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**Testimony to the House Financial Institutions and Pensions Committee
In Support of HB2031
February 6, 2019**

Chairman Kelly and Committee Members,

Our associations support HB2031. Police Officers, Firefighters and Emergency Medical personnel are often exposed to hazardous substances that can lead to disabling diseases. The primary exposure for law enforcement officers is exposure to diseases through either blood or saliva. These exposures for law enforcement often happen at times when it is impossible to use protective gear, for example, taking a resistive suspect into custody who is either bleeding from injuries or spits on officers.

This bill establishes an officer who is a KP&F member and disabled by certain diseases will qualify for KP&F disability. The bill appears to have adequate provisions to assure the conditions are duty related and that employees are cooperating with preventative treatment and testing after exposure.

Our proposed amendments will cover contagious diseases included in the bill were determined by the Kansas Department of Health and Environment pursuant to KSA 65-128. The 2013 Legislature directed KDHE to develop regulations “. . . providing for the protection of individuals who provide medical or nursing services, clinical or forensic laboratory services, emergency medical services and firefighting, law enforcement and correctional services. . . where the individual may encounter occupational exposure to blood and other potentially infectious materials.” It seems only to use this list of diseases established as those diseases we typically encounter.

The exposure risk to law enforcement officers to carcinogens also occurs, although probably not at the risk level of our firefighters. Therefore, we also support the provisions regarding the cancers proposed in the bill.

We ask for your support of HB2031.

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HOUSE BILL No. 2031

By Joint Committee on Pensions, Investments, and Benefits

1-14

Proposed amendment to HB 2031
House Financial Institutions and Pensions Committee
February 6, 2019
Prepared by David Wiese
Office of Revisor of Statutes

1 AN ACT concerning retirement and pensions; relating to the Kansas police
2 and firemen's retirement system; definition of service-connected;
3 amending K.S.A. 74-4952 and repealing the existing section.
4

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

6 Section 1. K.S.A. 74-4952 is hereby amended to read as follows: 74-
7 4952. As used in K.S.A. 74-4951 et seq, and amendments thereto:

8 (1) "Accumulated contributions" means the sum of all contributions
9 by a member to the system which shall be credited to the member's
10 account with interest allowed thereon after June 30, 1982.

11 (2) "Disability" means the total inability to perform permanently the
12 duties of the position of a policeman or fireman.

13 (3) "Eligible employer" means any city, county, township or other
14 political subdivision of the state employing one or more employees as
15 firemen or policemen.

16 (4) "Employee" means any policeman or fireman employed by a
17 participating employer whose employment for police or fireman purposes
18 is not seasonal or temporary and requires at least 1,000 hours of work per
19 year.

20 (5) "Entry date" means the date as of which an eligible employer
21 joins the system; the first entry date pursuant to this act is January 1, 1967.

22 (6) "Final average salary" means:

23 (a) For members who are first hired as an employee, as defined in
24 subsection (4), before July 1, 1993, the average highest annual
25 compensation paid to a member for any three of the last five years of
26 participating service immediately preceding retirement or termination of
27 employment, or if participating service is less than three years, then the
28 average annual compensation paid to the member during the full period of
29 participating service, or if a member has less than one calendar year of
30 participating service, then the member's final average salary shall be
31 computed by multiplying the member's highest monthly salary received in
32 that year by 12;

33 (b) For members who are first hired as an employee, as defined in
34 subsection (4), on and after July 1, 1993, the average highest annual salary,
35 as defined in K.S.A. 74-4902(33), and amendments thereto, paid to a
36 member for any three of the last five years of participating service

including an emergency medical service technician
under K.S.A. 74-4954a, and amendments thereto,

1 (9) "Retirement system" or "system" means the Kansas police and
2 firemen's retirement system as established by this act and as it may be
3 hereafter amended.

4 (10) "Service-connected" means:

5 (a) With regard to a death or any physical or mental disability, any
6 such death or disability resulting from external force, violence or disease
7 occasioned by an act of duty as a policeman or fireman and, for any
8 member after five years of credited service, there shall be a rebuttable
9 presumption, that any death or disability resulting from any of the
10 following:

11 (i) A heart disease;

12 (ii) A disease of the lung or respiratory tract;

13 (iii) contraction of a bloodborne pathogen as provided in this
14 subsection; or

15 (iv) cancer of the brain, skin, digestive system, hematological system
16 or genitourinary system as provided in this subsection; ~~except that~~

17 (b) In the event that the member ceases to be a contributing member
18 by reason of a service-connected disability for a period of six months or
19 more and then again becomes a contributing member, the provision
20 relating to death or disability resulting from any of the following:

21 (i) A heart disease;

22 (ii) a disease of the lung or respiratory tract;

23 (iii) contraction of a bloodborne pathogen as provided in this
24 subsection; or

25 (iv) cancer of the brain, skin, digestive system, hematological system
26 or genitourinary system as provided in this subsection shall not apply until
27 such member has again become a contributing member for a period of not
28 less than two years or unless clear and precise evidence is presented that
29 the heart disease, disease of the lung or respiratory tract, contraction of a
30 bloodborne pathogen as provided in this subsection or cancer as provided
31 in this subsection was in fact occasioned by an act of duty as a policeman
32 or fireman. If the retirement system receives evidence to the contrary of
33 such presumption, the burden of proof shall be on the member or other
34 party to present evidence that such death or disability was service-
35 connected.

36 (c) The provisions of this subsection relating to the presumption that
37 the death or disability resulting from the contraction of a bloodborne
38 pathogen is service-connected shall only apply if all of the following
39 conditions are satisfied:

40 (i) A baseline test is provided by the employer to be performed within
41 five days after the member reports the on-the-job exposure. The member
42 must report the exposure within two days after the member knew or
43 reasonably should have known of the exposure;

Reasonable knowledge includes knowledge of obvious exposure to bodily fluids or to persons who carry a disease, or symptoms developed by the member that can reasonably be linked to a particular work-related incident

1 (ii) the baseline test establishes that the employee was not infected
2 with a bloodborne pathogen at the time of the on-the-job exposure;

3 (iii) the member complies with reasonable and necessary medical
4 procedures; and

5 (iv) the member is determined to have a bloodborne pathogen within
6 24 months after the on-the-job exposure to the known or possible source.

7 (d) The provisions of this section relating to the
8 presumption that the death or disability resulting from cancer of the brain,
9 skin, digestive system, hematological system or genitourinary system is
10 service-connected shall only apply if the condition that caused the death or
11 disability is a type of cancer which may, in general, result from exposure
12 to heat, radiation or a known carcinogen, at the time of becoming a
13 policeman or fireman, or thereafter, the policeman or fireman underwent a
14 physical examination that failed to reveal substantial evidence of such
15 cancer that preexisted such policeman's or fireman's employment as a
16 policeman or fireman.

17 (11) Prior to July 1, 1998, "fireman" or "firemen" means an employee
18 assigned to the fire department and engaged in the fighting and
19 extinguishment of fires and the protection of life and property therefrom or
20 in support thereof and who is specifically designated, appointed,
21 commissioned or styled as such by the governing body or city manager of
22 the participating employer and certified to the retirement system as such.
23 On and after July 1, 1998, "fireman" or "firemen" means an employee
24 assigned to the fire department whose principal duties are engagement in
25 the fighting and extinguishment of fires and the protection of life and
26 property therefrom and who is specifically designated, appointed,
27 commissioned or styled as such by the governing body or city manager of
28 the participating employer and certified to the retirement system as such.

29 (12) Prior to July 1, 1998, "police," "policeman" or "policemen"
30 means an employee assigned to the police department and engaged in the
31 enforcement of law and maintenance of order within the state and its
32 political subdivisions, including sheriffs and sheriffs' deputies, or in
33 support thereof and who is specifically designated, appointed,
34 commissioned or styled as such by the governing body or city manager of
35 the participating employer and certified to the retirement system as such.
36 On and after July 1, 1998, "police," "policeman" or "policemen" means an
37 employee assigned to the police department whose principal duties are
38 engagement in the enforcement of law and maintenance of order within the
39 state and its political subdivisions, including sheriffs and sheriffs' deputies;
40 who has successfully completed the required course of instruction for law
41 enforcement officers approved by the Kansas law enforcement training
42 center and is certified pursuant to the provisions of K.S.A. 74-5607a, and
43 amendments thereto; and who is specifically designated, appointed,

(e) For purposes of this subsection, bloodborne pathogen includes 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 adopted pursuant to K.S.A. 65-128, and amendments thereto.