

SESSION OF 2013

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2213**

As Agreed to May 8, 2013

Brief*

HB 2213, the 2013 KPERS Omnibus bill, would modify the Kansas Public Employees Retirement System (KPERS), the Retirement System for Judges, and the Kansas Police and Fireman's (KP&F) Retirement System.

Updates to 2012 KPERS Retirement Law

The bill would revise the KPERS Act of 2015 and other modifications to KPERS (provisions in 2012 Senate Sub. for Sub. for HB 2333) to correct certain errors in the current Tier 1 and Tier 2 plans and in the Tier 3 plan (the new cash balance plan). The bill would make a number of technical amendments in the 2012 KPERS law, as follows:

- Correct internal references in statute relating to a member failing to make an election rather than to a non-existent subsection;
- Clarify the higher 1.85 multiplier applies to Tier 2 members retiring under early retirement provisions, as well as to those retiring on or after normal retirement dates;

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- Conform the term “additional interest rate” to match the term “additional interest credit,” as used elsewhere in the law;
- Clarify a vested member who terminates with ten years of service without withdrawing the employee's contributions and interest may retire under early retirement provisions at age 55;
- Change a reference to the “pre-2014 act” (Tiers 1 and 2) to the “pre-2015 act” to reflect the effective date of the Tier 3 cash balance plan; and
- Correct internal references to ensure members retiring under either early retirement provisions or at normal retirement are eligible for the \$4,000 retiree death benefit.

Updates to Judges, KP&F Retirement Plans

The bill would make changes in the Retirement System for Judges and the Kansas Police and Fireman's (KP&F) Retirement System.

The changes in the KP&F plan would:

- Raise the cap on maximum KP&F member retirement benefits from 80.0 percent to 90.0 percent of final average salary;
- Increase the KP&F employee contribution rate from 7.0 percent to 7.15 percent for all years of service to self-fund the benefit increase from the active KP&F employees; and
- Permit active KP&F members to pay a lump-sum amount prior to or on the member's date of retirement if they are currently employed and eligible for the higher retirement benefit, if they

have more than 32 years of service, and if they elect to enhance the individual retirement benefit at their own cost.

The changes in both the Judges and KP&F plans would:

- Allow retired members who divorce after retirement to have the District Court order the cancellation of the joint annuitant option for the ex-spouse. Additionally, the retired member's benefit would be returned to the maximum amount, if ordered by the District Court of the county where the divorce action was filed. The retired member would not be able to name a subsequent joint annuitant once the original joint annuitant option has been canceled.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee combined the contents of HB 2213, as passed by the House, and the contents of HB 2352, as recommended by the Senate Committee on Ways and Means.

The Conference Committee excluded an amendment by the Senate Committee on Ways and Means to HB 2213 that would have eliminated references to Internal Revenue Service (IRS) approval of an election for KPERS Tier 1 members in fall 2013. That change in current law would have allowed the election to proceed without an IRS approval letter.

By reverting to current law as the Conference Committee report recommends, if there is no IRS ruling by October 3, 2013, and no election is held, then the default option in the statute will determine that all KPERS Tier 1 members shall pay a 5.0 percent employee contribution

beginning January 1, 2014, a 6.0 percent employee contribution beginning January 1, 2015, and thereafter to receive an increase of 0.10 percent in the benefit multiplier for calculating retirement payments. There would be a two-year increase in the employee contribution, first from 4.0 to 5.0 percent for 2014, and next from 5.0 to 6.0 for 2015 and thereafter. The multiplier would rise from 1.75 to 1.85 percent for each period that a member pays the higher employee contribution.

Background

Current KPERS Tier 1 members pay a 4.0 percent statutory employee contribution that has not changed since 1961. In 2011 KPERS law, the policy was established that Tier 1 members would have an election to change both their employee contribution rate and their benefit multiplier. The election was contingent upon IRS approval. If there was an election after IRS approval, members would have two options, the default option previously described for a 6.0 percent contribution, and a second option to remain at 4.0 percent for contributions, but the multiplier would be reduced to 1.4 percent all future service. Current law authorizes a 4.0 percent employee contribution and a 1.75 percent multiplier for KPERS Tier 1 members.

The Conference Committee members received a report from the KPERS Executive Director indicating no response from IRS would likely be received in a timely fashion, and that the default option likely would be triggered by October 3, 2013. KPERS Tier 1 members would be required to pay a higher employee contribution beginning in 2014 and all future years. The members will receive a benefit multiplier of 1.85 percent for all periods going forward.

The Senate Committee on Ways and Means amendment that was not included in the Conference Committee report concerned the Tier 1 election. Provisions would have been removed referring to IRS involvement in the

election for Tier 1 members who were provided with a one-time, irrevocable election between two options.

HB 2213 Background

The original HB 2213 was introduced by the House Committee on Pensions and Benefits to correct certain problems in the 2012 KPERS law.

The KPERS Executive Director spoke in favor of the correcting provisions and pointed out the one dealing with early retirement at age 55 by inactive members might need further clarifying language. No one testified in opposition to the bill.

The House Committee adopted additional clarifying language regarding the inactive members in order to ensure that early retirement could take place at age 55 for those with at least ten years of service.

The Senate Committee on Ways and Means amended the bill to eliminate reference to the IRS regarding the Tier I election in order for the election to proceed as provided in the modified statute. In testimony, the KPERS Executive Director indicated the IRS may not issue the necessary approval before the statutory deadline passes.

The Senate Committee of the Whole amended the bill to allow members of the Judges and KP&F plans who divorce after retirement to have a District Court order the cancellation of the joint annuitant option for the ex-spouse.

The fiscal note prepared by the Division of the Budget for the bill, as introduced, indicated there would be no additional actuarial cost, since the proposed 2013 legislation would correct statutes that required changes due to errors and omissions last year.

HB 2352 Background

Under current KP&F provisions for retirement calculation of benefits, members are capped at 80.0 percent of final average salary after reaching 32 years of service credit. When that happens, the employee contribution rate drops from 7.0 percent to 2.0 percent to continue paying part of the costs for disability benefits.

Proponents for the bill present at the House Committee on Pensions and Benefits hearing included representatives of the Kansas State Council of Fire Fighters and the International Association of Firefighters. No one testified in opposition to the bill.

Neutral testimony was presented by a representative of the Kansas Public Employees Retirement System (KPERS), who explained the bill and noted the actuarial cost study by the KPERS actuary.

Proponents for the proposed legislation present at the Senate Committee on Ways and Means hearing included a representative of the Kansas State Council of Fire Fighters. Written proponent testimony was provided by a representative of the International Association of Firefighters. No one testified in opposition to the bill. Neutral testimony was presented by a representative of KPERS, who explained the bill and noted the actuarial cost study by the KPERS actuary.

The Senate Committee on Ways and Means amended the bill to allow members of the Judges and KP&F plans who divorce after retirement to have a District Court order the cancellation of the joint annuitant option of the ex-spouse.

The KPERS fiscal note indicated the bill would be cost neutral to the participating employers since the full actuarial cost impact would be paid by the eligible KP&F employees. For most active members, contribution rates would increase from 7.0 percent to 7.15 percent of pay. As of December 31,

2012, there were 32 active KP&F members with more than 32 years of service who would be eligible for another method of paying for the enhancement. In order for these members to purchase the additional service credit with a lump-sum payment, the member would be responsible for paying the difference between contributions actually made (2.0 percent of pay) and the new employee contribution rate (7.15 percent of pay) plus interest. The interest rate would be approved by the KPERS Board of Trustees.

KPERS, retirement, pensions, divorce

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