

MINUTES

JOINT COMMITTEE ON PENSIONS, INVESTMENTS, AND BENEFITS

November 5-6, 2007
Room 519-S—Statehouse

Members Present

Representative Richard Carlson, Chairperson
Senator Stephen Morris, Vice-Chairperson
Senator Anthony Hensley
Senator Laura Kelly
Senator Ruth Teichman
Representative Margaret Long
Representative Geraldine Flaharty
Representative Vaughn Flora
Representative Robert Olson
Representative Sharon Schwartz
Representative Arlen Siegfried

Staff

Alan Conroy, Director, Kansas Legislative Research Department
Julian Efird, Principal Analyst, Kansas Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Shirley Jepson, Committee Secretary

Conferees

Ken McGovern, Douglas County Sheriff
Major James Woods, Detention Bureau Commander for the Sedgwick County Sheriff's
Department
Glenn Deck, Executive Director, Kansas Public Employees Retirement System
Representative Ann Mah, District No. 53
John Evans, Fire Chief, 190th Air Refueling Wing, Kansas Air National Guard
Patrick G. Moore, Assistant Fire Chief, 190th Air Refueling Wing, Kansas Air National Guard
Ray Beaumont, KAPE Unit President and C Shift Crew Chief, 190th Air Refueling Wing, Kansas
Air National Guard
Aaron Henrichs, Game Warden, Kansas Department of Wildlife and Parks
Dick Koerth, Department of Wildlife and Parks
Doug Farmer, Chief of Staff, Attorney General's Office
Roger Werholtz, Secretary, Department of Corrections
Robert S. Wing, President, Kansas State Firefighters

Ron Gardner, Kansas Coalition of Public Retirees
Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards
Dale Dennis, Deputy Commissioner of Education, Kansas State Department of Education
Gary Price, Superintendent, Unified School District No. 250, Pittsburg
Darren Dennis, Director of Personnel, Unified School District No. 457, Garden City
Jerry Cullen, Superintendent, Unified School District No. 220, Ashland
Beth Reust, Superintendent, Unified School District No. 270, Plainville
John Morton, Superintendent, Unified School District No. 373, Newton
Terry Forsyth, Kansas National Education Association

**Monday, November 5
Morning Session**

Public Hearing on Proposal No. 1—Study allowing local units of government to elect coverage under KPERS similar to the State Correctional Officer Group. The State Correctional Officer Group provides some limited enhanced benefits regarding earlier retirement benefits when compared to regular KPERS benefits.

The Legislative Coordinating Council (LCC) assigned this topic for Interim study.

SB 339—KPERS Affiliation by Counties for County Detention Officers; Normal Retirement and Associated Costs. Gordon Self, Office of the Revisor of Statutes, provided an overview of SB 339, introduced during the 2007 Legislative Session by the Senate Ways and Means Committee. He explained that the proposed legislation is KPERS-related with a new retirement plan for local units of government and a mechanism for affiliation to the Retirement System by county detention officers ([Attachment 1](#)).

Mr. Self noted that current plans include KPERS for state correctional and the Kansas Police and Fire (KP&F) for public safety personnel. KPERS for state correctional allows for earlier retirement by state correctional officers. SB 339 would provide counties with the option to affiliate with KPERS for local correctional officers and allow the same earlier retirement benefits to the county detention officers as currently provided for state correctional officers. The legislation stipulates that the total number of employees statewide who elect to take advantage of the new retirement benefit must total 500 county detention officers before KPERS will implement the new plan. Provisions in SB 339 would allow for an earlier retirement by county detention officers with full benefits.

Mr. Self said that if SB 339 advances, the Legislature would need to address the implementation date and coordinate with the new KPERS plan that takes effect on July 1, 2009. SB 339 would not affect any state employees nor have a fiscal impact on the state because the counties would be responsible for the cost. Mr. Self noted that presently local governments may affiliate with KPERS for retirement benefits and would be subject to the new provisions as provided in the proposed plan if adopted. The legislation does not speak to the mechanism regarding how the counties would reach their decision to affiliate; however, no county employee can become a part of the new retirement plan without affiliation by the county.

Ken McGovern, Douglas County Sheriff, spoke on behalf of the corrections officers working at the county level, in support of SB 339 ([Attachment 2](#)). Mr. McGovern stated that the work of corrections officers has changed and requires quality people to maintain quality services and safety. Mr. McGovern noted that it is important to provide good retirement benefits for the officers. Responding to questions from the Committee, Mr. McGovern stated that correctional officers can be

hired at age 18 with a high school diploma or GED. Prospective employees are required to do a psychological and medical background check and receive three months training at the local facility. Responding to a question from the Committee with regard to training, Mr. McGovern stated that there are ongoing conversations within the Kansas Sheriffs' Association and the Kansas Jail Association to work toward standardization of training for county law enforcement across the state.

Major James Woods, Detention Bureau Commander for the Sedgwick County Sheriff's Department, presented testimony in support of legislation to provide enhanced retirement benefits to county detention officers ([Attachment 3](#)). Major Woods noted that he has had no discussion with the county commission and does not know the fiscal impact on the county.

Glenn Deck, KPERS Executive Director, stated that a preliminary assessment of the legislation indicated a potential of 700 members with an unfunded liability if prior service is included. If the legislation is enacted, each county government, who affiliated with KPERS, will be responsible for the contribution rate and unfunded liability.

KPERS Proposed Legislation

As part of the Joint Committee's statutory duties to review KPERS issues and make recommendations, the Agency presented a request for legislation to be considered by the 2008 Legislature.

Glenn Deck, KPERS Executive Director, provided an overview of proposed 2008 legislative items ([Attachment 4](#)). Mr. Deck stated that the Ice Miller Law Firm, KPERS' Tax Counsel, is reviewing the 2007 revisions to the Retirement Act against current IRS qualified plan guidelines. They will determine if any amendments to the current Retirement Act will be necessary prior to requesting an updated determination letter from the IRS that would allow KPERS to continue favorable federal tax treatment for retirement contributions and the state's 457 deferred compensation plan.

Mr. Deck indicated that staff is developing draft language on technical amendments to 2007 SB 362, enacted into law during the 2007 Legislative Session, regarding modifications to the KPERS retirement benefits for future members and certain benefit enhancements for current employees.

Some technical amendments will be related to recommendations from outside legal tax counsel, Ice Miller, on compliance with IRS rules and regulations.

Other technical amendments include transition issues that need clarification:

- Expand the definition of "employee" for new plan members to better distinguish what elements of the current definition of "employee" are applicable, or not, to new plan members.
- Clarify the rules of service and its portability between the current plan and the new plan to determine membership applicability.
- Add language in order to reflect how employees with a single employer will be contributing to KPERS using two separate contribution rates.

Mr. Deck requested that the Committee consider the proposals for introduction in the 2008 Legislative Session and will provide draft language at the December meeting.

Public Hearing on Proposal No. 2—Expansion of Employee Groups into the Kansas Police and Fire Retirement System (KP&F). Study the possibility of adding selected state agency employee groups who perform public safety duties (fire and law enforcement) into the Kansas Police and Fire Retirement System from regular KPERS. Also, review the Social Security coverage for certain groups in the Kansas Police and Fire Retirement System and any potential implications for other groups.

The LCC assigned this topic for Interim study and the Joint Committee decided to hold hearings on the following related bills and topic suggested by the Secretary of Corrections that pertains to this study topic.

Gordon Self, Office of the Revisor of Statutes, explained that there are three pieces of legislation, HB 2238, HB 2584, and SB 388, pertaining to certain state groups of public safety employees who are requesting coverage under the KP&F Retirement System. Issues to be addressed concern participating service, prior service, and the treatment of the unfunded liability for prior service. The legislation provides that the participating employer would be responsible for the unfunded liability.

Julian Efird, Legislative Research Department, noted that various groups of state employees are treated differently within the KP&F Retirement System, resulting in unequal benefits for employees within state agencies. Mr. Efird noted that Social Security is an underlying issue, stating that groups involved have different Social Security coverage. It was suggested that perhaps it may be necessary to create a new tier for new employees. At this time, per federal law, groups can no longer “opt out” of Social Security.

Afternoon Session

HB 2238—Affiliation with the Kansas Police and Firemen's Retirement System by Adjutant General for Membership of Certain Firefighters Serving the 190th Kansas Air National Guard ([Attachment 5](#)).

Representative Ann Mah, House District No. 53, presented testimony in support of HB 2238 which would allow the firefighters serving the 190th Kansas Air National Guard at Forbes Field to become members of the KP&F Retirement System ([Attachment 6](#)). Representative Mah noted that there would be an estimated cost of \$44,150 in 2008 and \$45,000 in 2009 with federal funds picking up the cost.

John Evans, Fire Chief, 190th Air Refueling Wing, Kansas Air National Guard, presented testimony, on behalf of 16 firefighters at Forbes Field in support of HB 2238 ([Attachment 7](#)). Mr. Evans stated that the firefighters are unclassified state employees and currently are under the KPERS system, but because of the nature of their work, it is more difficult to meet the stringent medical requirements as they age. Responding to a question from the Committee, Mr. Evans stated that the 16 firefighters are unclassified employees in the Adjutant General's Department. In addition, there also is a group of firefighters who are members of the Kansas National Guard, but would not be a part of the group covered under this legislation since they are not full-time state employees.

Mr. Self noted that HB 2238 addresses participating service only and has no provision for prior service.

Patrick G. Moore, Assistant Fire Chief, 190th Air Refueling Wing, Kansas Air National Guard, presented testimony in support of HB 2238 ([Attachment 8](#)). Mr. Moore noted that the firefighters are EMT certified and re-certified every year.

Ray Beaumont, KAPE Unit President and C Shift Crew Chief, 190th Air Refueling Wing, Kansas Air National Guard, presented testimony in support of HB 2238 ([Attachment 9](#)).

HB 2584—Affiliation with the Kansas Police and Firemen's Retirement System by the Department of Wildlife and Parks for Membership of Certain Officers and Employees ([Attachment 10](#)).

Aaron Henrichs, Game Warden, Kansas Department of Wildlife and Parks, presented testimony in support of HB 2584 ([Attachment 11](#)). Mr. Henrichs noted that game wardens are certified law enforcement officers and have certification renewed with the Kansas Law Enforcement Center on a yearly basis. There are approximately 84 game wardens and park rangers in a bargaining unit at the present time who are employees of the Department of Wildlife and Parks and seek membership in KP&F.

Responding to a question from the Committee concerning the fiscal note on HB 2584, Dick Koerth, Department of Wildlife and Parks, stated that there are 170 certified law enforcement personnel with the Department of Wildlife and Parks; however, the legislation is only directed at 84 game wardens. Funding would be provided from the State General Fund (SGF), the Parks Fee Fund, and other special revenue funds, including those with federal funds.

SB 388—Affiliation with Kansas Police and Firemen's Retirement System by Attorney General for Certain Agents and Investigators ([Attachment 12](#)).

Doug Farmer, Chief of Staff, Attorney General's Office, presented testimony in support of SB 388 ([Attachment 13](#)). Mr. Farmer noted that there are seven employees in the Attorney General's Office who are certified law enforcement officers. Approximately three of these employees would qualify for coverage under SB 388. The office estimates that the fiscal note would be approximately \$10,000.

Pertaining to Certain Employees in the Department of Corrections.

Roger Werholtz, Secretary, Department of Corrections, presented testimony pertaining to certain employees of the Department of Corrections ([Attachment 14](#)). Mr. Werholtz stated that there are employees of the Department of Corrections who perform dangerous duties and should be included in an enhanced retirement plan. Mr. Werholtz felt that an enhanced retirement plan would keep experienced employees working longer, decrease turnover, reduce overtime, and make the system more equitable across the state.

Employees currently are being lost to local sheriff's offices and other local law enforcement jobs. To assist with the turnover rate, the Department felt that major issues are retirement benefits, alleviate mandatory overtime, and improve salaries and working conditions. Mr. Werholtz did not know the fiscal note on the legislation, but stated that the group affected would include uniformed personnel, parole officers, special enforcement officers, corrections counselors, facility maintenance personnel, both non-uniform and uniformed officers with some of these officers who carry guns—approximately 2,585 employees who would be affected by this legislation.

The Committee requested information on a comparison of the state correctional officers salaries with market salaries for similar positions.

Increasing the Maximum Benefit under the KP&F System

A topic selected by the Joint Committee for Interim study includes the following:

Hearing on HB 2151—Increased maximum retirement benefit for KP&F members and increased employee contributions until the maximum retirement benefit is attained.

Gordon Self, Office of Revisor of Statutes, explained that HB 2151 was introduced by the House Committee on Appropriations pertaining to the KP&F Retirement System ([Attachment 15](#)). Under current law, members receiving benefits under the KP&F Retirement System receive benefits equal to 2.5 percent of the final average salary for each year of service up to a maximum of 80.0 percent of their final average salary. When the member reaches the maximum benefit level, the member's contribution rate drops from 7.0 percent to 2.0 percent of compensation. HB 2151 would increase the maximum benefit level to 100.0 percent of the final average salary and provide for a 7.0 percent member contribution rate until the new maximum benefit level is reached, then it would decline to 2.0 percent.

Major James Woods, Sedgwick County Sheriff's Department, presented testimony in support of HB 2151 ([Attachment 16](#)). Major Woods stated that this legislation would benefit all public service agencies throughout the state who are experiencing significant loss of experience and personnel due to the current rules of KP&F. Major Woods noted that it is becoming increasingly difficult to replace retirees and fill vacancies. The legislation would provide a choice and allow the employee to make the decision of retiring at 55 years of age or remain employed longer.

Robert S. Wing, President, Kansas State Firefighters, presented testimony in support of HB 2151 ([Attachment 17](#)). Mr. Wing felt that some employees can continue to contribute in the workforce, not always in the same position but perhaps in an administrative position. This legislation would allow for the individual to have a choice.

Responding to a question from the Committee, Glenn Deck indicated that the cost to the state would be very modest, approximately \$63,000 to \$93,000.

November 6, 2007 Morning Session

Another topic selected by the Joint Committee for Interim study includes the following subject:

Public Hearing on Post Retirement Cost-of-Living Adjustments.

Ron Gardner, Kansas Coalition of Public Retirees, presented testimony on behalf of the 34 state and local associations and organizations that are KPERS dependent and make up the Coalition, and spoke in support of a post retirement cost-of-living adjustment (COLA) for employees retiring under KPERS ([Attachment 18](#)). The Coalition is requesting a 3 percent permanent increase for all retired public employees, approximately 65,000 from all professions and occupations under the KPERS, KP&F, and Judges retirement systems.

Representative Ann Mah presented testimony in support of a COLA for KPERS retirees ([Attachment 19](#)). Representative Mah stated that improved retirement benefits is the number one issue for KPERS retirees. In addition, Representative Mah felt that current employees should be

encouraged to contribute to a deferred maintenance plan with the state providing an incentive to the employee.

The Committee expressed concern about the cost of a COLA and possible creation of additional unfunded liability for the retirement system.

A third topic selected by the Joint Committee for Interim study includes the following subject:

Public Hearing on Working after Retirement

Glenn Deck, KPERS Executive Director, provided testimony regarding statutory provisions that limit KPERS retirees working after retirement and regarding retention incentives for teachers as they relate to the teacher shortage ([Attachment 20](#)). A copy of testimony as provided to the Legislative Educational Planning Committee (LEPC) is included his testimony. Mr. Deck provided the following alternatives:

- Eliminate the \$20,000 earning limitation for retired teachers returning to work for the same employer when certain criteria is followed.
- Provide a teacher retention incentive to address the shortage.

Mr. Deck's testimony lists certain criteria that should be followed if this option is considered. The cost impact is not known because it is not known how many teachers would take advantage of the option. Mr. Deck felt it is important to have a sunset on the option if a financial incentive proposal is adopted to encourage a teacher to continue working.

Mark Tallman, Assistant Executive Director/Advocacy, Kansas Association of School Boards (KASB), presented testimony on working after retirement ([Attachment 21](#)). KASB recommended the following positions:

- Important for the state, not the local school districts, to provide full funding for the employer's share of the KPERS contributions.
- Support steps to reduce the cost of the system to the State General Fund by reducing the unfunded liability.
- Preserve the primary purpose of KPERS as a retirement plan designed to support public employees when they are no longer working.
- Repeal the surcharge for persons who go to work for another district (at least in positions of teacher shortage).
- Does not support repealing the earning limit for employees who return to work for the same school district.
- Support strategies to assist districts with incentives for teachers to continue working.
- Believe retired teachers should continue to be outside the collective bargaining unit and due process law.

- Believe the state must help local district address the teacher shortage by providing the resources to allow competitive salaries and benefits and address other working condition issues.

The Committee requested that Mr. Tallman provide information that KNEA derived from a survey of school districts pertaining to individual school districts with early retirement incentives.

Responding to a question from the Committee concerning the Local Option Budget (LOB), Mr. Tallman noted that only four school districts have reached the 30.0 percent and were successful in raising their LOB to the maximum amount permitted by law.

Dale Dennis, Deputy Commissioner of Education, Department of Education, provided testimony on working after retirement ([Attachment 22](#)). Mr. Dennis stated that the pool of available teachers is very small, especially in the fields of special education, math, science, and music. The hardest hit areas are western Kansas and high poverty areas of the state. In addition, school districts are competing for teachers with other states. Mr. Dennis noted that virtual schools are on the increase and being utilized. School districts are sharing teachers where applicable. Mr. Dennis noted that there is some concern that retired teachers are being contracted by an outside source and then made available to school districts as a contract employee in order to avoid salary restrictions.

Responding to a question from the Committee, Mr. Dennis stated that several school districts are going to a longer school day for four days a week. Mr. Dennis noted that this is a local decision and completely legal.

The following school personnel provided testimony on working after retirement and the critical teacher shortage across the state, particularly in the western part of the state and in some subject area teaching fields:

- Gary Price, Superintendent, Unified School District No. 250, Pittsburg ([Attachment 23](#)).
- Darren Dennis, Director of Personnel, Unified School District No. 457, Garden City ([Attachment 24](#)).
- Jerry Cullen, Superintendent, Unified School District No. 220, Ashland.
- Beth Reust, Superintendent, Unified School District No. 270, Plainville ([Attachment 25](#)).
- John Morton, Superintendent, Unified School District No. 373, Newton ([Attachment 26](#)).

Terry Forsyth, Kansas National Education Association (KNEA), presented testimony on teachers working after retirement ([Attachment 27](#)). Mr. Forsyth stated that KNEA strongly opposes the removal of any teachers from the definition of professional employee and the right to be a part of the collectively bargained salary and benefit package.

As requested by the Committee, a copy of testimony presented to the Senate Ways and Means Committee on SB 364 by Glenn Deck during the 2007 Legislative Session was distributed to the members ([Attachment 28](#)).

The meeting was adjourned at noon. The next meeting of the Committee will be held on December 10-11, 2007.

Prepared by Shirley Jepson,
Edited by Julian Efirm

Approved by Committee on:

December 10, 2007
(Date)