Kansas Public Employees Retirement System

Legislative Data Sheet

2012 Senate Bill 259

Sponsored by Legislative Educational Planning Committee

Effects of Bill

2012 Senate Bill 259 relates to working after retirement for certain school employees.

SB 259 would extend a special exemption from KPERS working after retirement restrictions that is available to retired teachers and other retired, licensed school professionals (such as administrators, psychologists, and speech therapists). It would also extend the special employer contribution rate that applies to compensation earned by these rehired retirees. The exemption and employer contribution rate is scheduled to sunset on July 1, 2012, and SB 259 would extend the provision for another three-year period, to July 1, 2015.

Background. KPERS working after retirement restrictions are provided in Kansas statutes. They are subject to IRS regulations because KPERS is a qualified, tax-exempt retirement plan. The earnings limitation on returning to work for the retiree's previous employer (any employer the retiree worked for during the last two years of active KPERS participation) is $20,000 per year. If a retiree chooses to continue working after reaching this cap, the retiree's monthly retirement benefit is suspended for the remainder of the year.

These restrictions do not apply to retirees returning to work for a different employer. Although the State of Kansas is considered a single employer, local employers and school districts are each considered to be a different employer. Therefore, teachers and other licensed professionals historically have been able to return to work for a different school district without any limitation on earnings. However, since 2006, employers who hire a retiree from a different employer have been required to annually report the retiree's employment to KPERS and to pay a contribution on the retiree's compensation in the amount of the actuarial contribution rate, plus 4% (for the School Group, 18.96% during FY 2012 and 18.69% in FY 2013).

2009 HB 2072. During the 2009 Session, the Legislature passed Senate Substitute for HB 2072, which made a number of amendments to the KPERS Act. The final legislation included the following major provisions that are pertinent to SB 259:

- **Earnings Limit for Licensed School Employees.** Lifted the $20,000 earnings limit for retired licensed professionals returning to work for the school district from which they retired, for a three-year period (through June 30, 2012). To qualify for the exemption, the retiree must have retired either:

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    - Under a normal retirement option (e.g., with 85 points)
    - Under an early retirement option more than 60 days before the effective date of the bill (March 28, 2009).
- **Employer Contribution Rates.** Established a special employer contribution rate for public school employers who employ retired licensed professionals, for a three-year period (through June 30, 2012).
    - The rate is the employer actuarial rate plus 8 percent (22.96% in FY 2012 and 22.69% in FY 2013).
    - The employer rate applies to:
        - Retirees returning to work for the same or a different school district.
        - All positions for which a license is required, regardless of the number of hours worked.
    - This employer rate does not apply to retirees employed only as substitute teachers.
    - This employer rate does not apply to retirees who were first employed by a different school district before July 1, 2006.
- **Report.** Required KPERS and its actuary to report experience under the special exemption for licensed professionals after the July 1, 2012, sunset date.

2012 SB 259 would leave all of these provisions intact, but would amend K.S.A. 2011 Supp. 74-4937 to extend the sunset date from July 1, 2012, to July 1, 2015.

Fiscal Impact

Expenditures. There would be no fiscal impact on expenditures by KPERS or other state agencies.

Revenues. In CY 2008, prior to enactment of HB 2072, employers who rehired retirees from a different employer paid just under $3.0 million in employer contributions at the actuarial rate plus 4%. No contributions were due from employers who rehired their own retirees, as all of those retirees are subject to the $20,000 earnings cap.

KPERS currently has data regarding the amounts received under the special employer contribution rate established by HB 2072 for CY 2009 (half year) and CY 2010, as follows.

School Group Employers:
Contributions on Rehired Licensed Professionals

Year	Different Employer	Same Employer	Total
2010	$5,081,753	$2,346,461	$7,428,214
2009	$3,113,566	$ 879,373	$3,992,939

Employers have not yet reported annual contributions for CY 2011.

If the existing provisions were to sunset this year as set out in current law, this special employer contribution rate would expire, and the rate structure would change as follows:

- School group employers hiring licensed professionals who retired from another school district would be required to pay the actuarial rate, plus 4%, rather than the "actuarial rate plus 8%."
- School group employers rehiring licensed professionals who retired from the same school district would no longer be required to pay an employer contribution. Instead, the licensed professionals would be subject to the $20,000 annual earnings limitation.

SB 259 would retain the higher "actuarial rate plus 8%" rate for all retired licensed professionals who return to work for any school employer. However, it should be noted that either the sunset or extension of the HB 2072 exemption and rate structure may affect the behavior of school districts and licensed professional school employees nearing or in retirement. Therefore, the impact of SB 259 on revenues cannot be estimated.

Impact on Funding. Modifications to the earnings limitation, such as the current exemption provided to retired licensed professionals who are rehired by the same school district, can impact the cost of retirement benefits, with the degree of the impact dependent on the number of retirees affected. The potential for an impact results primarily from two factors: (1) changes in retirement patterns and behavior, stemming from incentives for members to retire earlier than they would have absent the exemption; and (2) reductions in employee and employer contributions that occur when positions historically filled by active, contributing members are instead filled by noncontributing retirees. Because school group employers are paying contributions on the compensation of retired licensed professionals at the actuarial rate plus 8%, KPERS is not experiencing such a reduction in contributions. However, there is likely to be a long-term cost associated with changes in retirement patterns and behaviors, particularly if the exemption becomes institutionalized and is eventually made permanent.

Based on the System's experience, most members do not retire when they first meet the eligibility requirements. Rather, they continue working and accrue higher retirement benefits. Upon retirement, the value of their future benefit payments generally is lower than it would have been when they first became eligible because the payments, while higher, begin at an older age. Therefore, plan design changes that motivate members to retire earlier than they would otherwise have a cost impact, all other things being equal.

Complete removal of the earnings limit provides strong financial incentives for licensed professionals to retire when they first become eligible and then return to work for their current employer after the 60-day waiting period. If these teachers return to work at the same salary, they could realize an increase in compensation of over 50% (with 30 years of service). Moreover, their take-home pay would be greater because KPERS retirement benefits are not subject to Kansas income tax, social security, or KPERS contributions. In addition, some districts have supplemental early retirement programs that may provide additional financial incentives. To the extent that employers reduce wages paid to retirees due to the higher employer contribution rate, the retiree would realize a smaller increase.

Although data about experience under the exemption is limited at this point, there appear to have been increases during CY 2010 in the number of retired licensed professionals who returned to work for the school district from which they retired, as illustrated by the following table.

Calendar Year	All Retirees Rehired by School Employer				Licensed Professional Retirees Rehired by School Employer			
	Same Employer		Different Employer		Same Employer		Different Employer	
	Number	% Change	Number	% Change	Number	% Change	Number	% Change
2007	848		958		Not available*			
2008	997	17.57%	1159	20.98%				
2009	1,250	25.38%	1296	11.82%	428		683	
2010	1,470	17.60%	1364	5.25%	551	28.74%	668	-2.20%

*Prior to 2009 implementation of HB 2072, school employers did not report retired licensed professionals separately from other rehired retirees.

The rate of increase in the number of retirees rehired by a different school employer slowed from 21% in 2008 to 5% in 2010, the second year the higher "ARC plus 8%" employer contribution rate was in effect. In 2010, the number of retired licensed professionals rehired by a different employer decreased by 2%. By way of contrast, the rate of increase in the number of retirees rehired by the same school employer rose to 25% in 2009, the first year the earnings limitation was lifted, and the number of licensed professionals rehired by the same employer grew by 29% from 2009 to 2010. However, the data available is not sufficient to indicate a trend, nor is there a means to determine whether changes in reemployment over the last two years are a direct result of the exemption or other, unrelated factors that may also influence reemployment decisions.

For the reasons outlined above, it is expected that the exception to the earnings limitation has an impact on retirement patterns and, therefore, some cost to the System. However, there is not sufficient or appropriate data to estimate the cost of the HB 2072 exemption, either to date or for the future.

- Due to the annual employer reporting cycle, the employers' CY 2009 working-after-retirement report reflected data from only the first six months in which HB 2072 was in effect. The CY 2010 report was the first report to include a full 12 months of data under HB 2072, and no data for 2011 is available at this point. Therefore, KPERS has data for only 18 months of the three-year exemption.
- The actual cost of the earnings limitation exception is heavily dependent on both how many and which members elect to retire earlier than they would have if the law had not been changed, as well as how long those members continue to work after "retiring." There is no practical means available for determining which members retired earlier than they would have absent the exemption. Moreover, actuarial assumptions regarding retirement are based on experience for the School Group as a whole, rather than the subset of licensed professionals that are the subject of this exemption. Therefore, no true "baseline" exists as a point of comparison to quantify the exemption's actual impact on behavior and retirement patterns or on KPERS' liabilities and funding.
- Extension of the exemption for a second three-year period may, in itself, impact member behavior, as it may tend to support a perception of its permanency. To the extent that it begins to be seen as more institutionalized, employees eligible to retire at younger ages may be more inclined to make use of the exemption upon reaching their "85 points," which may result in larger deviations from actuarial assumptions regarding retirement ages than may have occurred during the initial three-year exemption.

  Finally, in the absence of a meaningful estimate of the impact of the exemption on KPERS liabilities, it is not possible to determine the extent to which the "actuarial rate plus 8%" employer contribution rate offsets costs to the System.