

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:30 p.m. on March 9, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Anthony Hensley- absent
Senator Dwayne Umbarger- excused
Senator Chris Steineger- excused

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes
Theresa Kiernan, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Sharon Wenger, Kansas Legislative Research Department
Dorothy Gerhardt, Committee Assistant

Conferees appearing before the Committee:

Theresa Marcel Bush, Associate General Counsel, Kansas Board of Regents

Others attending:

See attached list.

Hearing on HB 2004 - Regents institutions; participation in mandatory retirement plans, conditions

Theresa Kiernan, Office of the Revisor of Statutes, presented a short summary of the provisions in HB 2004 for the committee. This legislation was introduced by the Legislative Educational Planning Committee at the request of the State Board of Regents (Board). The bill amends K.S.A. 74-4925. The Board is required to sponsor a retirement plan under section 403(b) of the federal internal revenue code for persons employed by the Board or by a state educational institution. Under current law, a participant in the plan is allowed to continue participation in the plan when on a leave of absence from employment by the Board or an education institution and working for the executive branch of state government.

HB 2004 would delete the authority which allows the continued participation while on leave of absence. The amendment is necessary to ensure that the retirement plan complies with federal regulations which do not allow participation by employees who do not work for or provide services to a state educational institution or educational system. The tax exempt status of the entire retirement plan may be invalidated if the plan does not comply with the federal regulations.

She stated that at this time there are no employees in the retirement plan who are on leave from a university in order to work in a non-university executive branch agency. The fiscal note states that the bill has no immediate fiscal effect.

Theresa Marcel Bush, Associate General Counsel, Kansas Board of Regents, (Attachment 1) testified in support of the legislation. She stated the proposed amendment would eliminate subsection (d)(5) of the statute. The language in question was added in 1988. It allows KBOR Mandatory Retirement Plan participants to continue participating in the KBOR Retirement Plan, even if they are on leave of absence from their educational institution, in order to work for the executive branch of state government..

The KBOR retirement plan is subject to a section of the federal tax code that specifically applies to retirement plans of educational institutions, section 403(b). Compliance with the applicable federal tax code and regulations is imperative in order to qualify for and retain the KBOR retirement plan's tax exempt status.

There were no opponents to testify.

The hearing on HB 2004 was closed.

Following a short discussion, Senator Abrams moved the committee recommend **HB 2004** favorable for passage. The motion was seconded by Senator Owens. Motion carried on a voice vote.

CONTINUATION SHEET

Minutes of the Senate Education Committee at 1:30 p.m. on March 9, 2009, in Room 545-N of the Capitol.

The next meeting is scheduled for March 10, 2009.

The meeting was adjourned at 2:20 p.m.