

To: House Pensions and Benefits Committee

From: Alan D. Conroy, Executive Director

Date: February 11, 2013

Subject: Suggested Correction Language to HB 2213

Attached is KPERS suggested language for HB 2213 (trailer bill), as introduced. As I tried to indicate last Friday, the language **that we provided** Revisor Self has some unintended consequences. Basically, the bill in its current form would permit any Tier 3 member with ten years of service to be **eligible for early retirement at any age**. Our General Counsel has indicated that would probably run us into compliance difficulties with the IRS with not having some minimum early retirement age. As you will see in the attached language it provides that a Tier 3 member would need to have at least 10 years of service **and age 55** to qualify for early retirement.

I believe the current law (from 2012 HB 2333) provides for early retirement at age 55 with 10 years of service for active members of Tier 3, but is silent on members who have the ten years of service, but are not actively employed.

Current law (HB 2333) also provides for a partial lump sum option of up to 30 percent for normal retirement for Tier 3 members, but does not permit any partial lump sum option for Tier 3 members who select early retirement.

Pat Beckham (KPERS consulting actuary) has indicated her 2012 cost studies for HB 2333 for Tier 3 were based on an early retirement option with ten years of service and a minimum age of 55 for all Tier 3 members (active and inactive).

Sorry for the confusion, but hopefully this background information and suggested language will clarify the issue. Please let me know if you have any questions. Thank you for your consideration.



**Correction – HB 2213, Section 6
February 8, 2013**

Sec. 6. K.S.A. 2012 Supp. 74-49,313 is hereby amended to read as follows: 74-49,313.

(a) Except as provided in subsection (e), a member who has a nonforfeitable interest in the member's retirement annuity account, at any time after termination from service and the attainment of normal retirement age, shall receive an annuity based upon the balance in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and interest rates established by the legislature as of the member's annuity start date, and such interest rate shall initially be 6%. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(b) Except as provided in subsection (e), a member who has a vested interest in the member's retirement annuity account, who terminates covered employment without forfeiting such member's account, with the completion of at least 10 years of service, shall upon attainment of age 55 be eligible to receive an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the legislature as of the member's annuity start date, and such interest rate shall initially be 6%. The legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the legislature expressly reserves such rights to do so.

(c) The form of benefit payable under subsections (a) and (b) shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918, and amendments thereto, except the partial lump-sum option, subject to actuarial factors established by the board from time to time. The benefit option selected may include a self-funded cost-of-living adjustment feature, in which the account value is converted to a benefit amount that increases by a fixed percentage over time. One or more fixed percentages shall be established by the board, which may be changed from time to time. In lieu of a part of an annuity, for a member entitled to a benefit under subsection (a), the member may elect to receive a lump-sum of such member's retirement annuity account of any fixed dollar amount or percent, but in no event may the lump-sum option elected under this section and the lump-sum option elected under subsection (a) of K.S.A. 2012 Supp. 74-49,311, and amendments thereto, exceed 30% of the total value of such member's annuity savings account and retirement annuity account.

(d) Except as provided in subsection (d), in the case of an active or inactive member:

(1) Who is vested in the member's retirement annuity account;

(2) who has five or more years of service at death; and

(3) who dies before attaining normal retirement age, with such member's spouse at time of death designated as such member's sole primary beneficiary, the member's surviving spouse on and after the date the member would have attained normal retirement age had such member not died, shall receive an annuity based upon employer credits and interest credits in the retirement annuity account, using factors established by the board by official action as of the beneficiary's annuity start date. The form of benefit shall be a single life annuity with 10-year certain.

(e) If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balance or balances shall be mandatorily distributed to the member in accordance with section 401(a)(31)(B) of the federal internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly, then the board will pay the distribution to the member directly.