

SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2268

As Amended by House Committee on Financial
Institutions and Pensions

Brief*

HB 2268, as amended, would make numerous changes to the Kansas Public Employees Retirement System (KPERs) relating to working after retirement and the administration of KPERs.

Working After Retirement

Under current law, KPERs retirees may return to work for employers who participate in the Retirement System if there has been a *bona fide* separation in employment of a minimum of 60 days with no pre-existing arrangement to return to work. For most newly retired individuals, the law caps annual earnings at \$25,000. When a retiree earns that amount, the person must decide either to stop working or stop receiving KPERs benefits for the remainder of the calendar year. Several groups of retirees—such as nurses at certain state institutions, individuals covered by the Kansas Police and Firemen’s Retirement System or the Retirement System for Judges, local government officials, and individuals employed with a participating employer prior to May 1, 2015—are exempt from the cap. Certain licensed school district employees, described in more detail below, are also exempt. Participating employers who hire retirees are required to contribute to KPERs at varying rates which, depending on the circumstances, can be as great as 30 percent of the retirees’ compensation.

*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>

The bill would combine current special exemptions for emergency vacancy, special education, and hard-to-fill positions into a single special working-after-retirement exemption. All existing provisions regarding a *bona fide* separation, employer assurance protocols, the maximum period of employment (three years plus one year extension) and contribution rates would remain the same. Retirees employed under current law would continue to be exempt, subject to the time limits specified above.

Starting on July 1, 2017, individuals who retire at age 62 or older and who are subsequently re-employed by a participating school district also would be exempt from the earnings cap. The school district would make a contribution to KPERS equal to 30 percent of the retiree's compensation.

The bill also would exclude retirees from the earnings cap who are either independent contractors or employees of a third party if the following three conditions are met:

- The contractual relationship was not created to allow the retiree to continue employment in a position similar to the one the individual held prior to retirement;
- The activities performed by the independent contractor or third party are not normally performed exclusively by the participating employer's employees; and
- The retiree meets the classification of an independent contractor as provided by the State's labor law or the third party's activities are performed on a limited-term basis and the third party is not covered by KPERS.

The bill would also exempt from the earnings cap those retirees who are reemployed by the Board of Regents and covered by the Regents Retirement Plan, which is not administered by KPERS.

For retirees who are legislators, the bill would specify that income taxable under federal law would be assessed towards meeting the earnings cap amount. Reimbursements for travel and living expenses, in most instances, would not count towards the earnings cap.

Administration of KPERs

The bill would delete reference to 8.0 percent as the Retirement System's actuarial assumed rate of return and insert language referring to the actuarial assumed rate of return established by the KPERs Board of Trustees.

Background

The bill, as introduced, would have extended the sunset on current working-after-retirement provisions by one year. A subcommittee was appointed to discuss working-after-retirement issues. The subcommittee heard testimony and commentary from individual retirees and representatives of various school administrator, school district, and law enforcement officers' organizations, the Board of Regents, and the League of Kansas Municipalities as to the administrative implications of working-after-retirement provisions enacted in 2015 and 2016.

After removing the provision related to the one-year extension of current working-after-retirement provisions proposed in the bill, the House Committee on Financial Institutions and Pensions amended the bill to:

- Specify the earnings cap would not apply to certain retirees who work either as independent contractors or for third parties if certain conditions are present;
- Exempt members of the Board of Regents' Retirement Plan from the earnings cap;

- Add a technical amendment regarding the actuarial assumed rate of return;
- Combine current special exemptions into one special working-after-retirement exemption;
- Exempt from the earnings cap individuals who retire at age 62 or older, on or after July 1, 2017, and require their participating employers to make a 30.0 percent contribution to KPERS; and
- Specify the types of legislative compensation that would be included in the earnings cap.

The fiscal note for the bill as introduced is no longer applicable. Representatives of KPERS have indicated the administrative costs which would be incurred to implement the bill would be met from existing resources. The bill in its current form would have an actuarial impact on the Retirement System, but the net impact is not quantifiable.