

SESSION OF 2019

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2031**

As Agreed to April 2, 2019

Brief*

HB 2031 would make several revisions to the Kansas Public Employees Retirement System (KPERS or the Retirement System) pertaining to the Kansas Police and Firemen's Plan (KP&F), provisions relating to working after retirement, membership eligibility, and the administration of the Retirement System.

KP&F

The bill would allow agents of the Kansas Bureau of Investigation (KBI) to participate in the Kansas Deferred Retirement Option Program (DROP) of the KP&F, which is currently authorized for troopers, examiners, and officers of the Kansas Highway Patrol (KHP). The sunset date for the program would be extended from January 1, 2020, to January 1, 2025.

The bill also would revise the definition for "service-connected," as that term is used to determine death and disability benefits in KP&F. Under current law, service-connected causes for death and disability benefits include heart disease, lung or respiratory disease, and cancer. The bill would add bloodborne pathogens.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

With regard to bloodborne pathogens, the bill would include any disease that is present in human blood and is designated as infectious or contagious by the Secretary of Health and Environment through rules and regulations.

With regard to cancer, the bill would state such cancer could include, but not be limited to, cancer of the brain, skin, digestive system, hematological system, or genitourinary system.

The bill would require clear and precise evidence to be shown to KPERS demonstrating the bloodborne pathogen was caused by an act of duty as a policeman or fireman. Currently, this provision applies to disease of the lung or respiratory tract or cancer.

Working After Retirement

The bill would revise the working-after-retirement provisions of KPERS by adding a new category of positions exempt from the law and reimbursing certain suspended benefits for a specific period of time. The bill would add individuals employed by the Kansas academies of the U.S. Department of Defense STARBASE Program to the list of exemptions. The participating employer would not have to enroll retirees into KPERS or report compensation to the Retirement System. The participating employer would not make contributions to KPERS. However, retirees would still be required to serve their 60- or 180-day waiting period, as applicable, before returning to covered employment, provided there is no prearranged agreement for employment. Currently, there are eight categories of retirees who may work after retirement:

- Nurses or practical nurses employed at certain state institutions;
- Certain school district positions defined by KSA 74-4937 (3), (4), and (5);

- Law enforcement officers employed by the Law Enforcement Training Center;
- Members of the Kansas Police and Firemen's Retirement System;
- Substitute teachers or certain legislative positions;
- Poll workers;
- Persons employed prior to May 1, 2015; and
- State or local elected officials.

In instances prior to July 1, 2019, where benefits have been suspended due to either the employer or the individual, who retired during the period of July 1, 2016, through July 1, 2019, violating working-after-retirement law, the bill would authorize KPERS to reimburse a retiree's benefits, provided the retiree had stopped working when notified of the violation. Starting on July 1, 2019, the Executive Director of KPERS would be permitted the discretion to waive working-after-retirement penalties if one of the following conditions are satisfied:

- The retiree's period of reemployment would be less than 21 days;
- The retiree's compensation during the period of reemployment would be less than 10.0 percent of the retiree's KPERS benefit that would be suspended as provided by law; or
- Other facts and circumstances indicate the retiree would not have been reemployed but for an error on the part of the KPERS-participating employer or the Retirement System in verifying that person's retirement status and the retiree immediately terminated employment upon notice of the violation.

Currently, if a retiree violates working-after-retirement law, KPERS benefits cease until six months after the retiree stops working.

KPERS Membership Eligibility

The bill would delay the KPERS membership eligibility by two years for employees employed in direct support positions in community development disability organizations. Under the bill, an employee would become a member of KPERS on the first day of the payroll period coinciding with or following completion of a two-year training period. Currently, individuals become KPERS members when they start employment.

Administration of the Retirement System

The bill would authorize the KPERS Board of Trustees (Board) to develop policies and procedures to procure goods and services based upon sound business practices and in accordance to the Professional Services Sunshine Act. The bill would authorize in- and out-of-state travel by KPERS employees and Board trustees in accordance to current laws dictating mileage allowance rates for private vehicles. The Board currently has the authority to procure its contracts for professional and consultant services, including actuarial consulting, investment management and consulting, and legal services.

Starting with the 2020 Regular Session, the bill would require the Executive Director of KPERS to report information annually to the Joint Committee on Pensions, Investments and Benefits, the Senate Committee on Financial Institutions and Insurance, and the House Committee on Financial Institutions and Pensions pertaining to the number of working-after-retirement waivers issued.

Conference Committee Action

The Conference Committee agreed to amend HB 2031, as amended by the Senate Committee on Financial Institutions and Insurance, as follows:

- Delete the effective date upon publication in the *Kansas Register*;
- Add the contents of SB 210, which would pertain to delaying KPERS membership for employees of certain community developmental disability organizations, but delete the effective date upon publication in the *Kansas Register*;
- Add the contents of HB 2119, which would allow the KPERS Board to procure certain goods and services, but delete the effective date upon publication in the *Kansas Register*;
- Add the contents of HB 2140, which would extend the sunset of the DROP program and allow the KBI to participate in the program, but delete the effective date upon publication in the *Kansas Register*; and
- Add the contents of HB 2203, which would create a new working-after-retirement exemption for STARBASE employees, but delete the effective date upon publication in the *Kansas Register*, and further amend the language to:
 - Authorize the Executive Director of KPERS to waive working-after-retirement penalties if certain conditions are present; and
 - Require KPERS to report working-after-retirement waivers to specified standing committees.

Background

The bill contains the provisions of HB 2031, as amended by the Senate Committee on Financial Institutions and Insurance; SB 210, relating to delayed KPERS membership; HB 2119, as amended by the Senate Committee, relating to KPERS Board procurement procedures; HB 2140, as amended by the Senate Committee, relating to the DROP program; and HB 2203, as amended by the Senate Committee, relating to the working-after-retirement exemption.

The following provides the background of the bills discussed above.

HB 2031 (Revised Definition for “Service-connected”)

HB 2031 was introduced by the Joint Committee on Pensions, Investments and Benefits. In its report to the 2019 Legislature, the Joint Committee recommended legislation be introduced redefining the term “service-connected,” as that term is used in the death and disability provisions of KP&F. The Joint Committee found, based upon recent studies, the term should reflect specific types of cancers and include bloodborne illnesses. In the House Committee on Financial Institutions and Pensions hearing, representatives of the Kansas Association of Chiefs of Police, Kansas Sheriffs’ Association, and Kansas Peace Officers Association and the Kansas State Council of Fire Fighters and a retired fire captain of the Olathe Fire Department provided proponent testimony. The proponents generally stated firefighters and law enforcement officers are at a higher risk for certain cancers and for exposure to bloodborne pathogens. Written-only proponent testimony was provided by representatives of the City of Manhattan, Kansas Emergency Medical Services Association, Kansas State Firefighters Association, Kansas State Lodge Fraternal Order of Police, and Kansas State Troopers Association and by a retired firefighter from the Lenexa Fire Department.

A representative of KPERS provided neutral testimony on the bill, stating for most KP&F members, there is no difference between service-connected and nonservice-connected benefits. For disabilities, a member receives 50.0 percent of the member's final average salary each year until the member is eligible for retirement.

No opponent testimony was provided.

The House Committee amended the bill to remove language related to baseline and other testing requirements and specify the definition of bloodborne pathogen. [*Note:* The Conference Committee retained this amendment.]

In the Senate Committee on Financial Institutions and Insurance hearing, a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and the Kansas Peace Officers Association provided proponent testimony. The proponents generally stated firefighters and law enforcement officers are at a higher risk for certain cancers and for exposure to bloodborne pathogens. Written-only proponent testimony was provided by representatives of the Kansas State Fire Fighters Association, the Kansas State Council of Fire Fighters and Kansas State Lodge Fraternal Order of Police.

A representative of KPERS provided neutral testimony on the bill, stating for most KP&F members, there is no difference between service-connected and nonservice-connected benefits. For disabilities, a member receives 50.0 percent of the member's final average salary each year until the member is eligible for retirement.

No opponent testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [*Note:* The Conference Committee did not retain this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2031, as introduced, KPERS estimates the bill would have a negligible actuarial impact to the Retirement System. While the bill would require the agency to update certain publications and documents, KPERS anticipates any costs associated with the changes would be handled within existing resources.

SB 210 (Delayed KPERS Membership)

SB 210 was introduced by the Senate Committee on Ways and Means.

In the Senate Committee hearing, the Executive Director of KPERS provided neutral testimony on the bill, explaining employees affected by the bill would be eligible to purchase service for the two-year training period after becoming a member. Representatives from Big Lakes Development Center, Inc., and Starkey, Inc., provided proponent testimony, stating, due to the high turnover and short-term employment length of employees, this bill would allow the organizations to save time in processing paperwork and costs that could be redirected to making wages and benefits more competitive.

Written-only proponent testimony was provided by Arrowhead West, Inc.; Developmental Services of Northwest Kansas, Inc.; Interhab; Multi Community Diversified Services; and Twin Valley Developmental Services, Inc.

opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget, KPERS estimates the impact on future employer contribution rates to the KPERS-Local Group would be negligible. KPERS indicates SB 210 would require the agency to modify its information technology system and change publications and education materials. However, the costs associated with these changes can be absorbed within existing resources. Any fiscal effect associated with

enactment of SB 210 is not reflected in *The FY 2020 Governor's Budget Report*.

HB 2119 (KPERS Board Procurement Procedures)

HB 2119 was introduced by the House Committee on Financial Institutions and Pensions at the request of Representative Kelly on behalf of the Board.

During the House Committee hearing, the Executive Director of KPERS provided proponent testimony, stating the bill would provide additional delegated authority to the Board, which is obligated to make decisions based on the best interest of the KPERS Trust Fund. The Executive Director of KPERS noted that flexibility in choosing the provider of printing services would provide cost savings for the agency. No neutral or opponent testimony was provided.

The House Committee amended the bill to clarify language pertaining to contracts considered to be in adherence to the Act. [*Note: The Conference Committee retained this amendment.*]

During the Senate Committee on Financial Institutions and Insurance hearing, the Executive Director of KPERS provided proponent testimony, stating the bill would provide additional delegated authority to the Board, which is obligated to make decisions based on the best interest of the KPERS Trust Fund. The Executive Director of KPERS noted that flexibility in choosing the provider of printing services would provide cost savings for the agency. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [*Note: The Conference Committee deleted this amendment.*]

According to fiscal note prepared by the Division of the Budget on HB 2119, as introduced, KPERS estimates there would be a negligible fiscal effect on agency resources. Any

fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

HB 2140 (DROP Program)

The DROP program was enacted in 2015 as a pilot program for the KHP to address reductions in staffing. Eligible members are allowed to enter into the DROP program at retirement age for an additional three to five years. During this period, the member continues to work while the retirement benefit is deposited into a DROP account, which may be credited interest if certain investment thresholds are met. At ultimate retirement, the member will receive the balance of the account in a lump sum or as a rollover into another qualified account. Both employers and employees continue to make regular contributions to the KP&F System plan within KPERS.

HB 2140 was introduced by the House Committee on Financial Institutions and Pensions at the request of Representative Kelly on the behalf of the KHP and KBI. During the 2018 Legislative Interim, the Joint Committee on Pensions, Investments and Benefits recommended consideration to repeal the sunset on the pilot DROP program and to broaden the program to include other law enforcement agencies.

During the House Committee hearing, proponent testimony was provided by the Superintendent of the KHP and the Director of the KBI. Both proponents supported extending the sunset date and including eligible KBI agents in the program to maintain experienced staff at the agencies. Both agencies have experienced critical staffing shortages and believe the DROP program is a valuable tool in retaining law enforcement staff. No other testimony was provided.

During the Senate Committee on Financial Institutions and Insurance hearing, proponent testimony was provided by the Superintendent of the KHP and the Director of the KBI. Both proponents supported extending the sunset date and

including eligible KBI agents in the program to maintain experienced staff at the agencies. Both agencies have experienced critical staffing shortages and believe the DROP program is a valuable tool in retaining law enforcement staff. No other testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The Conference Committee deleted this amendment.]

According to the fiscal note prepared by the Division of the Budget HB 2140, as introduced, KPERS estimates an increase in the KP&F employer uniform contribution rate by 0.2 percent. The employer contribution amount would increase by \$102,000, including \$16,626 from the State General Fund. Based on the number of eligible members in both the KHP and KBI, KPERS estimates the unfunded actuarial liability for KP&F would increase by approximately \$450,000. Local KP&F would be required to pay any increases to the uniform contribution rate, which would increase local government contribution costs. KPERS also estimates no increase in administrative expenditures. However, if additional employers would be added to the DROP program in the future, KPERS would require additional expenditures for upgrades to the information technology systems and staff.

HB 2203 (Working-After-Retirement Exemption)

HB 2203 was introduced by the House Committee on Financial Institutions and Pensions at the request of Representative Dietrich. In the House Committee hearing, a representative from the Adjutant General's Department (Department) spoke in favor of the bill, explaining the STARBASE education program, which is focused towards teaching fifth grade students about science, technology, engineering, and mathematics, is federally funded. The conferee stated additional contributions to KPERS comes at the expense of fewer resources for the classroom.

A representative from KPERS provided neutral testimony, stating the number of retirees employed by STARBASE is relatively small and the Retirement System would not be expected to have any actuarial cost. On February 25, 2019, a representative from KPERS provided neutral testimony on the House Committee amendment described below, explaining while the new working-after-retirement provisions have been working effectively, there have been a few instances where either retirees or employers have not followed the provisions, thinking the policy was not necessarily applicable in their circumstances. No opponent testimony was provided.

The House Committee amended the bill to allow for the reimbursement of certain suspended benefits for a specific period of time, if the retiree terminated employment when notified of the violation. [Note: The Conference Committee retained this amendment.]

In the Senate Committee on Financial Institutions and Insurance hearing, a representative from the Department spoke in favor of the bill, explaining the STARBASE education program, which is focused towards teaching fifth grade students about science, technology, engineering, and mathematics, is federally funded. The conferee stated additional contributions to KPERS comes at the expense of fewer resources for the classroom.

A representative from KPERS provided neutral testimony, stating the number of retirees employed by STARBASE is relatively small and the Retirement System would not be expected to have an actuarial cost.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The Conference Committee deleted this amendment.]

According to the fiscal note provided by the Division of the Budget, the Department estimates HB 2203, as introduced, would reduce expenditures by \$25,000 from all funds in FY 2020; there are five employees who would be affected by the bill. KPERS estimates the bill would not have

an actuarial cost. In the Senate Committee hearing, the KPERS representative stated the House Committee amendment would not impact the actuarial funding of the Retirement System. Any fiscal effect associated with enactment of HB 2203 is not reflected in *The FY 2020 Governor's Budget Report*.

KPERS; retirement; KP&F; working after retirement

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