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Testimony to the Senate Select Committee on KPERS
Working After Retirement
March 31, 2015

Chairman King and Committee Members,

Please note that our testimony is not opining on the contents of section 2 of the bill which, as we understand it, deals solely with the current provisions for teachers working after retirement. Our interest is in section 1 of the bill which further restricts and regulates regular KPERS retirees working after retirement. It is our understanding section 1 of SB299 is substantially different from section 1 of HB2253 as amended by the House Committee. Further we understand SB299 section 1 and HB2253 section 1 currently excludes KP&F. We believe this exclusion is important and the main purpose of this testimony is to address why that exclusion should also be retained in any bill on this issue ultimately passed by the legislature.

Since this concept was first born in the House Pensions Committee late in the session, several questions have been raised on how this issue will affect law enforcement. You should also know this hearing in your committee is the first hearing held on this concept as a bill. The House hearings were held while it was conceptual and without the bill language available. The proposed "unretirement" plan is one of those issues that could create a hardship in tapping into the expertise and experience of retired officers serving in several law enforcement work areas as a non-sworn employee. As you know law enforcement agencies have non-sworn employees who are under KPERS and some sworn officers are under regular KPERS while others are under KP&F.

Law enforcement officers, like firefighters, are engaged in a profession that is physically and mentally demanding. While some can continue to retain the ability to meet those demands beyond their KP&F retirement eligibility age, many cannot. This results in many of our officers retiring at an earlier age than non-law enforcement personnel typically retire. This feature of KP&F is critical to maintain both public safety and officer safety. These retirees do not leave their expertise and knowledge on the office shelf when they retire. There are many positions within government agencies where this expertise and knowledge remains useful but do not require the physically demanding responses of a sworn certified officer. However, in many cases, those jobs are at a much lower pay than that of an officer. This makes the "unretiring" concept impractical for an employee who wishes to work after retirement in one of these positions.

Also, many of these retirees go into positions where the law enforcement expertise, knowledge and experience is highly desirable. For example, many of the instructors at the Kansas Law Enforcement Training Center are retired officers. Other places where the retirees can be used is in report review and classification; property rooms; crime scene processing; technology services; impound lots; report desks; and many others. Using retirees in these positions not only allows agencies to leverage the knowledge and experience of the retiree, but in many cases it allows those positions to be filled at a lower cost while placing the higher salaried officers in an assignment requiring the physical abilities of active law enforcement duties. This frees up the higher paid officers to perform those duties requiring law enforcement authority.

Currently we can take advantage of those retiring officers' expertise because working after retirement restrictions do not extend across retirement plans. We believe that should be retained. In reality, any new retirement benefits are being earned and paid for the same as with any other employee. This does not cost the

employer any more than for an employee without prior law enforcement experience. We do not believe it is costing the KPERS system anything additional since these officers will almost always retire on the same date regardless of the working after retirement opportunities.

One of the questions raised in the House was whether a change in working after retirement conditions would be considered in violation of the employee's rights as the courts have ruled in other matters where the retirement rules or "contractual" provisions were changed. We believe clearly this would be true of a person who is already retired. We also believe it may be true of an employee who is already a KPERS active member. We would expect a legal challenge to a change for these members without an equivalent balancing modification.

One of the areas of concern with the HB2253 is the effect of these provisions for a law enforcement officer who is a member of KPERS and not KP&F. If we understand the provisions of SB299 correctly, this concern is at least partially alleviated by the establishment of the "notional" accounts similar to the deferred retirement option plan of HB2101. This seems to take some of the sting out of the provisions of HB2253. Either plan may reduce the opportunity for those retirees after retirement, but clearly the Senate plan, as we understand it, is a better alternative. **About one-third of the law enforcement officers in Kansas are under regular KPERS and not under KP&F. These are generally in the smaller, lower paying agencies. That means these retirees are going to have a much smaller retirement, especially if they retire at a younger age due to physical or mental challenges to the rigors of police work. Due to the smaller retirement benefits, these are also retirees who are likely to seek additional employment after retirement and a position where their knowledge, experience and abilities can be applied in a non-enforcement position is beneficial not only to the retiree but also to the employer.**

This unretiring concept came up late in the session in both chambers and is a somewhat new concept. We are concerned it may have consequences that have not been realized or vetted. We believe there are many things to consider beyond the actuary reports and public perceptions of working after retirement. While we appreciate the July 1, 2016 effective date and the opportunity to "tweak" it next year if necessary, we are concerned about the speed of the development of this plan.

For example consider the following points that we are not clear about:

1. **We are not clear if the provisions of subsection 7 of section 1 apply to those already retired or not. If so, we believe that is problematic and unfair to those who have accepted jobs without these restrictions. We suggest considering grandfathering these retirees or give them the option of the "notional" account process.**
2. **The sentence on page 4 lines 30-33 does not include any reference to a *participating* employer. Does that mean this references, either intentionally or unintentionally, a private sector employer having nothing to do with KPERS?**
3. **We are having difficulty determining why the employee working after retirement should be excluded from the disability and death benefits.**
4. **The provisions of (e)(i) on page 5, lines 28-32, concerning restoration of retirement benefits upon termination of working after retirement employment provides a 60-day waiting period. That makes sense for the payment of the balance in the "notional" account, but we don't believe that is proper for the reinstatement of retirement benefits, and we believe it conflicts with the provisions on page 4, lines 18-20 and lines 38-39 which state benefits aren't payable <u>for any month</u> the retiree is working in a covered position after retirement.**

We ask you to retain the KP&F exemption, to consider our concerns with law enforcement officers retiring from regular KPERS plans, and to consider our concerns in the four numbered points above.

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