*SESSION OF 2002*

# THIRD CONFERENCE COMMITTEE REPORT
# SENATE SUBSTITUTE FOR HOUSE BILL NO. 2621

As Agreed to May 7, 2002

## Brief *

The bill, as approved by the conference committee, would amend state public retirement law, death and long-term disability benefits provisions, and other related statutes to provide the following:

1. **Employer Contributions for Savings Plans** (HB 2619; Senate Sub. for HB 2621). The bill would permit school district boards of education, community college boards of trustees, and the State of Kansas to make employer contributions into tax deferred retirement savings plans authorized by federal law. The bill would allow boards for community colleges and public school districts to contribute to an employee's individual account or annuity under section 403(b) or a deferred compensation plan under 457(b) of the Internal Revenue Code. In addition, the bill would allow the state to establish a new section 401(a) retirement plan under the Internal Revenue Code to receive employer contributions on behalf of employees who make contributions into a section 457(b) deferred compensation plan. The state's contributions would be subject to appropriations in determining an amount to be paid.

2. **Death and Disability Contribution Moratorium** (Section 79(f) of SB 517; SB 638; Section 15(f) of HB 3008; Section 15(f) of SB 640). Another provision would implement the Governor's recommended six month moratorium in FY 2003 on death and disability contributions paid by participating employers into the Kansas Public Employees Retirement System (KPERS) for the Employer Group Insurance Reserve Fund. The effective dates would be July 1, 2002, until December 31, 2002.

**3. Federal Compliance Changes** (HB 2626; Senate Sub. for HB 2621). This provision would allow for trustee-to-trustee transfers of

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*Conference committee summary reports are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree.

qualified service credit purchases using money invested in one retirement plan to buy service credit in a different plan. Specifically, the bill would allow trustee-to-trustee transfers permitted under new federal law in order to avoid tax consequences for persons with 403(b) retirement annuity accounts or 457 retirement savings accounts who are eligible and wish to buy KPERS service credit.

**4. Accidental Death Benefit for New Regents Employees** (SB 484). Another provision would provide first-day coverage for Regents unclassified employees under a service-connected accidental death benefit during their year of waiting to become members of the Board of Regents retirement plan. A second provision would give coverage to two employees at the School for the Blind who are long-term state workers but not members of KPERS, and therefore without this accidental death benefit.

**5. Clarifying Service Credit Purchases** (HB 2621; Senate Sub. for HB 2621). This provision would clarify that anyone previously employed full-time as a Regents unclassified employee would be eligible to purchase KPERS service credit for the period of time when waiting to become a member of the Regents retirement plan, even if the individual never gained membership. In 2001, legislation was passed that allows former employees of Regents institutions to purchase service credit for the waiting period, even if they never attained membership in the Regents retirement plan.

**6. Allowing Multi-Employer Employment** (HB 2621; Senate Sub. for HB 2621). A clarifying amendment would allow local employers in a region of the state to share an employee to perform a particular function (*e.g.*, county appraiser) and for that employee to participate in KPERS, if working the minimum number of hours when number of hours working for all public employers were taken into account. This would allow an employee who does not work the minimum requirement of 1,000 hours for KPERS coverage with any single employer to meet the minimum requirement when employment with all employers is combined.

**7. Clarifying Hire Dates Before July 1, 1993** (HB 2621; Senate Sub. for HB 2621)**.** This provision would protect employees who were in their year of waiting for KPERS coverage when 1993 legislation passed that allows an employee hired prior to the effective date but who became a member afterwards to be entitled to either a four or three year option for calculating retirement benefits. Members hired before July 1, 1993 have the option of choosing the higher benefit based on either a four-year final average salary with add-ons payments or a three-year final average without any add-ons.

8. **Clarifying Partial Lump Sum Options** (HB 2621; Senate Sub. for HB 2621). Another provision would clarify that the KPERS actuarial calculation of benefits for members of the Brazelton group assumes that members started receiving payments under Social Security at either the age for which they are eligible for unreduced Social Security benefits or their actual retirement age, whichever is later. The Brazelton group is a closed group of police and firemen who have their retirement benefits offset for any Social Security they receive. Their lump-sum option would be based on their monthly benefit after this offset.

All provisions of the bill would be effective upon publication in the *Kansas Register*.

## Background

The Senate Ways and Means Committee combined three House-passed bills into Senate Sub. for HB 2621—HB 2619, HB 2621, and HB 2626. In addition, all provisions were made effective upon publication in the *Kansas Register*. The Conference Committee added provisions from two other bills—SB 484 and SB 658 (also in section 15(e) of HB 3008 and SB 640).

<u>Reference to Item 1</u>. HB 2619 as introduced was recommended by the Joint Committee on Pensions, Investments and Benefits, concluding its 2001 Interim study. It would permit community college and public school boards to make employer contributions to an employee's tax sheltered 403(b) plan. The House Appropriations Committee heard testimony in support of HB 2619 from representatives of Unified School District 233 (Olathe), the Kansas National Education Association, and the Kansas Association of School Boards. The Director of Personnel Services, Department of Administration, asked for an amendment to include a new plan for state employees in provisions of the bill that would allow the state to make contributions in conjunction with an employee's participation in a 457(b) plan. The Director stressed that the provision would be subject to appropriations, and that by adding the new authority for the State of Kansas to make contributions, at some future date the plan might be implemented. HB 2619 as amended and passed by the House included the state contributory provision, in addition to the permissive language as originally intro-

duced for public education. The Senate Ways and Means Committee amended two sections of HB 2619. It deleted reference to matching an employee's contributions to clarify that authority is permissive and that it is not necessary for a dollar-for-dollar match. It also changed the term “employee” to “participant” in several instances for the state’s 457(b) program to clarify that anyone no longer an active employee could still participate in the plan.

Reference to Item 2. Section 15(e) of HB 3008 as passed by the House, Section 15(e) of SB 640 as passed by the Senate, and SB 638 as passed by the Senate contained the Governor’s recommended two-quarter moratorium on employer contributions for death and disability that was recommended in the FY 2003 *Governor’s Budget Report*. This provision from HB 3008 would make the necessary statutory changes to effect the recommended savings. A seven-quarter moratorium on the employer contributions to the Death and Long-Term Disability Benefits plan administered by KPERS ended on December 31, 2001. Employer payments resumed January 1, 2002, and those payments are deposited into the KPERS Group Insurance Reserve Fund. The Governor’s proposal for FY 2003 would result in savings of approximately $14.23 million, with $11.12 million attributed to state savings and $3.11 million attributed to local units of government and other KPERS participating employers. The fiscal note from the Budget Director indicated state and local savings due to the six months moratorium would be as follows:

**Financial Impact**
**KPERS Employer Contributions**
**for Death and Disability**
**(In Millions)**

| Employer Payments | Six Months Estimated FY 2003 |
|---|---|
| Participating Employer: | |
| State/School/Regents/Judges | $ 11.12 |
| Local Units | 3.11 |
| Total | $ 14.23 |
| Financing: | |
| State General Fund | $ 9.30 |
| All Other State Funds | 1.82 |

KPERS staff estimates the ending balance in the Group Insurance Reserve Fund will be $122.8 million on June 30, 2002, and will decrease to $99.1 million on June 30, 2003, if a six month moratorium were enacted in FY 2003, based on April 10, 2002 projections.

Reference to Item 3. HB 2626 was introduced by the Chairperson of the Joint Committee on Pensions, Investments and Benefits after the 2001 Interim had concluded and KPERS learned that state legislation was required in order to conform with new federal law. The KPERS Executive Director indicated that this bill is required to address recent changes in federal law. The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 was cited as an attempt to address deficiencies in qualified retirement plans. Changes included in the federal law allow increased contribution limits, increased portability among plans, enhanced service purchase alternatives, tax credits, and enhanced contributions to IRAs.

Reference to Item 4. SB 484 was recommended by the Legislative Educational Planning Committee at the request of the Board of Regents. Most other state employees have first-day coverage for accidental death benefits, and Regents unclassified as well as most other state employees have accidental death benefit coverage after their year of waiting. A representative of the Board of Regents testified in support of this bill. According to KPERS staff, there is no fiscal note since the mortality rate for this group of less than 1,600 employees is presumed to be low.

Reference to Items 5, 6, 7, 8. HB 2621 as introduced was recommended by the Joint Committee on Pensions, Investments and Benefits, concluding its 2001 Interim study. HB 2621 was requested by the KPERS Board of Trustees. The Executive Director of KPERS appeared in support of HB 2621. The Senate Ways and Means Committee recommended provisions from HB 2621 be passed without any amendments.