KANSAS OFFICE of
REVISOR of STATUTES
LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ▪ SUITE 24-E ▪ TOPEKA, KS 66612 ▪ (785) 296-2321

MEMORANDUM

To: Chairman Johnson and members of the House Committee on Pensions and Benefits

From: David Wiese, Assistant Revisor

Date: 5/6/2015

Subject: S Sub HB 2095; Working after retirement

Senate Substitute for House Bill No. 2095, as amended by Senate Committee of the Whole, amends the requirements and the procedures for working after retirement and amends the duties of the Joint Committee on Pensions, Investments and Benefits.

The bill requires that the participating employer enroll all retirants into the working after retirement plan and report to the system when compensation is paid to a retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of the working after retirement plan.

All KPERS Members (Page 6, lines 9-43; Page 7, lines 1-42)

Prior to July 1, 2016, the current $20,000 compensation limitation remains if a retirant returns to work for the same participating employer.

Commencing July 1, 2016, and ending July 1, 2021:

- Compensation limitation increased to $25,000.
- No prearrangement with the participating employer is allowed, and retirant may not be employed prior to 60 days after such retirant's retirement date.
- No distinction for same participating employer or different employer.
- No employee contribution.

- No service credit is earned by retirant while employed.

The bill provides exemptions from the $25,000 compensation limitation for:

(1) Licensed professional nurses or licensed practical nurses employed by the state in an institution or the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay the actuarially determined rate plus the statutorily prescribed employee contribution (6%) during such period of employment.

(2) Individuals employed by school districts in positions as provided in section 3 of the bill.

(3) Certified law enforcement officers employed by the law enforcement training center. The law enforcement training center shall pay the actuarially determined rate plus the statutorily prescribed employee contribution (6%) during such period of employment.

(4) Members of KP&F and the retirement system for judges.

(5) Individuals employed as substitute teachers or as officers, employees or appointees of the legislature.

(6) Individuals employed by, or have accepted employment from, a participating employer prior to May 1, 2015. A move to a different position by a retirant shall be deemed new employment and shall subject the retirant to the compensation limitation.

The bill also exempts elected city or county officers that are paid an amount of compensation of $25,000 or more in any one calendar year between July 1, 2016, and July 1, 2021, from the compensation limitation and allows such officer to receive such officer's salary and retirement benefit. (Page 5, lines 10-11; 13-19)

The bill also provides for a special hardship exemption where a participating employer may employ a retirant without regard to the $25,000 compensation limitation for a period of one calendar year or one school year if the following are met:

(1) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position.

(2) The employer pays to the system the actuarially determined rate plus 8% during such period of employment.

(3) The employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits. (Page 7, lines 14-27)

An employer may submit a written appeal to the joint committee on pensions, investments and benefits to extend the hardship exemption to the compensation limitation by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee. (Page 7, lines 28-33)

KPERS Licensed School Personnel (Sec. 3.)

The existing working after retirement exemption for licensed school personnel continues for retirants who retired prior to May 1, 2015. The bill extends the sunset for such exemption until June 30, 2017.

On and after July 1, 2016, working after retirement requirements would depend on the specific position for which a retirant is being hired. No distinction is made between the same and a different participating employer.

Special Education Positions (Page 9, lines 19-43; Page 10, lines 1-29)

- On and after July 1, 2016, until July 1, 2021, a school district may hire a retired licensed professional to fill a special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date and if there is no prearrangement with such school district.

- Retirants hired in such positions may continue to receive full retirement benefits for a period not to exceed three school years or 36 months, whichever is less.

- The school district shall pay to the system the actuarially determined employer contribution rate plus 8%.

- There is no employee contribution.

- Does not apply to retirants employed as substitute teachers.

Hard-to-fill non-special education positions (Page 10, lines 30-43; Page 11, lines 1-43)

- On and after July 1, 2016, until July 1, 2021, a school district may hire a retired professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district and if such school district hires a retirant for a hard-to-fill position.

- The state board of education shall annually certify the top five types of licensed positions that are hard to fill. A school district may hire a retirant to fill a hard-to-fill position for some or all of a school year and in subsequent school years if the employer is unable to permanently fill the position with an active member. A retirant first hired under this provision may be retained even if such retirant's position is no longer one of the five types of positions certified by the state board of education.

- Retirants hired in such hard-to-fill positions may continue to receive full retirement benefits for a period not to exceed three school years or 36 months, whichever is less.
- The school district shall pay to the system the actuarially determined employer contribution rate plus 8%.
- There is no employee contribution.
- Does not apply to retirants employed as substitute teachers.

School districts that use retirants for either special teacher or hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the special teacher or hard-to-fill positions. Upon request of the Joint Committee on Pensions, Investments and Benefits, a school district shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant or if the committee finds evidence of prearrangement, the three-year exemption may be revoked. (Page 10, lines 6-17; Page 11, lines 20-31)

School districts may submit a written appeal to the joint committee on pensions, investments and benefits to extend the exemption to the compensation limitation by one year. Such written appeal shall include documentation of the employer's efforts to fill the position with a non-retirant. Granting or denial of such extension shall be at the sole discretion of the committee. (Page 10, lines 18-25; Page 11, lines 32-39)

Joint Committee on Pensions, Investments and Benefits

The joint committee is required to review reports and approve or deny appeals regarding working after retirement exceptions pursuant to K.S.A. 74-4914 and 74-4937. The joint committee may appoint a subcommittee to carry out this duty. (Page 3, lines 2-5)

On July 1, 2016, and at least every five years thereafter, the joint committee shall study the issue of whether the compensation limitation should be adjusted. The committee shall consider the effect of inflation and data on member retirement benefits and active employee compensation. (Page 7, lines 34-39)