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**Testimony to the Senate Financial Institutions and Insurance Committee
In Support of SB205 – KPERS/KP&F Member Status During Paid Leave
March 16, 2017**

Chairman Longbine and Committee Members,

Our associations support SB205 clarifying KPERS and KP&F members remain in an active status in the retirement system while on paid leave approved by the employer. This is a critical issue to our associations and fixing this problem was chosen as one of our priority legislative issues for this session.

It is unfortunate that we are in the position to have to request this bill. The problem we are faced with is employees who are on paid leave are removed from active status after ten days. We have identified officers who have been on paid administrative leave during investigations such as use of force or other investigations to serve the best interest of the officer, agency, and the public during those investigations. We have also received reports of officers who have been injured in the line of duty who found their KPERS/KP&F contributions stopped while recovering from those injuries. We understand that it is KPERS intent for the time to be restored after the employee returns to duty. However, we have received some reports where we are told that has not happened.

We understand KPERS has an interest in controlling any abuse that could occur through a leave process. Such abuses cannot occur at the whim of the employee. Only the employer can authorize the abuses of concern. However, the current KPERS solution strikes most frequently at good employees who are on leave without any wrongdoing or while recovering from duty related injuries. Even if the time is eventually returned to the employee, these officers are already under immense psychological stress and they do not need or deserve the added stress of not knowing if their pension will remain intact.

We simply believe the employee deserves to remain active in the system any time they are in a pay status approved by their employer. During those times, absent the current KPERS rule, KPERS continues to receive both the employer and employee contributions and does not suffer any financial burden different from what would exist if the employee was in a normal working status.

Since the hearing in the House Committee on HB2289, KPERS has worked with us to agree on language that addresses concerns on both sides of this issue. That language is attached and we urge you to amend SB205 to include the agreed to language.

We believe SB205 presents good public policy and shows respect for employees who find themselves in a paid leave status through the processes required by their profession and service to the public.

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SENATE BILL No. 205

By Committee on Ways and Means

2-20

**PROPOSED AMENDMENT
TO 2017 SB 205**

March 13, 2017

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system and systems thereunder; participating
3 service credit; amending K.S.A. 74-4913 and 74-4956 and repealing
4 the existing sections.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 74-4913 is hereby amended to read as follows: 74-
8 4913. (1) Prior service shall be credited as follows:

9 (a) A member shall receive full credit for continuous employment
10 prior to the entry date with such member's employer on the entry date. If
11 the employee was also employed on March 15 of the year immediately
12 preceding the entry date of that employer, then all such previous
13 employment, whether or not continuous, shall be credited; otherwise no
14 credit shall be granted for employment prior to a break in continuous
15 employment. Any member or retirant who was employed by any
16 participating employer on March 15 of the year immediately preceding the
17 entry date of that employer, may apply to the board on such forms as it
18 may prescribe for prior service credit with a participating employer other
19 than the member's entry date employer. Upon receipt of written
20 verification of such employment from the participating employer, the
21 board shall grant such additional prior service credit and with respect to a
22 retirant, shall adjust the amount of the retirement benefit accordingly
23 commencing with the next monthly benefit payment due following receipt
24 of the written verification, except that such retirant shall not be entitled to
25 any retroactive adjustment in the amount of such retirement benefit as a
26 result of the board granting such additional prior service credit. In the case
27 of any person other than a retirant receiving a retirement benefit, such
28 person may make application for an adjustment in the benefit amount in
29 the same manner as a member or retirant, and in such case the adjustment
30 in the benefit amount shall be determined by the board upon the advice of
31 the actuary, and shall commence with the next monthly benefit payment
32 due following receipt of the written verification;

33 (b) leaves of absence and military service shall not be counted as
34 breaks in continuous employment; however, military service which is
35 immediately preceded and followed by employment with a participating
36 employer shall be credited, except that after July 1, 1974, not more than

1 five years' credit for military service shall be granted hereunder to the
2 extent required under USERRA, but leaves of absence shall not be
3 credited;

4 (c) any member who was employed in the Kansas state employment
5 service, now a section of the Kansas division of employment security,
6 during any of the time the Kansas state employment service was loaned by
7 the state to the federal government (January 1, 1942, for the duration of the
8 emergency period of world war II, which service was returned to the state
9 by the federal government effective November 16, 1946) shall be entitled
10 to prior service credit for the time so employed during the period stated for
11 any service rendered under the jurisdiction of the United States
12 employment service for the federal government in like manner as if the
13 employment service had remained under the jurisdiction of the state of
14 Kansas;

15 (d) any member who is not otherwise eligible for service credit as
16 provided for in subsection (1)(a) may be granted credit for the service
17 upon the attainment of 38 quarters of participating service;

18 (e) any member who was employed by the university of Wichita prior
19 to July 1, 1964, shall be entitled to prior service credit for such time of
20 employment under the Kansas public employees retirement system, when
21 such employment is not the basis for other pension rights.

22 (2) Participating service shall be credited as follows: (a) A member
23 shall receive credit for participating service with a participating employer
24 in accordance with the rules and regulations established by the board of
25 trustees, ~~except that, any period of time away from work or normal duties~~
26 *while in a paid status authorized and approved by a participating*
27 *employer on and after July 1, 2014, including, without limitation, any*
28 *administrative leave with pay and any paid vacation leave, sick leave,*
29 *personal leave, worker's compensation leave, light duty or temporary duty*
30 *assignment, shall constitute participating service and any member shall*
31 *receive full credit for such participating service with a participating*
32 *employer for any such period of time away from work or normal duties.*
33 *However, no more than one calendar quarter of participating service shall*
34 *be credited for any employment within any one calendar quarter;*

35 (b) leaves of absence and military service shall not count as a break in
36 continuous employment. In the case of a leave of absence, the member
37 shall leave such member's accumulated contribution on deposit with the
38 fund; however, the period of military service shall be credited, except that
39 after July 1, 1974, not more than five years' credit for military service shall
40 be granted hereunder to the extent required under USERRA, but leaves of
41 absence shall not be credited. Employees who enter the military service
42 from their employment after the employer's entry date and who have not
43 completed one year of service at the time of their entry into the military

Any member performing the duties of a police officer or firefighter as described in K.S.A. 74-4952 (11) and (12), who is

If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and employer.

1 service, shall not become members of the retirement system until they
2 return to the employment of that or another participating employer. In the
3 case of such employee whose combined public employment and military
4 service does not equal one year at the time of such employee's return to
5 employment, the date of membership shall be the first day of the payroll
6 period coinciding with or following the completion of one combined
7 public employment and military year of service. Such service shall be
8 granted in accordance with this section:

9 (c) a period of retirement under the system or a period of total
10 disability, immediately followed by employment with a participating
11 employer, shall not count as a break in continuous employment, except
12 that such periods while not employed shall not be credited as participating
13 service;

14 (d) termination of employment, followed by employment with a
15 participating employer within five years after such termination, does not
16 constitute a break in continuous employment if such person has not
17 withdrawn such person's accumulated contribution. Such period while not
18 employed shall not be credited as participating service.

19 (3) In determining the number of years of credited prior service or
20 participating service a fractional year of six months or more shall be
21 considered as one year and a fractional year of less than six months shall
22 be disregarded.

23 Sec. 2. K.S.A. 74-4956 is hereby amended to read as follows: 74-
24 4956. (1) Prior service shall be credited as follows:

25 (a) Each member shall receive:

26 (i) Full credit for all employment, whether or not continuous, as
27 either a policeman or fireman prior to the entry date with such member's
28 employer who is such member's employer on the entry date;

29 (ii) full credit for all employment, whether or not continuous, as
30 either a police or fireman prior to the entry date of such police or firemen's
31 employer, with a participating employer, if such member has at least 20
32 years of credited service; and

33 (iii) for all continuous employment with the same employer other
34 than either as policeman or fireman, immediately preceding such service
35 as a policeman or fireman, one month of credit for each two months of
36 service. Any member or retirant who has been credited with prior service
37 as provided in this section may apply to the board on such forms as the
38 board prescribes for prior service credit with a participating employer
39 under the Kansas police and firemen's retirement system other than such
40 member's entry date employer. Each member shall receive full credit for
41 all employment as either a policeman or fireman with such other
42 participating employers and shall receive one month of credit for each two
43 months of continuous service with other participating employers for

1 continuous employment preceding service as a policeman or fireman.
2 Upon receipt of written verification of such employment from such other
3 participating employer, the board may grant such additional prior service
4 credit. With respect to a retirant, the board shall adjust the amount of the
5 retirement benefit accordingly commencing with the next monthly benefit
6 payment due following receipt of written verification. In the case of any
7 person other than a retirant receiving a retirement benefit, such person may
8 make application for an adjustment in the benefit amount in the same
9 manner as a member or retirant, and in such case the adjustment in the
10 benefit amount shall be determined by the board upon the advice of the
11 actuary, and shall commence with the next monthly benefit payment due
12 following receipt of written verification, except that no additional prior
13 service credit shall be granted for any service with another participating
14 employer for which benefits are being received or will be received. A
15 retirant or any other person receiving a retirement benefit shall not be
16 entitled to any retroactive adjustment in the amount of retirement benefit
17 as a result of the board granting such additional prior service credit.

18 If a member was employed as a fireman, other than as a volunteer
19 fireman, by a township which is annexed by a participating employer the
20 member's retirement benefits and death and disability benefits shall be
21 computed on the basis of credited service. Continuous service as a fireman
22 with a township prior to annexation by a member, who became a member
23 immediately following the annexation, shall be considered credited
24 service.

25 No such service shall be considered credited service for the purpose of
26 computing years of service if such fireman is receiving or will become
27 eligible to receive benefits as a result of such service with the township.

28 (b) Leaves of absence and military service shall not be counted as
29 breaks in continuous employment; however, military service which is
30 preceded within 30 days and followed by employment with a participating
31 employer shall be credited, except that after July 1, 1974, not more than
32 five years credit for military service shall be granted hereunder to the
33 extent required by the provisions of USERRA, but leaves of absence shall
34 not be credited.

35 (2) Participating service shall be credited as follows: (a) A member
36 shall receive credit for participating service with a participating employer
37 in accordance with the rules and regulations established by the board. *Any*
38 *period of time away from work or normal duties while in a paid status*
39 *authorized and approved by a participating employer on and after July 1,*
40 *2014, including, without limitation, any administrative leave with pay and*
41 *any paid vacation leave, sick leave, personal leave, worker's*
42 *compensation leave, light duty or temporary duty assignment, shall*
43 *constitute participating service and any member shall receive full credit*

1 *for such participating service with a participating employer for any such*
2 *period of time away from work or normal duties.* ~~No~~ more than one
3 calendar quarter of participating service shall be credited for employment
4 within any one calendar quarter.

5 (b) Leaves of absence shall not be counted as a termination of
6 employment provided the member leaves such member's accumulated
7 contributions on deposit with the system and returns to employment with
8 the employer granting such leave; however, the period of leave of absence
9 shall not be credited service.

10 (c) To the extent required under the provisions of USERRA, military
11 service shall not count as a break in continuous employment.

12 (d) Termination of employment with a participating employer
13 followed by employment with the same or another participating employer
14 within two years shall not constitute a termination of membership
15 provided the member leaves such member's accumulated contributions on
16 deposit with the system; however, the period while not employed shall not
17 be credited.

18 (3) In determining the number of years of credited service for
19 calculation of retirement benefits a fractional year of six months or more
20 of credited service shall be considered as one year and a fractional year of
21 less than six months of credited service shall be disregarded.

22 Sec. 3. K.S.A. 74-4913 and 74-4956 are hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and after its
24 publication in the statute book.

If the member does not return to work for the participating employer in the same or a similar position at the conclusion of such leave, except for reasons of death or disability, the period of the leave shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and the employer unless otherwise provided herein. In the case of a decision to voluntarily terminate employment, the period of leave exceeding 365 days shall be removed from service credit, and the employer and employee contributions for such period of leave shall be reimbursed by the system to the employee and employer.