SESSION OF 2007

CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR HOUSE BILL NO. 2457

As Agreed to April 26, 2007

Brief*

Senate Sub. for House Sub. for HB 2457 would make four changes in the Kansas Public Employees Retirement System statutes that would:

- Ensure that partial lump sum distributions, and any investment earnings on those distributions, if rollovers from the Kansas Public Employees Retirement System are placed in other tax sheltered investments, shall retain their state tax exempt status after being placed in qualified retirement accounts.

- Prohibit the investment of funds by the Kansas Public Employees Retirement System in certain companies with business operations in Sudan. The bill would provide for divestment from direct and indirect holdings in companies with such operations, except in the case of passively managed commingled funds when the estimated costs of divestment exceeds a threshold test.

- Permit purchase of service credit by certain members of the Kansas Public Employees Retirement System for breaks in service due to serving in peace-keeping missions of the United Nations.

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*Conference committee report briefs 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. Conference committee report briefs may be accessed on the Internet at http://www.kslegislature.org/klrd

- Allow certain Tier I members of the Kansas Police and Fireman's Retirement System with 21 or more years of service, who are disabled and who have adult children, to have retirement benefits calculated in the same manner as disabled members without children.

Conference Committee Action

The Conference Committee on Senate Sub. for House Sub. for HB 2457 agreed to include all of the Senate amendments and agreed that the original House provisions to establish the Taxpayer Transparency Act would not be included. The Senate amendments included in the Conference Committee Report are provisions from three bills: SB 180, SB 335, and SB 371 which are described above in the bullets. Regarding the prohibition of certain investments by KPERS, the Conference Committee also agreed to add clarifying language about divestment requirements and exceptions for certain companies as certified by an independent third party.

Background

House Sub. for HB 2457 as passed by the House would implement the Kansas Taxpayer Transparency Act and direct establishment of a website for the disclosure of public financial data. The same provisions from HB 2457 as passed by the House were included as the Taxpayer Transparency Program in section 163 of 2007 HB 2368 that was signed by the Governor and will be effective upon publication in the *Kansas Register*.

The Senate Ways and Means Committee deleted the provisions related to the Taxpayer Transparency Act and added provisions from three bills as recommended by the Senate Ways and Means Subcommittee on KPERS: SB 180, SB 335, and SB 371. Both SB 180 and SB 335 passed the Senate earlier in the Session as separate bills.

Background for Provisions from SB 180

SB 180 was recommended for introduction by the Joint Committee on Pensions, Investments and Benefits. Conferees included a retired member of the judiciary who favored the bill, a representative of the State Board of Regents who was neutral, and a representative of the Department of Revenue who asked for modifications.

Reference to the State Board of Regents Retirement Plan was removed by the Senate Committee, leaving only reference to the Kansas Public Employees Retirement Plan, the Kansas Police and Fireman's Retirement Plan, and the Retirement Plan for Judges which are part of the Kansas Public Employees Retirement System. The Senate Committee also added clarification that earnings are to be exempt from state taxes.

The fiscal note for SB 180, as introduced, indicates a potential reduction in state income tax collections if the bill becomes law. However, an exact fiscal effect cannot be estimated, according to the Department of Revenue. Prior to May 2005, individuals who transferred lump-sum retirement proceeds to a qualified retirement account were allowed to deduct the entire lump-sum payment for Kansas income tax purposes. After the Department made a clarification in May 2005 that stated after Tax Year 2004, any lump-sum benefits that are transferred would lose the Kansas income tax-exempt status and would be subject to Kansas income taxes when withdrawn from qualified retirement accounts. During FY 2006, approximately 600 KPERS retirees transferred approximately $53.6 million to qualified retirement accounts. With passage of SB 180, this would result in a reduction to future income tax revenues of approximately $2.7 million. No estimate for the Regents Retirement Plan was provided.

In addition, the Department of Revenue indicates administrative costs associated with the bill of $284,453 in additional expenditures from the State General Fund in FY 2008. This estimate includes $163,200 for 2,040 hours of additional computer programming time at $80 per hour;

$16,725 for 600 hours of user testing; and $95,428 for 2.00 FTE Customer Service Representative positions.

Background for Provisions from SB 335

Proponents of SB 335 included Senator Betts, Senator Haley, a representative of the Sudan Divestment Task Force, and a representative of the Wichita East High School Darfur Action Group. The Senate Committee amended the bill to address at least one instance in which the costs of divestment would be detrimental to the Kansas Public Employees Retirement System (KPERS) and provided that exceptions should be allowed in such cases where justified. Periodic reports to the Joint Committee on Pensions, Investments and Benefits will be required if exceptions to divestment are approved by the Board of Trustees.

The fiscal note indicates that KPERS does not have any direct holdings in Sudan or any investments in Sudanese companies. However, the KPERS portfolio has approximately $38.0 million in securities of companies that may have some type of targeted business connection to Sudan. As of December 31, 2006, this represents 0.29 percent of the total portfolio.

KPERS reports that the bill as introduced would increase the agency's costs for investment-related transaction fees for selling securities. Also, the agency would experience ongoing administrative costs to retain a third-party research service to assist in identifying companies from which to divest. Transaction fees would apply to holdings in accounts that only KPERS invests (separate accounts), as well as accounts that KPERS pools assets with other investors (commingled accounts). Also, the agency would incur annual management fees for establishing separate accounts for the commingled accounts. In total, KPERS estimates that it would experience between $40,000 and $185,000 in one-time transaction costs, as well as between $455,000 and $460,000 in annual management fees with the enactment of SB 335. In addition to transaction fees, the agency would require additional investment staff time to monitor the list of prohibited investments. The agency does not have a cost estimate for the staff time. The modifications to the divestment provisions in the Conference Committee Report will reduce the fiscal note to between $10,000 and $20,000 annually, according to KPERS staff.

Background for Provisions from SB 371

SB 371, as introduced, would address a situation involving two state employees who took leaves of absence to serve in peace-keeping missions of the United Nations. No credit was earned toward retirement under the Kansas Public Employees Retirement System (KPERS). One of the employees who returned to work in state government appeared as a proponent of the bill. The fiscal note indicates that there would be no cost to the state agency, and the full actuarial cost of purchasing service credit would be the responsibility of employees.

The Senate Committee amended SB 371 to also include amendments to the Kansas Police and Fireman's (KP&F) Retirement System for Tier I members which is a closed KP&F group. All new members of KP&F must join Tier II which has different benefit provisions. KPERS staff reported that research had not identified why the difference in calculating benefits had been codified, but that KPERS staff believed the matter was one of equity and recommended the change to equalize benefit calculations for KP&F members of Tier I who have adult children with those who do not have adult children. The fiscal note indicates a modest actuarial cost increase in benefits based on this change. Since KP&F employer contributions are actuarially determined, any increase in cost will be reflected in future rates for FY 2009 if actuarially significant. KPERS staff estimates that approximately eight current disabled members will be affected by this change and the actuarial cost is anticipated to be insignificant.

Kansas Public Employees Retirement System