Working After Retirement

Implementation of New Provisions and Related Issues

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KPERS

Working After Retirement

Old Rules for KPERS members (Before 7/1/2016)

- No limitation on returning to work for a non-KPERS employer
- Mandatory 60-day waiting period
- Pre-arrangements are not allowed by IRS regulations
- Rules differ if a retiree returns to the same employer from which they retired or a different KPERS employer

Current KPERS-School Working After Retirement Rules	Waiting Period	Earnings Limitation	Employee Contribution	Employer Contribution	New Benefits Earned
Same Employer					
Non-licensed	60 days	$20,000	No Contribution	No Contribution	None
Licensed (School)	60 days	No Limitation	No Contribution	ARC*+8%	None
Different Employer					
Non-licensed	60 days	No Limitation	No Contribution	ARC*+6%	None
Licensed (School)	60 days	No Limitation	No Contribution	ARC*+8%	None

* Actuarial Required Contribution

- These rules remained in place until the end of FY 2016 (June 30, 2016)

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Why changes made

- The "temporary" rules for licensed school professionals were scheduled to sunset on June 30, 2015
- The Legislature wanted to find a more permanent plan rather than extend the sunset on the current rules
- The focus was on addressing fiscal and legal issues
- Employer flexibility was recognized as a concern, specifically as it pertains to certain teaching positions

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Legal Implications

- KPERS is a qualified 401(a) retirement plan, as defined by the Internal Revenue Service, and our members receive all of the tax advantages that come with being a qualified plan
- The IRS requires a bona fide retirement take place before distributions can occur
- IRS considers fact and circumstances to determine if a bona fide retirement has taken place
- If an employer pre-arranges with an active member to retire and return to work as a retiree, this is not a bona fide retirement in the eyes of the IRS
- The IRS has indicated through a private letter ruling that pre-arrangements could not only create tax implications for the employer and employee but ultimately jeopardize the qualified status of the plan
- Other circumstances may also call into question whether a bona fide retirement occurred (e.g. reemployment of a retiree as an independent contractor or through a third party)

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What are the costs

- KPERS is a pre-funded defined benefit plan; employer and employee contributions are based on premise that members' retirement benefits are funded during their working career
- Working after retirement rules permitting employees to simultaneously work and receive benefits encourage earlier retirements
- Earlier retirements have a cost to the system
  - **Shorter period for contributions-**contributions are received for a shorter period than assumed, so their retirement benefit may not be fully funded during their working career
  - **Longer period of benefit payouts**-in general, there is a higher actuarial liability for retirements at or soon after initial eligibility (even when considering potential for benefit increases with additional years of service)
- Filling a position that is normally an active, contributing employee with a non-contributing retiree results in a cost to the System
- The exact cost to the System varies by individual and is due in part to behavioral choices that cannot be quantified

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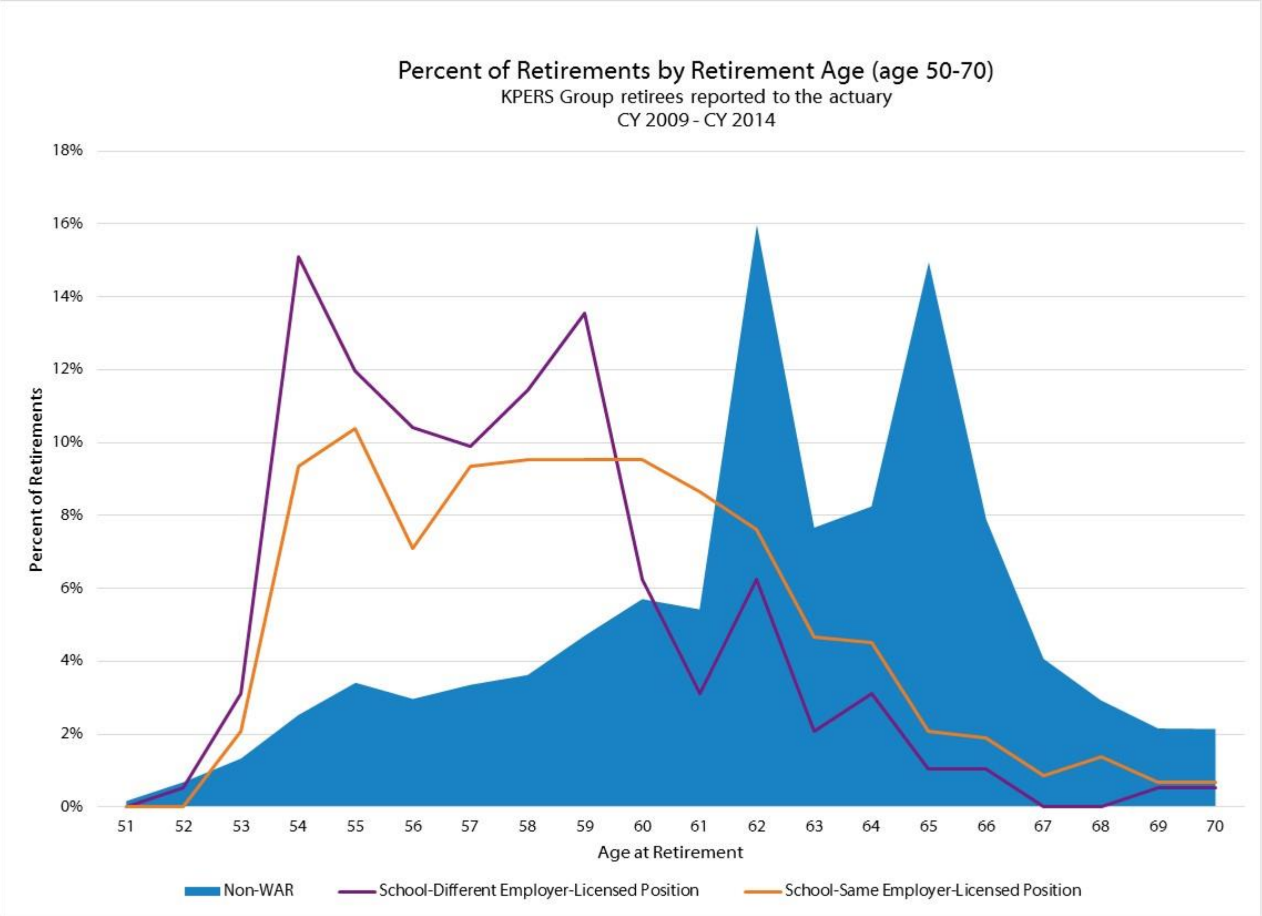
What are the trends that indicate a cost to the System

- Retirees returning to work as licensed teachers retired at younger ages than retirees not returning to work during that period
- Licensed teachers had a financial incentive to retire at younger ages under working after retirement rules in effect since 2009



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How does the new policy address these issues

Cost considerations

- The new policy reduces the financial incentive for members to retire and return to work
- Contributions on retiree earnings offset some of the cost to the System

Staffing considerations

- Hard-to-fill, licensed positions can still be filled with a retiree when recruitment efforts fail
- Emergency vacancies can be filled with retirees
- Exemptions for daily call substitutes, election poll workers, law enforcement training center staff and legislative staff

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The new policy

What has changed?

- No difference between same employer or different employer
- Employers report all rehired retirees to KPERS
- Employer contributions on all compensation paid and on additional groups of retirees
- Earnings limitation raised to $25,000
- New, time-limited exemptions for certain school positions
- Employer explicitly required to continue seeking permanent employees for positions filled by retirees under new exemptions
- Employers can file an assurance protocol to extend exempt positions, but Joint Committee on Pensions & Benefits may review
- Employee and employer must certify no pre-arrangement

What has stayed the same?

- 60-day waiting period
- No pre-arrangements

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Most retirees returning to work

- Beginning 7/1/2016, retirees hired in most positions will be subject to a $25,000 earnings limit each calendar year, whether returning to the same employer or to a different employer
- Retirees hired as an independent contractor or by a 3rd party contractor, but working in a position normally filled by an active KPERS member are subject to the earnings limitation
  - Would not apply to wholly outsourced functions performed by a third-party contract awarded by competitive procurement
- If a retiree reaches the earnings limit, they must choose to stop working and keep their benefit or suspend their benefit for the rest of the calendar year and continue working
- Retirees make no employee contribution
- Employers hiring retirees report each one to KPERS and pay **statutory** employer contribution rate on <u>all</u> compensation paid to the retiree
  - State/School statutory rate set at 10.81% for FY 2017. Local statutory rate equals actuarial rate of 9.18% in CY 2016.

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Grandfathered Positions

Licensed School Professionals

1. Retire before 5/1/15
2. Employee grandfathered until 6/30/20
3. Employer contribution rules grandfathered

Other Retirees

1. Accepted position before 5/1/15
2. Employee grandfathered indefinitely if same job/employer and no break in service
3. Employer contribution rules grandfathered

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Great-Grandfathered Positions (Non-licensed)

Different Employer

1. Returned to work before July 1, 2006, and working May 1, 2015
2. Same job/employer and no break in service
3. No employer contributions

Same Employer

1. Returned to work before July 1, 2006, and working May 1, 2015
2. $25,000 earnings limit
3. No employer contributions (if same job/employer and no break in service)

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Regents Issue

- New working after retirement rules require that all retirees who return to work for a KPERS affiliated employer are subject to the working after retirement rules
- After reviewing the law with KPERS' tax counsel, it was determined that all employees of KPERS-affiliated employers would be subject to the new working after retirement rules, even if the position was not a KPERS-covered position
- Based on that determination, retirees who return to work for Regents institutions are subject to the working after retirement rules even if they are employed in a position covered by the Board of Regents Mandatory Retirement Plan
  - Unlike KP&F and Judges, there is no statutory exception for KPERS retirees in positions covered by the Regents retirement system
- Before the new law took effect, Regents institutions did not enroll retirees who were working in positions covered by the Board of Regents Retirement Plan

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Regents Issue

- Many, but not all, retirees working at Regents institutions are grandfathered in their current positions

KPERS Retirees Working at KBOR/State Universities in positions covered by Regents Mandatory Retirement Plan			
University/Board Office	Employees who are Grandfathered [1]	Employees who are not Grandfathered [2]	Total
Emporia State	16	1	17
Fort Hays State	34	6	40
Kansas State	13	3	16
KU Medical Center	0	1	1
Pittsburg State	11	0	11
University of Kansas	26	6	32
Wichita State	12	8	20
Kansas Board of Regents Office	2	1	3
TOTAL	**114**	**26**	**140**

As of 8/29/2016. Data provided by Kansas Board of Regents

[1]Retirees hired prior to 7/1/2006 and still working as of 5/1/2015 plus those who were hired prior to 5/1/2015 and still working on that date. Group cannot increase over time.

[2]Retirees hired after 5/1/2015. Group can increase over time.

Questions?

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