

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 168**

As Recommended by House Committee on
Pensions and Benefits

Brief*

House Sub. for SB 168 would revise provisions of the Kansas Public Employees Retirement System (KPERS) pertaining to working after retirement.

When filing an application for retirement, an employee would certify to KPERS that the individual will not be employed by a participating employer within 60 days of ending employment and there is no prearranged agreement for employment with any participating employer. When hiring a retirant, the appointing authority of a participating employer would certify to KPERS there was no prearranged agreement for employment. If KPERS determines a retirant entered into a prearranged employment agreement with a participating employer, the retirant's monthly benefit would be suspended for the duration of the reemployment period plus six months after the termination of the employment. The retirant would pay to KPERS all monthly retirement benefits paid since the prearranged employment began.

The bill would extend the current exceptions to the earnings cap by three years, from July 1, 2017 to July 1, 2020, for licensed school professionals who retired prior to May 1, 2015.

The bill would repeal the authority of the Joint Committee on Pensions, Investments and Benefits to approve certain working-after-retirement appeals. Instead, the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

participating employer would file an assurance protocol with KPERS to extend the exception by one year. For hardship positions, the exception could be extended in one-year increments for a total extension not to exceed three years. The filing of an assurance protocol would be required for each one-year extension. The protocol would state the position was advertised on multiple platforms for a minimum of 30 days and that one or more of the following conditions occurred:

- No applications were submitted for the position;
- If applications were submitted, none of the applicants met the employer's reference screening criteria; or
- If applications were submitted, none of the applicants possessed the appropriate licensure, certification, or other necessary credentials for the position.

If submitted by a school district, the superintendent and board president would sign the protocol. If submitted by a municipality, which would be defined by statutory reference, the governing body or its designee would sign the protocol. The Joint Committee would continue to have the authority to review extensions.

Under current law, an individual who retired on or after May 1, 2015, may earn no more than \$25,000 from a participating employer before deciding to either terminate employment or forgo monthly KPERS benefits until the end of the calendar year. For an exception period of three school years or 36 months, whichever is less, the earnings cap does not apply to certain hardship, special education, or hard-to-fill positions in school districts. The bill would extend the exception period to four school years or 48 months, whichever would be less. The extended exception period would apply to the individual's total term of employment with all employers under one or more of the hardship, special

education, or hard-to-fill exceptions. The cap would then apply regardless of the employer or position filled. Participating employers would pay to KPERS a 30 percent employer contribution.

The bill also would create a new earnings cap exception for teachers who retire at age 62 or older; in which case, school districts would pay KPERS a 30 percent employer contribution. By July 1, 2019, and at least every three years thereafter, the KPERS Board of Trustees would evaluate the Retirement System's experience with employed retirants and would certify a new rate, which would not be less than 30 percent.

Finally, the bill would increase the earnings cap for retirants under the Kansas Police and Firemen's Retirement System (KP&F) from \$15,000 to \$25,000.

Background

The House Committee on Pensions and Investments deleted the language of SB 168, which was introduced during the 2015 Legislative Session and pertained to the authorization of pension obligation bonds, and inserted the amended contents of HB 2700. The following is the background of that bill and amendments made to those provisions.

Background of HB 2700

The House Committee on Taxation introduced the bill at the request of Representative Edmonds, who testified in support of the legislation during the hearing before the House Committee on Pensions and Benefits, stating the bill would provide a good faith effort to comply with federal tax law, demonstrating a *bona fide* separation of employment prior to a retirant returning to work in the public sector.

Representatives from KPERS provided neutral testimony, explaining discussions of employment and

employment agreements, whether verbal or in writing, are prohibited between employers and a KPERS member before and during the member's 60-day waiting period following the commencement of retirement. KPERS plans to provide employers with an electronic means to check whether job applicants are KPERS retirees. All KPERS retirees would be subject to the bill, as introduced.

The House Committee amended the bill to:

- Extend the sunset on the grandfather exemption for certain retired school personnel from July 1, 2017, to July 1, 2020;
- Repeal the Joint Pensions Committee's authority to approve exemption extensions and institute an assurance protocol that would be filed with KPERS;
- Limit the application of certain exceptions to a maximum of four years and increase the contribution surcharge from 8 percent to 30 percent, authorizing the KPERS Board of Trustees to adjust the surcharge in the future;
- Create a working-after-retirement exception for licensed school retirants who retire at age 62 or older;
- Increase the KP&F earnings cap from \$15,000 to \$25,000; and
- Strike language the Committee found to be obsolete.

The fiscal note on the bill as introduced is no longer applicable. Revised administrative and actuarial estimated costs were not available when the House Committee adopted the above amendments.