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MEMORANDUM

To: House Committee on Pensions and Benefits
From: David Wiese, Assistant Revisor; Gordon Self, First Assistant Revisor
Date: 2/1/12
RE: Summary of HB 2545, Kansas Public Employees Retirement System Act of 2014

Quick Summary:

House Bill 2545 establishes a new retirement plan within the Kansas Public Employees Retirement System beginning on January 1, 2014. This new plan would include all new hires and newly elected legislators on and after January 1, 2014, all nonvested members of KPERS on January 1, 2014, including legislators. The plan also includes all vested legislators. The plan would establish a two-part design with both an employee directed account in which 6% of a member's compensation is contributed and an employer annuity account in which the employer contribution to each member would be based upon such employee's years of service. The initial contribution would be 1% of the member's compensation, with an increase of 0.5% each year of service thereafter until a maximum employer contribution rate of 5% is reached after eight years of service. Employee directed accounts are self-directed by the employee, while the employer annuity account would remain in the KPERS investment fund and be invested by KPERS. The member would be immediately vested in their employee directed account and at five years of service would be vested in the member's employer annuity account. At retirement, the balance of the employer annuity account is annuitized based upon the Pension Benefits Guaranty Corporation's distress termination rate and such annuity provides a life-time benefit in addition to the member's employee directed account.

House Bill 2545 also removes the annual statutory cap on employer contributions and requires the full actuarially required contribution rate be contributed in FY 2014 and for all years thereafter.

The bill also repeals, effective July 1, 2013, all service credit purchases provided under current law. Any service credit purchased commenced before July 1, 2013 would be allowed to be completed.

House Pensions & Benefits
Date: 2-1-12
Attachment # 1

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Detailed Summary:

New Sections 1 through 19 is the new retirement plan recommended by the KPERS Study Commission.

New Section 1.

Names the act as the Kansas Public Employees Retirement System Act of 2014 and describes to whom the new act will apply. This act applies to any individual who is:

- First hired on or after January 1, 2014;
- Any active or inactive nonvested member of KPERS on January 1, 2014, including a member of the legislature;
- Any individual who was a member of KPERS prior to January 1, 2014, but was not an active or inactive member of KPERS on January 1, 2014 and was hired on or after January 1, 2014;
- A vested member of the Legislature who filed an election to join KPERS prior to July 1, 2013;
- A vested member of the Legislature who failed to file an election prior to July 1, 2013 and
- A member of the Legislature who first serves in such position on or after July 1, 2013.

This act does not apply member of the Kansas Police and Firemen's retirement system or to the retirement system for judges.

No member can simultaneously be a member of the pre-2014 plan and the plan established pursuant to this act.

New Sec. 2.

This section provides definitions for terms that are used in the KPERS Act of 2014.

"Normal retirement age" means the attainment of age 65, except that for security officers, normal retirement age means the attainment of age 55.

New Sec. 3.

The KPERS board shall establish a plan consistent with the provisions of this act. For qualifying public school employees, community college employees and other eligible employees, the plan would also allows all investment options allowed under section 403(b) of the internal revenue code. For all other members, the plan is a part of the pension plan pursuant to K.S.A. 74-

4920, and amendments thereto, for the exclusive benefit of members and their beneficiaries, and as a qualified governmental plan pursuant to sections 401(a), 414(d) and 414(k) of the internal revenue code. This plan is in addition to any retirement, pension, deferred compensation or other benefit plan currently administered by the state or a political subdivision thereof.

Assets of the plan must be held in trust for the Kansas Public Employees Retirement System.

For qualifying public school employees, community college employees and other eligible employees, a defined contribution account administered under the provisions 403(b) of the internal revenue code is established. All other members shall have defined contribution accounts administered as provided by section 414(k) of the internal revenue code. Both of these accounts shall be known as "employee directed accounts."

The board shall also establish an "employer annuity account," in which all employer credits shall be credited as provided by sections 10 and 11.

New Sec. 4.

This section provides that the board has the powers and shall perform the duties regarding the plan as provided in K.S.A. 74-4909, and amendments thereto, as applicable. The board may exercise the powers and shall perform the duties provided in this act.

The board may contract for any aspect of plan administration and shall use a competitive proposal process when contracting for any administrative services for the plan.

New Sec. 5.

This section provides for a mandatory employee contribution of 6% of such employee's compensation into the employee direct account of the member. School group employees, who participate in a 403(b) plan, would have the option to contribute an additional, discretionary contribution on a pre-tax or after-tax basis, subject to the provisions of the internal revenue code. No other voluntary contributions would be allowed.

The member's employee directed account is vested from the date the employee becomes a member of the plan.

New Sec. 6.

A wide range of investment alternatives shall be established for the employee directed accounts. There shall be offered an investment alternative that is similar to the investment portfolio of KPERS.

The board shall from time to time review the suitability and management of the investment alternatives offered for the employee directed accounts and may change the alternatives to be offered.

The default option for any member who does not choose an investment option is the fund that is similar to the investment portfolio of KPERS.

Assets within each employee directed account shall be invested as directed by the member, unless the board determines there is a compelling need to remove assets from an investment alternative. In such a case, the assets would be moved to the default option until the member elects another investment alternative.

New Sec. 7.

This section gives the board authority to assess fees for various aspects of the plan, including fees on the reasonable administrative costs of the accounts. Fees may be assessed on both employers and on individual members employee directed accounts to pay specific expenses attributable to that member.

Costs for the board to secure investment advice, recordkeeping, contract oversight, educational materials for members, performance evaluations and other appropriate information and services are included as part of the administrative costs of the plan.

All fees must be fully disclosed to members and treated as public information.

New Sec. 8.

The board shall establish a rollover account for each member and shall accept the rollover of contributions from another eligible retirement plan to the member's rollover account to the extent allowed under applicable federal law. The board shall establish policies with respect to such rollover accounts.

New Sec. 9.

This section establishes the schedule for the amount of employer contributions that will be credited to the employer annuity account for each member of the new plan.

Credited Service	Employer Contribution Rate
Up to one year of service	1.0%
One year, but less than two years	1.5%
Two years, but less than three years	2.0%
Three years, but less than four	2.5%
Four years, but less than five	3.0%
Five years, but less than six	3.5%
Six years, but less than seven	4.0%
Seven years, but less than eight	4.5%
Eight years and all years thereafter	5.0%

Any credited service accrued by a member under the provisions of the current KPERS plan shall be credited for the purposes of computing service under this section.

An active member's employer shall contribute a percentage of compensation, to be determined by the board, which must be allocated to the death and disability plan under K.S.A. 74-4927, and amendments thereto.

New Sec. 10.

A member's employer annuity account is the sum of all employer credits to the account plus the interest credits on the account, which is determined at the end of each year under section 11.

If a member's employer annuity account is not vested upon the member's termination of plan membership, the employer credits and interest credits are forfeited. If a member is vested, but dies prior to normal retirement age without a spouse, the employer credits are forfeited. Forfeitures may not be used to increase a member's account, but instead are to be used to pay administrative expenses of the accounts or to reduce employer contributions.

New Sec. 11.

At the end of each calendar year, the board shall credit each employer annuity account with a zero percent interest credit. The board shall also credit each annuity account with a supplemental interest credit rate which will equal the net investment return on the KPERS portfolio in that particular calendar year. If a member retires in the middle of a calendar year, the board shall credit that member's employer annuity account with a supplemental interest credit rate for that portion of the calendar year.

For the purposes of determining the member's annuity benefit amount, a member's employer annuity account shall not be less than the total amount of employer credits to the account.

New Sec. 12.

This section provides for distribution options of the employee directed account when a member terminates service. Each of the options is subject to the applicable provisions of the federal internal revenue code and applicable IRS regulations. The distribution options are as follows:

1. A direct rollover to an eligible retirement plan;

2. A lump-sum distribution; or

3. An optional form of periodic distribution offered by the board by official action

The board may specify minimum account balances for the purposes of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 13.

A member is vested in the member's employer annuity account upon completion of five years of service. Until the member reaches the normal retirement age and completes five years of service, such annuity account is subject to forfeiture, as described by section 10 of the bill.

When a member attains normal retirement age, such member shall receive an annuity based upon the sum of the employer credits and the income credits in the employer annuity account. The employer annuity account would be annuitized based on the Pension Benefits Guaranty Corporation distress termination interest rates. The normal form of the benefit shall be a single life annuity with five-year certain. The member may elect any joint and survivor option described under K.S.A. 74-4918, and amendments thereto.

New Sec. 13. (continued)

For a member who was vested in the employer annuity account and had 10 or more years of service, who dies before attaining the normal retirement age, with their spouse as the sole beneficiary, the surviving spouse shall receive an annuity calculated using the factors as all other annuities provided for in this section.

If a member's vested employer annuity account is less than $1,000 upon separation from service, the account balance shall be distributed to the member in accordance with section 401(a)(31)(B) of the internal revenue code. If the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover, then the board will pay the distribution to the member directly.

New Sec. 14.

This section states that a member's beneficiary must be determined as provided under current KPERS regulations. Upon filing a written application with the board after the death of a member, the member's beneficiary is entitled to the member's employee directed account.

New Sec. 15.

This section states that members of the new plan shall be covered in the death and disability plan currently established in K.S.A. 74-4927, and amendments thereto, subject to the provisions of this section.

In the event that a member becomes eligible for and begins receiving a long-term disability benefit under the plan, such member shall be given service credit for the entire period of such disability.

The salary upon which credits to the employer annuity account for such disabled member shall be the member's salary at the time of disability, and shall be adjusted once a year on January 1, but only after five years of disability, by the lesser of : (1) Consumer price index minus 1%; or (2) 4% per year.

All credits to the employer annuity account shall cease upon the earliest of (1) death, (2) attainment of normal retirement age, or (3) the date the member is no longer entitled to receive disability benefits.

New Sec. 16.

The provisions of K.S.A. 74-49,122, 74-49,123 and 74-49,124, and amendments thereto, apply to this act, except the definitions of "actuarial equivalent" and "actuarial computation." The statutes involve the applicability of certain federal internal revenue code provisions to the retirement system.

New Sec. 17.

This section describes the election available to nonvested member required to transfer to the new plan. The election provisions are subject to IRS approval and shall not be implemented until such approval is granted. The election provisions of this section are severable from the remainder of this act and shall be repealed if the IRS refuses approval.

A nonvested member, on July 1, 2013, shall elect to transfer such member's employee contributions and interest earnings credited thereon to an: (1) employee directed account; or (2) employer annuity account. The member may designate a portion of the member's contributions to be transferred. The elections shall take place within a 90-day period established by the board, and all elections shall be one-time and irrevocable.

The default if a member fails to elect or if the IRS issues an unfavorable ruling is that all of the member's employee contributions and interest are transferred to the employee direct account of such member.

New Sec. 18.

A member of the legislature, who has earned a vested retirement benefit under the current KPERS system, shall have the present value of the vested retirement benefit earned before January 1, 2014 converted to a lump-sum and shall have such lump-sum amount transferred to the employer annuity account of such legislator.

This section also does away with annualization of legislator's salary for purposes of computing retirement benefits. On and after January 1, 2014, benefits earned by a legislator shall be based only on the actual amount of compensation received by such legislator.

New Sec. 19

The effective date for sections 1 through 16 and section 18 and 19 is January 1, 2014. Section 17's effective date will be the same effective date as the bill, July 1, 2013 because the election pursuant to section 17 must be made before the elected choice can be implemented beginning January 1, 2014.

Sections 20 and 21.

These sections remove the statutory annual cap on employer contributions and require that the full actuarially required contribution (ARC) rate be funded by participating employers. Section 20 deals with the rate for Department of Corrections security officers and section 21 is for all other participating KPERS employers.

Sec. 22.

This section states that any purchase of service credit which commences prior to July 1, 2013 is not subject to the provisions of this act.

Sec. 23.

This section repeals all of the service credit purchases currently permitted under law effective July 1, 2013 except those commenced before that date.

Sec. 24.

The effective date of the bill is July 1, 2013 and its publication in the statute book.