SESSION OF 2009

SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2072

As Agreed to May 7, 2009

Brief*

HB 2072 would make amendments to retirement statutes for the Kansas Police and Firemen's (KP&F) Retirement System and the Kansas Public Employees Retirement System (KPERS). The bill would:

- Remove the current statutory earnings limitation of $10,000 for members of the KP&F Retirement System who are assigned to Tier II and qualify for disability benefits, but who are able to work part-time at a nonpublic safety job while drawing KP&F disability payments.

- Clarify that current law pertaining to retirees of KPERS who return to work after retirement as contracted employees will be subjected to the same state policies as other KPERS retirees who return to work as individuals. The bill would require the third-party companies to provide information about the salaries of its contract employees in order for KPERS and participating employers to apply current law regarding salary caps and employer actuarially-assessed contributions. Anyone under contract prior to July 1, 2006, is exempted.

- Increase in the break-in-service requirement from 30 to 60 days after retirement for **all** KPERS retirees (including members of the state, school and local groups) before they could return to work for any KPERS participating

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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 employer, beginning July 1, 2009. An amendment to the school law provisions will allow licensed professionals to retire before June 30 of any calendar year.

- Eliminate for three years the current statutory $20,000 earnings limitation for licensed public school employees (teachers and administrators) of the KPERS school group who return to work for the same KPERS participating employer from which they retired and who chose a normal retirement option (including the 85-point plan). The provision would sunset on June 30, 2012.

- Require payments for three years until June 30, 2012, by all public school employers who employ licensed KPERS school group retirees which will be based on a special employer contribution rate equal to the employer actuarial rate plus an additional 8.00 percent. (For FY 2010, this would be 20.07 percent.)

- Make the special employer rate apply for three years to all school employers who hire licensed KPERS school group retirees returning to work for both the same school district or a different school district. The provision would sunset on June 30, 2012, and KPERS would report the results of the three-year program for licensed KPERS school group retirees to the Joint Committee on Pensions, Investments and Benefits.

- Affirm that substitute teachers are not addressed by the changes in law.

- Require the KPERS employer contribution rate for both the state group and the school group to be equal to the statutory rate in FY 2010 and subsequent fiscal years. Any additional KPERS state contributions in excess of those required by the actuarial rate that are a result of using the statutory rate and that are remitted to KPERS would be credited to the school group.

- Allow the purchase of KPERS participating service credit for work experience that is necessary to obtain certain technical or vocational teacher certifications.

Conference Committee Action

The Conference Committee agreed with the House's versions of HB 2072 and HB 2073 as well as several Senate amendments to HB 2072, and made several other adjustments in the original language.

The House Committee in HB 2072 had deleted the KP&F salary cap on disabled members who return to work while receiving disability benefits. The Senate Committee had added a $25,000 cap. The Conference Committee recommends the House position of no salary cap to replace the current $10,000 limit that has been in place for a number of years.

The House Committee in HB 2073 had imposed the same requirements on KPERS retirees who work for third party contractors as are applied to individual KPERS members who return to work after retirement. The Senate Committee had modified the working-after-retirement law to require employer contributions based on the age of retirees who return to work for KPERS participating employers and had increased the working-after-retirement salary cap from $20,000 to $25,000, in addition to requiring a 60-days separation from employment before returning to work. The Conference Committee recommends the House position to make current law apply in the same manner to both contracted and non-contracted KPERS retirees. The Conference Committee also recommends a modification of the Senate Committee's three-year plan for the working after retirement law . The Conference Committee retained the 60-day separation after retirement period, a uniform KPERS special employer contribution rate, and an exemption from the $20,000 salary cap for licensed school professional, with a three-year sunset.

The Conference Committee also added provisions from HB 2219 as passed by the Senate. The bill would have combined the state and school KPERS contribution rates and allow purchases of KPERS service credit by certain school professionals for vocational experience.

Background

Certain versions of three bills were addressed by the House and Senate conferees pertaining to the subject matter in the recommended conference committee report.

HB 2072. Under current law, a $10,000 limit is in place for Tier II KP&F disabled members, and when employed, their disability benefits would be reduced $1 for every $2 of earned income over the statutory limit. HB 2072, as introduced, would have raised the cap to $20,000 as recommended by the Joint Committee on Pensions, Investments and Benefits following the 2008 Interim study.

The House Select Committee on KPERS amended the bill to eliminate a $20,000 cap on earnings while disabled. The fiscal note for the bill as introduced indicated that the cost increase would be $160,000 annually to raise the cap from $10,000 to $20,000. The revised fiscal note for removing the cap entirely would be approximately $300,000 annually, with the additional payments from the KP&F Retirement System reserves. No increase in KP&F employer contributions would be required.

The Senate Committee on Ways and Means added a $25,000 cap for KP&F disabled members. The fiscal note indicated the cost would be approximately $200,000.

The Senate Committee on Ways and Means ultimately added provisions from two other bills to Senate Substitute for HB 2072 that are described below.

HB 2073 and SB 196. In recent years, a number of KPERS retirees have become contracted employees of third-party companies and either returned to work for the same participating KPERS employer from which they retired, or went to work for a different participating KPERS employer. In both instances, neither KPERS nor the State Department of Education were able to impose current state policies about working after retirement. Numerous examples of such situations were reported by state officials when the subject was reviewed by the Joint Committee on Pensions, Investments and Benefits during the 2008 Interim. The Joint Committee recommended introduction of a similar bill, SB 196, to make the current policies apply uniformly.

For KPERS retirees returning to work, either as individuals under contract or as contracted employees of third-party companies, for the same participating KPERS employer from which they retired, a $20,000 annual cap on their earnings will be applied in all cases. For KPERS retirees going to work, either as individuals under contract or as contracted employees, for a different participating KPERS employer, an actuarial assessment shall be paid by the new participating employer.

The Senate Ways and Means Committee recommended amendments to SB 196 to clarify that on or after July 1, 2009, current law pertaining to retirees of KPERS who return to work after retirement as contracted employees will be subject to the same state policies as other KPERS retirees. That version initially was recommended and place on General Orders in the Senate. Later, the bill was re-referred to the Senate Committee on Ways and Means where it resides currently.

The House Committee reviewed the content of SB 196, as amended, and recommended the contents be included in Substitute for HB 2073 after hearing from representatives of the Kansas Public Employees Retirement System and the Kansas Department of Education who supported the bill.

The fiscal note indicated that a survey by the Kansas Department of Education in 2007 found that of 638 retired teachers re-employed with salaries over $20,000, 33 were under private contractor arrangements. Most of the 33 had returned to work for the school district from which they retired, and therefore were not subjected to the $20,000 annual earnings cap. If SB 196 or Substitute for HB 2073 were enacted, the financial incentive that creates the contractor arrangements with school districts may no longer exist since the third-party companies will have to report salaries of their employees to KPERS and the school district in order for current state policies to be applied regarding salary caps and actuarial assessments paid by the participating employer.

Senate Substitute for HB 2219. The Senate Ways and Means Subcommittee on KPERS Issues reviewed SB 259 and HB 2073, deleted the contents of HB 2219, and added provisions from these two bills.

SB 259 as introduced addressed KPERS employer rates for state and school contributions. Two proponents spoke in favor of the legislation: The Director of the Budget and the KPERS Executive Director, both of whom indicated that the bill would shift a portion of the future payments to address the KPERS school unfunded liability from the State General Fund to other special revenue funds. The Governor's FY 2010 and FY 2011 budget recommendations included the proposed shift in financing.

The fiscal note for SB 259 indicated that under current law the State General Fund would be required to contribute an additional amount of $2.6 million in FY 2010 and in $9.0 million in FY 2011 for the KPERS school group because the KPERS state group's actuarially-required contribution rate has fallen below the statutory rate in each fiscal year. SB 259 would implement the Governor's FY 2010 budget recommendation that both the KPERS state group and school group contribution should be equal to the higher statutory rate. The net impact of the recommendation is to reduce the amount of State General Fund money required in FY 2010, and to increase the amount of special revenue funds to approximately 50.0 percent of the financing for the additional state KPERS contributions that are included in the *Governor's FY 2010 Budget Report*.

HB 2073, as introduced, concerned purchases of KPERS service credit for apprenticeship experience required for vocational teaching positions. Senator Laura Kelly spoke in favor of the provision since any costs would be paid by those purchasing service credit for an actuarially determined payment.

KPERS; KP&F