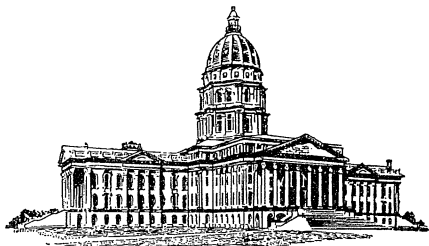


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TO: KPERS Study Commission
RE: Guiding Legal Principles of KPERS
From: Office of Revisor of Statutes
Date: October 25, 2011

Kansas Pension Law Guiding Principles

1. The state retirement system creates a contract between the State and its employees who are members of the system. This contract is protected by the Contract Clause of the US Constitution.
2. Based on Kansas case law we are uncertain as to **when** this contract is protected by the Contract Clause of the US Constitution, but it is probably sometime after the first day of employment and certainly by the date of vesting.
3. If the legislature does make changes to members benefits that result in disadvantages to the members, it should also give compensating advantages to those members. If the state does not give counterbalancing advantages, it is more likely that this violates the Contract Clause protections granted to employees.
4. Contractual pension rights may be modified for the purpose of keeping a pension system flexible to permit adjustments in accord with changing conditions and at the same time maintain the integrity of the system. Such modifications must be reasonable, and it is for the courts to determine upon the facts of each case what constitutes a permissible change. To be sustained as reasonable, alterations of employees' pension rights must bear some material relation to the theory of a pension system and its successful operation.
5. If the State makes changes to the pension system, it is not free to impose a drastic impairment when an evident and more moderate course would serve its purposes equally well.
6. When dealing with existing members, the Legislature may be able to make benefit changes as long as they: (1) are prospective in nature; (2) do not affect already accrued benefits by members; and (3) are for purpose of maintaining the integrity of the system, have any disadvantages counterbalanced by compensating advantages, or are small changes where the contractual rights of employees are not significantly altered.
7. The Contract Clause does not prohibit small changes in the retirement system if the contractual rights of employees are not significantly altered.
8. Since no contractual relationship exists with future employee, the legislature may set up any sort of retirement system it wishes for future employees.