enacted plans in other states.

School District Early Retirement Incentive Programs

The 1980 Kansas Legislature authorized school district boards of education to establish early retirement incentive programs (ERIPs) for the benefit of school employees. The original purpose of such programs was to reduce in whole or part the penalty under Social Security or Kansas Public Employees Retirement System (KPERS) school retirement, or both, for opting to take retirement before reaching age 65. The 1996 Kansas Legislature amended KSA 72-5395 and 71-212 to require an actuarial valuation of all ERIPs and the first reports were to be submitted by June 30, 1997. The results of tabulating the first valuations in 1997 indicated that 153 school districts, five interlocals, and 13 community colleges had ERIP programs and that the total liability was in excess of $613 million.

Program Features. Most of the programs offer school district employees an option of retiring prior to age 65 and receiving certain benefits, such as health insurance or cash payments, until reaching Medicare eligibility. After the 1993 Kansas Legislature enacted the 85-point rule for KPERS retirement, an increase in the number of school employees taking advantage of ERIPs increased dramatically, according to records from the State Department of Education and KPERS. The ERIP authorizing legislation remains in effect today, although some school districts have ended the programs, primarily by closing membership to newly hired district employees. With the onset of the recent budget pressures, several districts have indicated that an ERIP may be terminated because of financial exigency, according to KPERS reports.

Regents Phased Retirement Programs

The 1984 Kansas Legislature authorized the Board of Regents to develop and implement a phased retirement program for unclassified employees of state educational institutions. This program is authorized by KSA 76-746 that allows a qualified unclassified employee the opportunity to transition into retirement over a selected period of time. This program is open to all benefits-eligible unclassified employees who have attained age 55 and who have completed at least ten years of full-time service with one or more Board of Regents educational institutions or with the Board of

Regents staff. Entry into a phased retirement agreement is voluntary on the part of the university and the individual unclassified employee, except that the university shall refuse to enter into a phased retirement agreement when entry into the agreement is not in the best interest of the university.

Program Features. A phased retirement plan is designed to provide a transition to full retirement for an employee while helping an employer retain qualified employees who continue to provide public services while the employer seeks replacement employees to train and take the place of those who are in transition to retirement. The example reported below is from Kansas State University (KSU).

- A participant's current appointment is reduced to no less than .25 FTE;
- The participant's salary is reduced to a new, lower FTE level but benefits (health insurance, death and disability coverage and retirement contributions) stay at the rate that is relative to the employee's current FTE level;
- The maximum length of a phased retirement program agreement is five years;
- The participant must retire at the end of the agreement period;
- Agreements must be mutually agreed upon by the employee and the appropriate institutional officer;
- The university may deny the employee's request to participate in this program;
- Agreements can be rescinded within 48 hours of signature at the option of the employee;
- Agreements may be modified by mutual consent; and
- Tenure is not affected by this program.

Other State Programs

There is no other **Kansas** authorizing legislation for either early or phased retirement plans that would apply to classified state employees or unclassified state employees who do not work for the Board of Regents. The two **Kansas** plans discussed in this memorandum originally were adopted in the 1980s. A number of other states in 2009 adopted legislative proposals to establish early retirement incentives or phased retirement plans to be used as budget management tools in reducing the state workforce.

Other States. During 2009, **Connecticut, Maine, Minnesota, and Vermont** enacted early retirement incentive or phased retirement plans intended to reduce the size of the state workforce. The plans were directed to employees relatively close to retirement (for example, aged 50 or 55 or already eligible for retirement) and provided either incentives in the form of reduced retirement requirements, increased retirement benefits, increased health insurance benefits before reaching the age for Medicare, a cash incentive (Maine and Minnesota), or reduced working hours phasing into full retirement. The **Louisiana** legislature enacted an early retirement incentive that the Governor vetoed, citing concerns that positions affecting public health and safety were not exempted from the provisions.

In **Connecticut**, legislation established a retirement incentive program (RIP) for nonunion state employees who were at least age 55 by June 30, 2009 and (1) had at least ten years of actual state service not including purchased service credits or credits transferred from another employer or, (2) for hazardous duty employees, had at least 20 years of actual hazardous duty state service regardless of age. It also created a retirement incentive for members of the Teachers' Retirement System (TRS) and the Alternate Retirement Program (ARP), who must have been at least age 55 by June 30, 2009. In general, eligible employees must retire effective June 1, 2009 or July 1, 2009, although there were exceptions for certain groups of employees.

Eligible **Connecticut** employees received up to three years of service added to their state service for purposes of calculating their retirement benefit under the State Employee Retirement System (SERS) or the Teachers Retirement System (TRS), as appropriate. Eligible members of the Alternate Retirement Program (ARP) were paid $6,000 in three equal installments of $2,000 each. The payment dates are: July 2012, July 2013 and July 2014. Eligible part-time ARP members received a prorated amount.

In **Maine**, legislation authorized an early retirement incentive program for state employees who reached their normal retirement age on or before July 1, 2009. Additional criteria included employees in the regular plan must have had ten years of service by July 1, 2009 and had to be either age 60 with ten years of service by the date, or age 59½ with 25 years of service by that date. Employees in the regular plan who had less than ten years of creditable service on July 1, 2009, were eligible if they were at least age 62 on July 1, 2009 and had at least ten years of creditable service. Employees in special plans had to meet age and service requirements of those plans.

Eligible **Maine** employees who agreed to retire on July 1 or August 1 or September 1, 2009, at their discretion, received a cash payment of $10,000, which was prorated for part-time or seasonal employees. The payment was made from departmental funds in January 2010, is subject to income tax, and was not be included in the calculation of final average compensation. Positions vacated will be frozen through June 30, 2011. Critical positions can be refilled only if a department can find comparable savings from other sources.

The **Vermont** Legislature created an early retirement incentive program for state employees who were eligible for normal retirement as of July 1, 2009, provided they do not purchase service credit in order to become eligible and provided they are among the first 300 people to apply for the incentive. Those who submitted applications by June 30 for July 1, 2009, retirement were entitled to a state commitment to pay at least 80 percent of the cost of the premium for primary or secondary health insurance for the retiree and the retiree's dependants for ten years; $500 per year of service if the employee has fewer than five years of creditable service; $750 per year for those with five to 15 years; and $1,000 per year for those with 15 years of service or more. Those who applied after June 30 but before August 31 were eligible for the same bonuses but not the continued health insurance subsidies.

Vermont employers could arrange staggered retirement dates for the purpose of workload management. Employees who received a retirement incentive may not return to state employment for one fiscal year, with allowance for approved exceptions. No employee could receive more than $15,000 in bonuses. The money will be paid in two installments in FY 2010 and FY 2011.

The **Louisiana** Legislature passed, but the Governor vetoed, a bill providing an early retirement option for members of the State Employee Retirement System (LASERS). It would have allowed a member to retire at age 50 with ten years of service credit (not including purchased military credit) with an actuarial reduction in benefits. Those choosing the option would not be eligible for reemployment for two years and their position would be abolished pending further review. The

legislation included a number of controls and reporting requirements intended to further the purpose of reducing the total number of state employees for reasons of economy.

The **Minnesota** legislation allowed Public Employees Retirement Association (PERA) members age 62 and over the option to begin receiving a PERA pension. However, the decision to make the Phased Retirement Option available to members is strictly up to the employer, and participants must agree to substantially reduce the hours they work. In order to qualify for the Phased Retirement Option, a number of requirements must be met.

First, the member's **Minnesota** PERA-covered employer has sole discretion in offering the Phased Retirement Option to an employee. The initial offer must not exceed one year, but it can be renewed for periods of up to a year for a total of five years. An employer is under no obligation to renew a Phased Retirement Agreement. To qualify, a member must:

- Meet all other requirements for a pension from PERA;
- Be at least 62 years of age;
- Have worked at least half time in a PERA-covered position for a minimum of five years; and
- Be eligible for an unreduced retirement annuity.

In addition, the **Minnesota** PERA member also must agree to a reduction in total hours worked by at least 25 percent, not to exceed 1,044 hours per year (essentially half time or less). To participate, the member and employer must file a Phased Retirement Agreement form with PERA.

If mutually agreeable between the member and employer, the member may begin collecting a **Minnesota** PERA benefit without the currently required 30-day break in service and prohibition against having any agreement to return to work with the current employer. Participants also are exempt from any PERA's earnings limits that apply prior to full Social Security retirement age. In addition, neither the member nor the employer is required to make any further contributions to PERA. Since the member is now receiving a pension, no additional service credits will be earned and there will be no future adjustment to the high five-year average salary.

Upon the completion of phased retirement, a **Minnesota** PERA member must meet the current requirements applied to someone who is terminating public service, including the prohibition of any future employment agreement for returning to work and the minimum 30-day break in public service. If the retiree later returns to PERA-covered employment, the earnings limits would apply. A current retiree cannot participate in the program. The option is set to sunset June 30, 2011.

In addition, **Minnesota** also instituted an early separation incentive program that may include one or both of the following: (1) cash incentives, not to exceed one year of base salary; or (2) employer contributions to a post-retirement healthcare savings plan established under section 352.98 of the ***Minnesota Statutes***. To be eligible to receive an incentive, an employee must be at least age 55 and must have at least five years of employment by the Minnesota State Colleges and Universities System. The president of a college or university may designate: (1) specific departments or programs at the college or university whose employees are eligible to be offered the incentive program; or (2) positions at the college or university eligible to be offered the incentive program.

The **Minnesota** law requires acceptance of the offered incentive to be voluntary on the part of the employee and must be in writing. The incentive only may be offered at the sole discretion of the president of the applicable college or university. A decision by the president of a college or university or by the chancellor not to offer an incentive may not be challenged. The cost of the incentive is payable by the college or university on whose behalf the president or chancellor offered the incentive. Annually, the chancellor and the president of each college or university must report on the number and types of early separation incentives which were offered and utilized. This law expires June 30, 2014.

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