Kansas Public Employees Retirement System

KPERS Working After Retirement Update

Committee on Pensions and Benefits

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KPERS Working After Retirement Overview

KPERS working-after-retirement restrictions are set out in Kansas statutes.

- **No new benefits.** KPERS retirees returning to work for KPERS employers do not earn any new benefits.
- **Break in service.** KPERS retirees must comply with a 60-day minimum waiting period before returning to work for *any* KPERS employer.
- **General restrictions.** Subsequent restrictions depend in part on whether the retiree is rehired by the KPERS employer for which the retiree worked in the two years before retirement or by a different KPERS employer.
- **Licensed positions.** Currently, there are special rules for KPERS retirees returning to work for school employers in "licensed professional" positions.
  - A special exemption for these positions was established in 2009, with a three-year sunset date.
  - The 2012 Legislature extended the exemption for an additional three years, ending June 30, 2015.

KPERS Working After Retirement Overview

- **Third-Party contractors.** Working-after-retirement restrictions apply to retirees who provide services to a participating employer through a third-party contractor.
  - Contracts taking effect on or after April 1, 2009, are covered by this provision.
  - Each third-party contract for a retiree's services must require the third party to report the retiree's compensation, so that the employer can comply with reporting and employer contribution requirements.

General Rule – Different KPERS Employer

There is **no** earnings limitation on the compensation from employment by a different KPERS employer.

- If first employed in this position **before** July 1, 2006, there are **no** employee or employer contributions to KPERS.
- If first employed in this position **on or after** July 1, 2006, there are **no** employee contributions, but the new employer must pay a contribution rate equal to the total of –
  - The actuarially required employer contribution rate
  - The statutory employee contribution rate (currently 4%)
- Each school district and each local unit of government are considered to be a separate employer.

General Rule – Same KPERS Employer

There is a $20,000 annual earnings limitation on the retiree's compensation from the employer.

- The retiree has two options when the $20,000 limitation is reached:
  - Stop working for the remainder of the calendar year and continue to receive retirement benefits.
  - Continue working and suspend retirement benefits until the next calendar year.
- Several types of employees are exempt from the limitation, including
  - Daily call substitute teachers
  - Legislative staff
  - Retired licensed nurses at State institutions and State juvenile justice institutions.
- A special exemption applies to licensed professional school employees.
- Retirees **do not** make contributions to KPERS
- Employers only make contributions for rehired retirees if they are --
  - Exempt retired nurses working for certain State institutions
  - Licensed professional school employees

Rules for “Licensed School Professionals”

A special exemption for licensed school professionals was created in 2009 and will expire June 30, 2015.

- **Licensed School Professionals** include teachers, administrators, and certain other professionals, such as social workers, speech pathologists, and dietitians.
- **Earnings Limit for Licensed School Employees.** There is no earnings limit for retired licensed professionals returning to work for the school district from which they retired, if they retired either:
  - Under a normal retirement option (e.g., with 85 points)
  - Under an early retirement option more than 60 days before the effective date of the bill (March 28, 2009)
- **Employer Contribution Rates.** Through June 30, 2015, public school employers who employ retired licensed professionals must pay a special employer contribution rate.
  - The rate is the actuarially required employer contribution plus 8 percent.

Rules for “Licensed School Professionals”

- The employer rate applies to retirees returning to work in a position for which a professional license is required.
  - Applies whether returning to work for the same or a different school district.
  - Applies regardless of the number of hours worked.
- This employer rate does not apply to retirees employed only as substitute teachers.
- This employer rate does not apply to retirees who were first employed by a different school district before July 1, 2006.

- **Report to Joint Committee.** KPERS is required to report to the Joint Committee on Pensions, Investments and Benefits on the results of the provisions for licensed school professionals when they expire.

Appendix A provides a flow chart intended to assist school employers in applying working-after-retirement rules.

IRS Requirements

As a qualified, tax-exempt retirement plan, KPERS is subject to IRS laws that affect working after retirement.

- Qualified plans can only pay a retirement benefit when –
  - There has been a true termination of employment
  - Normal retirement age is attained (Age 65 with 6 months service, 85-point rule, etc.)
  - Age 62, if earlier
  - The IRS has stated repeatedly that whether or not there is a termination of employment is determined using a facts and circumstances test.
  - The elements of a facts and circumstances test would include
    - Whether there was a true severance of the employment relationship
    - The amount of time that a retiree was off work
    - Whether there was a prearranged agreement for reemployment.
  - Administration of the facts and circumstances test would be very time consuming and expensive for more than 6,000 annual retirees.
  - Therefore, a 60-day break in service provides a default period of time intended to establish a bona fide termination of employment.

Working After Retirement Cost Implications

- Changes to working after retirement restrictions can impact KPERS' funding.
- The potential cost impact results primarily from two factors:
  - Changes in retirement patterns and behavior stemming from incentives for members to retire earlier than would be assumed in actuarial projections.
  - Reductions in employee and employer contributions occurring when positions normally filled by active, contributing members are instead filled by non-contributing retirees.
- Changes in retirement patterns.
  - Most members do not retire when they first meet the eligibility requirements. Rather, they continue working and accrue higher retirement benefits.
    - The value of their future benefit payments generally is lower than it would have been when they first became eligible because payments, while higher, begin at an older age.
    - Therefore, plan design changes that motivate members to retire earlier than retirement age assumptions underlying actuarial projections have a cost impact.
  - Without an earnings limit, there are strong financial incentives for members to retire when first eligible and then return to work after the 60-day waiting period.
    - If retirees can return to work at the same salary, their income could increase by 50% or more.
    - Take-home pay may be greater because KPERS retirement benefits are not subject to Kansas income tax, social security, or KPERS contributions.

Working After Retirement Cost Implications

- The actuarial cost of changes to retirement patterns is difficult to assess.
  - For example, there is no practical means for determining when licensed professional school employees would have retired if they were under the $20,000 earnings limit.
- Legislation establishing employer contribution rates higher than the normal statutory employer contribution rate (e.g., the actuarial rate plus 8% for licensed professional school employees) is intended to help offset the cost impact.
- In the absence of a meaningful estimate of the impact of the exemption on KPERS' liabilities, it is not possible to determine the extent to which the "actuarial rate plus 8%" employer contribution rate offsets costs to the System.
- Current working-after-retirement rates are provided in Appendix B.

Working After Retirement Utilization

- Employers are required to submit an annual working-after-retirement report in December, with data regarding the number of retirees, by category, who were rehired during any part of that calendar year.
  - Employer reporting for CY 2012 is just wrapping up, and therefore, CY 2011 data is the most recent available.
- During CY 2011, 3,762 KPERS retirees worked for a KPERS employer for some portion of the year, compared to –
  - 3,771 in CY 2010 – a year-over-year <u>decrease</u> of 0.24%.
  - 3,302 in CY 2009 – an <u>increase</u> of 13.93% over two years.
- By way of contrast –
  - The number of retirees increased from 66,782 in CY 2010 to 70,472 in CY 2011, an increase of 5.5%.
  - The number of KPERS retirements increased 19.9%, from 3,768 in CY 2010 to 4,517 in CY 2011.

Working After Retirement Utilization (Continued)

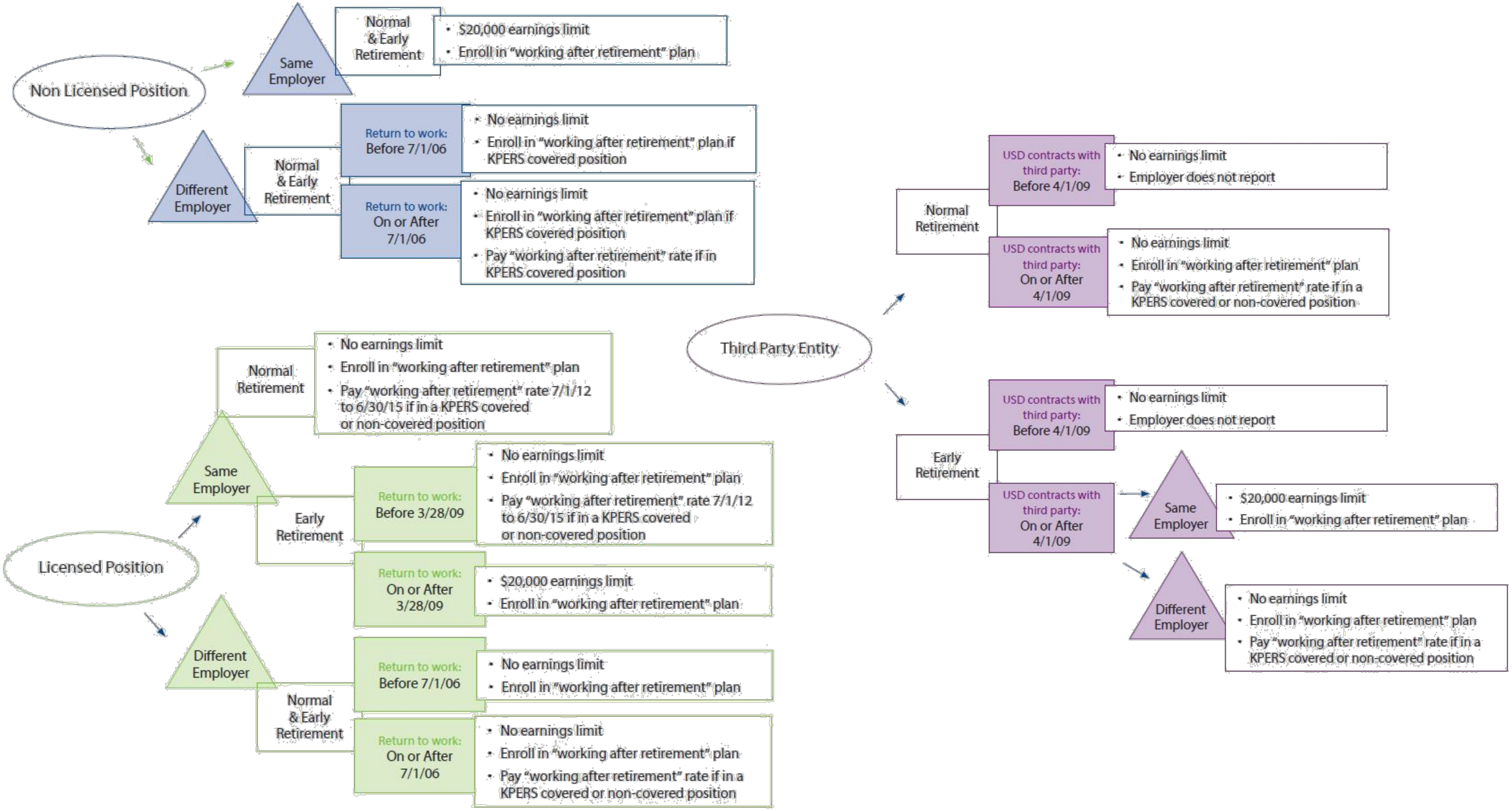
- Of the retirees working during CY 2011, 59.25% were hired by the same employer and 40.75% for a different KPERS employer.
- School Group employers reported 2,824 rehired retirees in CY 2011, which represents 7.0% of all School Group retirees – down from 7.3% in CY 2010.
- The number of KPERS retirees hired by the State and by Local Group employers in CY 2011 was equivalent to 2.0% of State and 4.4% of Local retirees.

For more detail from the report, see Appendix C.

Appendices

Appendix A

KPERS – School Working After Retirement



Appendix B

Working After Retirement Rates

[1] ARC* plus 4% rate applies to state agencies rehiring retirees from a different (school or local) employer on or after 7/1/06.

[2] ARC plus 4% rate applies to school employers rehiring nonlicensed retirees from a different employer on or after 7/1/06.

[3] ARC plus 4% rate applies to local employers rehiring retirees from a different employer on or after 7/1/06.

[4] ARC plus 8% rate applies to school employers rehiring the following retirees into positions requiring professional license:

Rehired by same school employer:
- Retired at normal retirement age
- Retired under early retirement and rehired before 3/28/09
- Retired under normal retirement, rehired through third party contractor; USD enters contract on or after 4/1/09

Rehired by different school employer:
- Retired at normal or early retirement age, rehired on or after 7/1/06
- Retired under normal retirement, rehired through third party contractor; USD enters contract on or after 4/1/09
- Retired under early retirement, rehired through third party contractor; USD enters contract on or after 4/1/09

[5] ARC rate applies to retirees rehired as nurses by the same state agency if the retiree was:
- Retired at normal retirement age
- Retired from an eligible state hospital or institution under early retirement at least 30 days before 7/1/2005

* Actuarially required contribution

ARC* rate plus 4%:	
	7/1/2013-6/30/2014
State [1]	13.82%
School [2]	19.12%
	1/1/2013-12/31/2013
Local [3]	13.43%
ARC* rate plus 8% for certain licensed school retirees: (Without further legislative action, sunsets effective 6/30/2015)	
	7/1/2013-6/30/2014
School [4]	23.12%
ARC* rate only:	
	7/1/2013-6/30/2014
State [5]	9.82%

KPERS Retirees Returning to Work*

	Same Employer	Different Employer Before 07/01/06	Different Employer After 07/01/06	Total
Local	393	55	169	617
School	1,557	312	955	2,824
State	279	5	37	321
	2,229	372	1,161	3,762

*Reflects reemployment at any point in Calendar Year 2011. Does not include retirees reported as re-employed but with no reported compensation in Calendar Year 2011.

School Group: Working After Retirement Categories*

	CY 2010	CY 2011	% Change
Same Employer Licensed Position	548	593	8.2%
Same Employer Non-licensed Position	919	962	4.7%
Same Employer, Third Party - Licensed Position	3	2	-33.3%
Different Employer Licensed Position	666	578	-13.2%
Different Employer Non-licensed Position	325	375	15.4%
Different Employer, Third Party - Licensed Position	2	2	0.0%
Total	**2,463**	**2,512**	

*Excludes retirees rehired by different employer before 7/1/06.

Historical Working After Retirement Data