UPDATED
SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR SENATE BILL NO. 21

As Recommended by House Committee on Financial Institutions and Pensions

Brief*

House Sub. for SB 21 would make changes to the Kansas Public Employees Retirement System (KPERS or Retirement System) pertaining to 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 are also exempt. Participating employers who hire retirees are required to contribute to KPERS at varying rates, which can be as great as 30 percent of the retirees' compensation, depending on the circumstances.

The bill would exclude from the earnings cap retirees who accepted employment with a KPERS participating employer prior to May 1, 2015. Retirees who accepted

---

*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 employment prior to May 1, 2015, and who during the period of July 1, 2016, to July 1, 2017, moved to a different position with the same participating employer would remain excluded from the compensation cap. Starting on July 1, 2017, retirees in this group would lose their exempt status if they move to a position with a different participating employer. For a retiree that is paid $25,000 or less in a calendar year, the participating employer would not make contributions to KPERS. If a retiree is paid more than $25,000, the employer would make contributions at a rate equal to 30 percent of the retiree's compensation. The contribution would be made on the portion of the compensation that is greater than $25,000. If a retiree working under the earnings cap is hired later by the same participating employer under the special exemption, then the participating employer would pay the statutorily prescribed employer contribution rate on compensation earned prior to being hired under the special exemption and a 30 percent contribution rate for compensation earned by the retiree after being hired under the special exemption.

On July 1, 2017, the bill would sunset the special exemptions for special education positions and hard-to-fill education positions and collapse them into a new special exemption. Retirees hired under the new exemption would continue to be exempt from the compensation cap; service under such exemptions would count toward the maximum period of time a retiree could be exempt from the compensation cap, four years or four school years, whichever is applicable. Under the new special exemption, the initial period of exemption from the earnings cap would be three years with a one-year extension. Currently the initial period is one year with the option of three one-year extensions.

The Joint Committee on Pensions, Investments and Benefits would have oversight on both participating employers' efforts to hire non-retirees and pre-arrangement violations. If the Joint Committee found evidence of a violation, the retiree's exemption would be revoked.

Background

The contents of SB 21, as amended and passed by the Senate, which would amend provisions of the Kansas Money Transmitter Act, were included in SB 20 by the House Committee on Financial Institutions and Pensions. The House passed SB 20 on March 22.

The House Committee held a series of hearings and subcommittee meetings on the working-after-retirement provisions enacted in 2015 and 2016. Representatives from various participating employers including school districts and local units of government explained the consequences of working after retirement. Representatives of KPERS provided information about the number of retirees who have returned to work. The result of those discussions led to the substitute bill described above.

Following the House Committee's recommendation, KPERS identified the elimination of the requirement that employers pay the statutory contribution rate on all retirees who return to work under the $25,000 earnings cap as the most significant change in the bill. For the first six months of FY 2017, total contributions at the statutory rate were $1.02 million (approximately $2.0 million, if annualized). Had the substitute bill been existing law, no contributions would have been made, except to the extent that retirees subject to the basic rule exceeded the $25,000 earnings cap and continued working. In addition, the contribution amount would have been expected to increase over time as the statutory rate for the State-School group of employers rises in future fiscal years and the proportion of retirees returning to work under the basic rule grows.

The changes likely will require some changes to KPERS information technology system. It is expected the changes can made within existing resources.