SUMMARY OF SENATE SUBSTITUTE FOR HB 2095, AS PASSED BY THE SENATE

May 5, 2015

New Working After Retirement Rules

Effective Date: New rules take effect 7/1/2016.

Application by Employer: Rules are uniform by employer – there is no distinction between "same" and "different" KPERS-eligible employers.

Waiting period: All members must complete a 60-day waiting period before returning to work for any KPERS employer.

Pre-arrangement: No pre-arrangement of returning to work is permitted for any re-employment.

Earnings limitation: Retirees returning to work are subject to an earnings limit of $25,000 per year. Once that cap is reached, the retiree must either cease working or benefits are suspended for the remainder of the calendar year.

Employer contribution: The employer will pay the normal KPERS statutory rate on the compensation of all retirees – whether they are working under the $25,000 cap or with benefits suspended.

Employee contribution: None.

Application to Other KPERS-Administered Plans: These rules do not apply to members who have retired under KP&F or Judges Systems.

Review of Earnings Limitation: On July 1, 2017, and at least every five years thereafter, the Joint Committee on Pensions, Investments, and Benefits is to review the $25,000 salary cap and whether it should be adjusted, based on data regarding inflation, member retirement benefits and active employee compensation.

Sunset: These provisions sunset on July 1, 2021.

Exceptions to Earnings Limit for Licensed School Professionals

Special Education: All special education licensed school professional positions may be filled by a retiree without an earnings limitation. Retiree must have completed a minimum of 60-day waiting period and must not have a pre-arrangement with the school employer to return to work.

Limit on re-employment under earnings limit exception: Each retiree is limited to a total of 36 months or three school years with all employers under the exemption, whichever is lesser. Retirees continuing to work beyond this limit are no longer covered by the exemption. *The bill's language appears to suggest that they are then covered by existing working after retirement rules (not the new $25,000 cap).*

"Hard-to-Fill" Positions:

Identification of eligible positions.

- The Kansas State Board of Education will annually certify the top five types of licensed positions that are hardest to fill.
- School districts may hire a retiree to fill any of these hard-to-fill positions without an earnings limitation, so long as the retiree has completed a 60-day waiting period and there is no pre-arrangement with the school employer to return to work.
- Once re-employed in a hard-to-fill position, retirees may continue working without an earnings limitation, even if that type of licensed position does not continue to be in the list of the top five types of positions that are hardest to fill in subsequent years.

Limit on re-employment under earnings limit exception: Each retiree is limited to a total of three school years or 36 months of re-employment, whichever is less, for any school employer. Retirees continuing to work beyond this limit are no longer covered by the exemption. *The bill's language appears to suggest that they are covered by existing working after retirement rules (not the new $25,000 cap).*

Employer Contributions on Special Education and Hard-to-Fill Positions: Actuarial rate plus 8%. (For FY 2016, the actuarial rate plus 8% would equal 24.00%.)

Employer Recruiting Efforts: The exceptions from the earnings limitations for special education and hard-to-fill positions are intended to provide a short-term resource for positions that the employer has not been able to fill. Employers are to make ongoing efforts to recruit a permanent replacement, maintain documentation of those efforts, and, upon request of the Joint Committee on Pensions, Investments, and Benefits, provide the documentation to the Committee.

Joint Committee Review: The Joint Committee may find that an employer has not made sufficient efforts to hire a non-retirant or that there is evidence of a pre-arranged return to work. In that case, the Joint Committee may revoke the three-year exemption.

Exception from Earnings Limitation for "Hardship" Positions

Criteria: An employer may certify a position as a "hardship" position when a position has become vacant due to an unexpected emergency or when the employer has been unsuccessful in its efforts to recruit and fill the position. A retiree may be hired into a "hardship" position without an earnings limitation. This exemption is available to all KPERS employers.

Limit on re-employment under the exception: One year or one school term.

Employer Contributions on Hardship Positions: Actuarial rate plus 8%.

Employer Recruiting Efforts: The exception from the earnings limitations for hardship positions is intended to provide a short-term resource for emergency situations and other positions that the employer has not been able to fill. Employers are to make ongoing efforts to recruit a permanent replacement, maintain documentation of those efforts, and upon request of the Joint Committee on Pensions. Investments, and Benefits, provide documentation to the Committee.

Appeals of Exemption Time Limits

- An employer may appeal to the Joint Committee on Pensions and Benefits for a one-year extension of the exception to the earnings limitation for special education, hard-to-fill, and hardship positions if a retiree has reached the three-year limit (one-year limit for hardship positions).
- The employer must provide documentation of all efforts to fill the position on a permanent basis.

Grandfathering – All Retirees Other Than Licensed School Professionals

- Only those members who have returned to work or had accepted employment prior to May 1, 2015, are grandfathered.
- Existing working after retirement rules continue to apply for those grandfathered retirees. (Primarily affects those returning to work for a different employer as they could continue working without an earnings limit. Those working for the same employer are already under an earnings limitation.)
- Employers pay actuarial rate plus the employee contribution rate on the compensation of retirees who continue working for a different employer without an earnings limit.
- New working after retirement rules ($25,000 earnings limit) apply if the retiree has a break in employment or moves to a different position.

Grandfathering – Licensed School Professionals

- Only those members who have retired ***prior to*** May 1, 2015, are grandfathered.
    - Those retiring ***on or after*** May 1, 2015, would be subject to existing working after retirement rules for one year. Beginning July 1, 2017, they would be subject to the new rules, including any exemptions that may be applicable (special education, hard-to-fill, and hardship positions).
- Existing working after retirement rules for licensed school professionals continue through June 30, 2017, for those retirees who are grandfathered.
- Employers pay actuarial rate plus 8% on the compensation of retirees who continue working under existing working after retirement rules for licensed school professionals through June 30, 2017.

- Beginning July 1, 2017, the new working after retirement rules apply to all retirees returning to work in licensed school positions, including those who retired prior to May 1, 2015.

Exemptions from Working After Retirement Rules

Retired State Nurses Reemployed by State Institutions:

- The current exemption that permits these retired state nurses to return to work for the same state institution without an earnings limitation continues.
- The employer is to pay the actuarial rate plus the employee contribution rate on the nurses' compensation.

Retired Law Enforcement Officers Re-employed by LETC:

- A certified law enforcement officer who is a KPERS member may work after retirement without an earnings limitation if employed by the Law Enforcement Training Center.
- The employer is to pay the actuarial rate plus the employee contribution rate on the law enforcement officer's compensation.

Local Elected Officials: Elected city or county officers who are KPERS retirees and are paid $25,000 or more may receive retirement benefits while serving in that office.

Other Exemptions Continuing: Existing exemptions for daily call substitutes and legislative staff are retained.