

MEMORANDUM

To: House Pensions and Benefits Committee
From: Alan D. Conroy, Executive Director *A.D.C.*
Date: February 18, 2015
Subject: House Bill 2360

Summary of Bill

HB 2360 would add two new elected trustees to the KPERS Board of Trustees. One would be elected by the members of the Kansas Police and Fire Retirement System (KP&F), and the second would be elected by the Judges Retirement System (Judges). In both cases, the elected trustee must be a member of the group he or she represents. Currently, two members of the nine-member Board of Trustees are elected from among the System's membership – one representing members of the School Group, and the other elected from among any of the other remaining groups, including KP&F and Judges. Those elected positions would continue, with state or local members eligible for the non-school position.

As is currently the case for other trustees, the bill does not stipulate in when elections for the two new members are required to be held. Because no election date is stipulated, it is assumed the elections would be held at the same time as that for the two existing elected trustees. The next election will be held in 2017, in which case the newly elected trustees would begin a four-year term in July 2017. Expenditures related to the election are therefore assumed to begin in FY 2017.

Background

Currently the KPERS Board of Trustees is comprised of nine members. Four are appointed by the Governor, two are appointed by legislative leaders (the Speaker of the House, and the Senate President), two are elected by Retirement System members, and one is the elected State Treasurer. All serve four-year terms. With two additional elected members, elected members would represent 36% of the Board's membership, up from 22% currently.

Board Duties. The primary duties of the KPERS Board of Trustees include –

- Reviewing and adopting actuarial assumptions and reviewing employer contribution rates.
- Determining an appropriate asset allocation mix.
- Establishing and following investment policies and guidelines.



- Hiring and monitoring the performance of investment managers.
- Hiring and monitoring the performance of various other service providers, including actuaries, consultants, advisors and custodians.
- Hiring and monitoring the performance of the executive director (chief executive officer).

While these duties are substantive and varied, they do not extend to establishing the plan design and funding. The policy-making authority with respect to the design of the KPERS pension plans and the responsibility for funding the plan is exercised through the legislative process. The KPERS Board is then responsible for faithfully implementing and administering the plans.

Fiduciary Duties. The Board is composed of trustees representing a range of interests, including those of elected policy makers and the taxpayers they represent, as well as members of the system. However, trustees are acting as fiduciaries, and as such, they are legally obligated to set aside those particular interests and points of view in order to act solely in the best interests of the trust fund and its beneficiaries.

Fiduciaries have a legal and ethical duty to act with the highest standard of care. Their duties include –

- Duty of loyalty. In administering the trust, the trustees is under a duty not to be influenced by the interest of any third person or by motives other than the accomplishment of the purposes of the trust.
- Duty to delegate. The trustee has a personal duty to perform the responsibilities of the trusteeship, except to the extent a prudent person might delegate those responsibilities to others. Prudence requires the exercise of care, skill and caution in the selection of agents and in negotiating and setting the terms of the delegation.
- Duty to prudently invest the monies of the trust. The trust fund is to be used solely for the exclusive purpose of providing benefits to members and beneficiaries and defraying reasonable expenses of administering the fund. In making investment decisions, trustees are to exercise the “judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character and aims.
- Duty to deal impartially. Trustees are under a duty to deal impartially with beneficiaries.

Board Committees. The Board’s membership serve on four standing committees, which currently are the Investment Committee, the Audit Committee, the Personnel Committee and the Deferred Compensation Committee. All trustees are members of the Investment Committee, which provides broad oversight of all Retirement System investments and investment processes. The committee examines both general and specific issues related to

investment strategy, implementation, maintenance and management. The committee prepares summaries and recommendations for consideration by the full Board. Among the committee's duties are the following:

- reviews the Statement of Investment Policy, Objectives and Guidelines,
- oversight and organizational and performance reviews of external managers, consultants and investment providers,
- reviews the publicly traded portfolios,
- reviews real estate portfolio activity and opportunities,
- reviews alternative investment opportunities and strategies, and
- gathers information regarding future investment-related trends, opportunities and developments and considers their potential use or application by the Retirement System.

Cost Considerations

Administrative costs associated with the addition of two trustees include programming for the online voting functions (a one-time expenditure estimated at \$17,000), which are assumed to occur in FY 2017.

Annual costs for subsistence, lodging, and hospitality expenditures for travel to and from meetings of the Board (typically seven, two-day meetings per year), software licensing, and training per trustee ranges from \$2,500 to \$4,250, depending on the location of the trustee's residence. However, it is expected that these expenses would be managed within KPERS' existing administrative expenditure limits. Assuming the two positions are elected at the same time as the existing School and Non-School positions, these expenses would begin during FY 2018.

If the Committee has additional questions regarding House Bill 2360, I would be happy to respond further.