MEMORANDUM

To: House Pensions and Benefits Committee

From: Alan D. Conroy, Executive Director a.D.C.

Date: February 15, 2016

Subject: HB 2653, Assurance Protocols and Extension of Grandfathered Status

The Pensions and Benefits Committee has been assigned several bills regarding working after retirement. A number of questions have been raised regarding the policy decisions contained in the bills and their cost implications. In this memorandum, we have attempted to respond to questions regarding provisions in HB 2653 relating the assurance protocols and extension of "grandfathered status" for KPERS retirees who retired before May 1, 2015 and return to work in licensed school professional positions.

Assurance Protocol

2015 HB 2095 established several exemptions from the basic working after retirement rule, including three that were time-limited: a one-year exemption for "hardship" positions and exemptions of up to three years for retirees employed in special education or "hard-to-fill" positions. 2015 HB 2095 permitted a one-year extension of these exemptions if approved by the Joint Committee on Pensions and Benefits (Joint Committee).

HB 2653 would remove the requirement that the Joint Committee approve extension applications. Instead, it establishes provisions for a written assurance protocol, which is to be submitted to KPERS. The assurance protocol is to be signed by the superintendent and board president (for school districts), or the governing body or a designee (for municipalities).

The assurance protocol must state that the position was advertised on multiple platforms for at least 30 calendar days and must identify one of three conditions listed in HB 2653:

1. No applications were submitted for the position for which an extension of an exemption is sought;
2. None of the applicants met the reference screening criteria of the employer; or
3. No applicant possessed the appropriate licensure, certification or other necessary credentials.

KPERS

Provisions in 2015 HB 2095 authorizing the Joint Committee to request and review documentation of employers' attempts to fill positions covered by an exemption with a permanent, active employee are retained under HB 2653. Authority is also maintained for the Joint Committee to revoke a special education or hard-to-fill position exemption if it determines the position was filled by prearrangement or the employer has not made sufficient efforts to hire a non-retirant for the position.

Extension of Certain Grandfathered Provisions

Since 2009, KPERS retirees who are employed in a licensed school position have been exempt from any earnings limitation, whether employed by the same or a different employer. The employer has been required to pay the actuarial contribution rate, plus 8%.

2015 HB 2095 does not continue this particular exemption, except that, through July 1, 2017, it grandfathered all KPERS retirees employed in a licensed school position who had retired on or before May 1, 2015. After July 1, 2017, those grandfathered retirees will then be subject to a $25,000 annual earnings limit while working after retirement for a KPERS employer (unless they are employed in a position qualifying for a hardship, special education, or hard-to-fill exemption).

From an employer perspective, establishing a deadline for these retirees may create a period where a larger than expected number of employees would leave their position due to the new earning limit. KPERS has explored the potential impact of such a "cliff", the results of which are discussed in a separate memorandum to the House Pensions and Benefits Committee, dated February 15, 2016.

HB 2653 would eliminate the July 1, 2017, sunset and indefinitely extend the grandfathered status for these retirees.

Data regarding the retirement patterns of licensed school professionals since 2009 clearly suggest that the potential for increased income created an incentive to retire earlier than expected under actuarial assumptions. Therefore, it appears that the exemption is likely to have increased the actuarial liabilities associated with these retirees, although the extent of the increase cannot be accurately determined. However, any increase in actuarial liabilities occurred at the point of retirement, and therefore, no additional increases in actuarial liability for this closed group is expected if their grandfathered status is extended.

Administrative Cost Implications

The assurance protocol will require additional modifications to the KPERS informational technology system and data base in order to capture and maintain assurance protocols and to extend the grandfathered status of KPERS retirees who retired before May 1, 2015 and returned to work in a licensed school professional position. However, KPERS anticipates that the costs could be absorbed within its existing expenditure limit.

On their own, these changes do not create any staffing issues that would require a request for increased staffing. However, with implementation of 2015 HB 2095 and the potential passage of some combination of the additional amendments to working after retirement rules, the administration of these rules is growing in complexity. While KPERS anticipates absorbing the additional workload, further consideration of appropriate staffing levels may be required in the future as KPERS gains experience with the administrative impact of the new rules.

I hope this information is helpful, I would be happy to answer any questions the Committee may have.