

## MINUTES

### JOINT COMMITTEE ON PENSIONS, INVESTMENTS, AND BENEFITS

October 29, 2018  
Room 548-S—Statehouse

#### **Members Present**

Senator Jeff Longbine, Chairperson  
Representative Steven Johnson, Vice-chairperson  
Senator Larry Alley  
Senator Anthony Hensley  
Senator Ty Masterson  
Senator Lynn Rogers  
Representative John Barker  
Representative Daniel Hawkins  
Representative Jim Kelly  
Representative Annie Kuether  
Representative Richard Proehl  
Representative Tom Sawyer

#### **Members Absent**

Representative Broderick Henderson

#### **Staff Present**

Reed Holwegner, Kansas Legislative Research Department  
Amit Patel, Kansas Legislative Research Department  
J.G. Scott, Kansas Legislative Research Department  
Melissa Renick, Kansas Legislative Research Department  
David Wiese, Office of Revisor of Statutes  
Gordon Self, Office of Revisor of Statutes  
Suzanne Nelson, Kansas Legislative Committee Assistant

#### **Conferees**

Alan Conroy, Executive Director, Kansas Public Employees Retirement System  
Elizabeth Miller, Chief Investment Officer, Kansas Public Employees Retirement System  
Captain Robert Wing, President, Kansas State Council of Firefighters  
Colonel Mark Bruce, Superintendent, Kansas Highway Patrol

#### **Others Attending**

[See Attached List](#)

Morning Session  
**Room 548-S—Statehouse**

**Call to Order**

Chairperson Longbine called the meeting of the Joint Committee on Pensions, Investments, and Benefits (Committee) to order at 10:10 a.m. He recognized Reed Holwegner, Principal Research Analyst, Kansas Legislative Research Department (KLRD), who briefed the Committee on its statutory charge along with its charge from the Legislative Coordinating Council to consider the two firefighter-related topics from the 2017-2018 Legislative Biennium ([Attachment 1](#)).

**2017 Valuation of Kansas Public Employees Retirement System (KPERs)**

Alan Conroy, Executive Director, KPERs, presented an overview of the Retirement System, including its fiduciary purpose, the three defined benefit plans it administers for public employees, the more than 1,500 state and local government employers with whom KPERs partners, and the Board of Trustees (Board). Mr. Conroy remarked KPERs has approximately 300,000 KPERs members, of which 100,000 are retirees, 150,000 are active employees, and 50,000 are inactive ([Attachment 2](#)).

Mr. Conroy further explained the purpose and actuarial method of the Retirement System's valuation, the key factors that affect the 2017 valuation, and the future funding projections (including employer contribution rates).

Mr. Conroy noted the State-School group should reach the 80.0 percent funding requirement in 2026, which is six years earlier than what was projected in 2008. If long term assumptions are achieved, there will be noticeable improvement in the Retirement System's long-term solvency. For now, he said, it is headed in the right direction.

Responding to a question from Representative Johnson regarding the reason for the increased employer contributions from 2019 to 2020, Mr. Conroy said this was the result of the Board lowering the assumed rate of return by 25 basis points, from 8.0 percent to 7.75 percent.

Responding to a question from Chairperson Longbine regarding the growth in the number of retirees, Mr. Conroy said the number of retirees will continue to increase for some time before leveling off. He added there was a limited chance for an increase in active members.

Responding to a question from Representative Johnson regarding the comparative solvency of KPERs to other states, Mr. Conroy said Kansas is in the middle third of public pensions systems.

**Update on Performance Bonds Proceeds, 2014 and 2015 Series**

Mr. Conroy said pension obligation bonds, which are a form of arbitrage, assume the earnings over time will be greater than the debt service on the bonds. The first bond issue (2004C) was for \$500.0 million, gross of fees, resulting in a net \$440.165 million deposited in

KPERS. The second issue (2015H) was for \$1.0 billion, net of fees. The annual debt service for the two bonds, which is owed by the State of Kansas and not KPERS, is \$33.0 million from the Expanded Lottery Revenues Fund and \$65.0 million from the State General Fund, respectively. The total interest rate cost of the 2004C and 2015H bonds is 5.39 percent and 4.68 percent, respectively.

The average, annualized total return for the 2004C bonds is 7.38 percent, adding an additional \$287.0 million to the Retirement System after issuance and debt service. The 2015H bonds have an average, annualized total return of 7.95 percent, adding an additional \$100.0 million to KPERS after issuance and debt service ([Attachment 3](#)).

## Overview of 2018 Legislation Enacted

David Wiese, Assistant Revisor, Office of Revisor of Statutes, briefed the Committee on pension legislation enacted during the 2018 Session and the provisions of the new working after retirement (WAR) policy, which became effective January 1, 2018. The bills discussed were:

- *2018 HB 2444*: concerning prohibiting investments and divesting in companies with business operations in Sudan;
- *2018 SB 260*: concerning legislative post audits and KPERS-specific compliance with audit requirements and procedures; and
- *2017 House Substitute for SB 21*: concerning the new WAR requirements ([Attachment 4](#)).

## State General Fund Transfers to KPERS Trust Fund

Amit Patel, Fiscal Analyst, KLRD, reported the 2018 Legislature approved a transfer of \$82.0 million from the SGF for FY 2019, which reduced the unfunded actuarial liability (UAL). Further, the Legislature approved transfers of \$56.0 million in each of FY 2018 and FY 2019, if actual receipts to the SGF exceed the projected receipts from the April consensus revenue estimates. At the end of FY 2019, the total receipts to the SGF exceeded projections and the first transfer of \$56.0 million was made on June 30, 2018.

Mr. Patel reminded the Committee of the Legislature's actions in 2017 to delay school employer contribution payments by \$194.0 million in FY 2019, which are amortized to be paid over 20 years, starting in FY2020. The 2017 Legislature also delayed school employer contributions by \$64.1 million for FY 2017, which are amortized to be paid over 20 years, starting in FY 2018. Following the 2016 Legislature's action to provide the Governor with additional allotment authority, which resulted in \$97.4 million in state-school employer contributions to be delayed, the 2017 Legislature deleted that payment. Since then, the amount has been reflected in the UAL ([Attachment 5](#)).

## Lunch

The committee recessed at 11:35 a.m.

Afternoon Session  
**Room 548-S—Statehouse**

## **Investment Performance**

Chairperson Longbine called the afternoon session to order at 1:40 p.m. He recognized Mr. Conroy who introduced Elizabeth Miller, KPERS Chief Investment Officer, to discuss total fund through June 2018, best performing asset classes for FY 2018; and total plan performance by latest quarter, fiscal year-to-date, and 1, 3, 5, 10, and 20-year periods ([Attachment 6](#)).

It is estimated that \$100.00 invested in KPERS in June 1988 would be worth approximately \$1,300.00 by the end of June 2018, which is more than the actuarial assumed amount of \$1,100.00 and the estimated inflation-adjusted amount of \$200.00.

Representative Johnson, noting the out-performance in each asset category for the specified time periods, asked about the statutory cap placed on alternative investments. Ms. Miller said a cap of 15.0 percent of the KPERS portfolio may be in alternative investments. Since 2012, when the cap was enacted, the amount of assets has increased from 3.5 percent to 7.0 percent.

Responding to a question from Senator Rogers, Mr. Conroy replied the Board holds an annual two-day meeting for trustee training and planning. Additionally, there are statutory requirements for some of the trustees to have certain professional experience that brings value to their service on the Board.

## **Kansas Police and Firemen's Retirement System (KP&F)**

Mr. Wiese briefed the Committee on the following legislation introduced and considered during the recently concluded Legislative Biennium:

- *2017 SB 241* and *2018 HB 2720*: Increasing the cap on the maximum amount of retirement benefits from 90.0 percent of such members' final average salary to 100.0 percent of such members' final average salary; and
- *2017 SB 242* and *2018 HB 2719*: Amending the definition of "service-connected" to include contraction of hepatitis C and to include specific cancers of the brain, skin, digestive system, hematological system, and genitourinary system ([Attachment 7](#)).

Mr. Conroy presented a historical view and update on the KP&F retirement cap and employee contribution increase from 7.0 percent for the first 32 years of service and 2.0 percent thereafter to 7.15 percent for all years of service. Mr. Conroy noted that the Judges Retirement System also has a maximum benefit cap, which is currently 70.0 percent of final average salary (20 years of service).

Mr. Conroy said the administration of a proposed change to the KP&F disability definition to include hepatitis C and specific cancers would have a minimal impact on KPERS. Documents would have to be updated to reflect the new definition, but no major changes to KPERS information technology systems or staff would be required. In a review of other states' definitions

of disability, KPERS found that the term “bloodborne illnesses” was used instead of specifically hepatitis C. Bloodborne illnesses would include all strains of hepatitis as well as HIV and other illnesses ([Attachment 8](#)).

Representative Johnson asked if KPERS could provide comparison information about other states’ pension plans, whether they had caps on disability benefit, and where they are in terms of percentage. Mr. Conroy advised that they would obtain and provide it to the Committee.

Captain Robert Wing, President, Kansas State Council of Fire Fighters appeared in support of both topics, stating the bills previously introduced were based on Colorado law. In a study conducted by the National Institute for Occupational Safety and Health from 2010 to 2015, nearly 30,000 fire fighters were followed. The study found higher rates of certain types of cancer than in the general population.

Captain Wing said studies have concluded it is the absorption into the skin of the different chemicals and toxins that are in the hazardous environment that affect fire fighters’ health. There is no way to completely keep the toxins out of the people who work in those environments ([Attachment 9](#)).

Representative Barker commented on the 2018 hearing held by the House Committee on Federal and State Affairs and expressed support for a revised definition for “service connected.”

Captain Wing then presented information on the cap on retirement benefits. He stated that when the 90.0 percent cap was instituted, no one conceived that it would be met, but today, there are several older employees who have exceeded the cap. He proposed the language be changed to allow for 100.0 percent benefit accrual or eliminate the language pertaining to the cap altogether. Captain Wing also proposed the pertinent parties meet before the next session begins and reach consensus on this topic ([Attachment 10](#)).

Representative Johnson commented it would be helpful to have the statistics relative to the costs and the comparison to other states on this issue prior to scheduling a meeting. Captain Wing said he would request the information from their organization’s Washington, D.C. office and meet with Mr. Conroy to provide the information to the Committee.

### **Status on Deferred Retirement Option Program (DROP)**

Chairperson Longbine recognized Colonel Mark Bruce, Superintendent, Kansas Highway Patrol (KHP), to provide an update on the pilot program. DROP was authorized in the 2015 Legislative Session and will sunset on January 1, 2020, unless acted upon by the Legislature. To date, 13 eligible members of KHP have entered DROP, which went into effect around the same time the Career Progression Plan for troopers started. Colonel Bruce said a recent survey indicated 162 troopers intend to enter DROP in the next 10 years. He urged the Committee to pursue permanent establishment of DROP for the KHP during the 2019 Legislative Session ([Attachment 11](#)).

Representative Johnson asked Colonel Bruce about the cost thus far of DROP. Colonel Bruce deferred to Alan Conroy, who told members that the program had been designed to be actuarial neutral so there is no administrative cost to the system. The pilot program was designed so when employees enter DROP, their KP&F retirement benefits are frozen at that

point; they then enter into an agreement with the agency to work up to an additional five years. During that five years, their benefit does not change, but the contributions they make go into a separate investment account where it is earning money. Once the employee ends DROP, those contributions are paid in a lump sum to the individual upon their retirement.

Chairperson Longbine acknowledged the Committee's receipt of the written-only testimony of Kirk Thompson, Director, Kansas Bureau of Investigation (KBI), who expressed interest in participating in DROP to help recruit and retain KBI Special Agents, as well as help to retain some of KBI's experienced Senior Special Agents nearing full retirement eligibility ([Attachment 12](#)).

Representative Barker commented there are 17 new applicants in the KBI. He stressed how important it is to have experienced agents remaining in the field to share their expertise. Representative Barker thought it would be appropriate to consider including the KBI in DROP.

### **Committee Discussion and Recommendations for the Committee Report to the 2019 Legislature**

Representative Johnson offered several points for the Committee's consideration, specifically those found in the following KPERS testimony:

- Attachment 2, page 8: The last bullet point regarding the State-School statutory contribution, which is scheduled to be equal to the actuarial required rate for the first time in 24 years. Should be included as a positive reference to where the KPERS is now;
- Attachment 2, page 9: Information from the chart showing there has been an increase, and a new record for the level of contributions set for the last several years culminating at \$541.0 million in the recently completed FY 2018; and
- Attachment 2, page 11: The minimum contribution amount necessary for the State not to increase the unfunded liability.

Representative Kelly noted the Retirement System was one of the least funded pension plans in the country, but the news today indicates Kansas has moved into the middle third of the rankings. He believed it to be important to look at how the State can continue to move KPERS forward, so that it reaches the 80.0 percent funded level.

Chairperson Longbine suggested the report mention the outstanding job the KPERS staff and Board have done in recognizing the importance of quality fund managers and their due diligence in analyzing investments and the prudence in their investment strategy, which provides ample, safe return.

Representative Hawkins suggested the Legislature remove the sunset provision on the DROP plan.

Representative Johnson suggested mentioning the Legislature's effort to make contributions of \$541.0 million in FY 2018.

Senator Alley stressed it is important to follow the plan and make the prescribed future contributions.

Representative Barker suggested a recommendation for the introduction of legislation regarding the two items regarding the KP&F disability definition and retirement earning cap. Representative Kelly, agreeing with Representative Barker, said the parties should meet before the 2019 Session with Captain Wing and others to work out issues and come up with a bill that everyone can agree upon.

*Senator Hensley moved, seconded by Representative Barker, to recommend a bill be introduced revising the term “service connected,” as used in the KP&F plan, based upon the previously introduced legislation (2018 HB 2720), which would specify certain cancers, but omit reference to hepatitis C and include “bloodborne illnesses” instead. The motion carried.*

Chairperson Longbine said the report should encourage the respective standing committees to look at and introduce legislation that would pertain to the other KP&F item discussed today.

Representative Barker said the DROP sunset should be eliminated for the KHP and the Legislature should consider allowing other law enforcement agencies, such as the KBI, to request inclusion of the DROP, as the need is proven. Representative Kelly concurred, saying other agencies should have a separate opportunity to show the need for a similar program based on their staffing and recruitment needs.

Chairperson Longbine recommended the statute regarding the sale of surplus property, the proceeds of which is to be applied to the unfunded liability, be reviewed to know which property has been sold, the means of its sale, and the amount of credits to KPERS.

Representative Johnson requested KPERS provide additional information on how the DROP program works, including a cost-benefit analysis and using hypothetical examples of individuals of varying ages and incomes.

## **Adjourn**

The Committee adjourned at 2:50 p.m.

Prepared by Suzanne Nelson

Edited by Reed Holwegner

Approved by the Committee on:

December 28, 2018

(Date)