MEMORANDUM

To: Senate Committee on Financial Institutions and Insurance

From: Alan D. Conroy, Executive Director

Date: March 14, 2017

Subject: Senate Bill 138; amending working after retirement

Overview
Senate Bill 138 would amend provisions in K.S.A 74-4937 and K.S.A. 74-4914 dealing with working after retirement rules for licensed school professionals (i.e. teachers, administrators, and such professional staff as psychologists and speech therapists).

K.S.A. 74-4937(3) would be amended to allow any licensed school professional retiree hired on or after July 1, 2009, who retired under normal retirement or who retired under early retirement at least 60 days prior to July 1, 2017, to be rehired in a licensed position at a school district with no earnings limitation. Retirees who retire under early retirement on or after July 1, 2017 would not be eligible for this exemption. (Under existing law, retirees who retired under early retirement on or after May 28, 2009, are ineligible for such an exemption.) The employer, in this case the school district, who hires the retiree would be required to contribute the actuarial required contribution rate plus 8% (24.38% in FY 2018).

The bill would eliminate two other existing exemptions from the earnings limit that are unique to school professionals: the hard-to-fill and special education exemptions, including the required assurance protocol to ensure employers were attempting to fill positions with active employees.
The requirement of no prearranged agreements to return to work would remain in K.S.A. 74-4937(3).

Other conforming amendments to K.S.A. 74-4914 exempt all retirees hired under the proposed exemption for licensed school professionals from the general working after retirement rules ($25,000 earnings limitation, employer contributions equal to the statutory employer contribution rate).

Background
The ability to return to work for a KPERS-affiliated employer after retirement can have multiple legal and actuarial ramifications. For this reason, there have long been limitations on working after retirement, including either: (1) a limitation on earnings if returning to work for the same employer from which the member retired; or (2) an employer contribution if returning to work for a different employer. However, beginning July 1, 2009, licensed school professionals were provided with an exemption from the

KPERS

earnings limitation, whether working for the same or different employer. Employers were required to pay contributions at the actuarial rate plus 8% (24.38% in FY 2018).

Subsequently, major revisions to working after retirement laws were enacted during the 2015 and 2016 legislative sessions. The new rules include application of a $25,000 earnings limit, whether a retiree is working for the same or a different employer. The existing exemption for "licensed school professionals," was extended through July 1, 2020, for those KPERS members who retired before May 1, 2015 ("grandfathered retirees"), but retirees after that point are not eligible for this broad exemption. Instead, several new exemptions from the earnings limit were created, including a hardship exemption available to all KPERS employers and two exemptions unique to schools – i.e., exemptions for special education teachers and "hard-to-fill" positions, as designated by the Kansas Board of Education. These exemptions are time limited (maximum of four years individually and in combination) and subject to a 30% contribution rate, which is to be the subject of a periodic actuarial evaluation. <u>The changes proposed in SB 138 would effectively reinstate the "licensed school professional" exemption as it was in effect prior to July 1, 2017</u>.

SB 138 also changes the eligibility requirements for the licensed school professional exemption. The bill states that anyone who retired on July 1, 2009 or later would be eligible. During CY 2015, there were 1,180 currently grandfathered retirees reported as working in a licensed school professional position without an earnings limit; of those 1,180 retirees, 428 retired before 7/1/2009 and 752 retired on or after 7/1/2009. As written, the bill does not address how those 428 retirees are to be handled, and they would lose their exempt status.

Actuarial Costs

The policy changes contained in SB 138 have the potential to affect retirement decisions of KPERS members. If a member is able to retire and receive both a pension and a salary from a KPERS employer, they may decide that it is in their best financial interest to retire at a younger age than they may have otherwise retired.

Generally, working after retirement policies that could incent members to retire at a younger age have an actuarial cost to the System. For example, the ability to work without an earnings limit as a licensed school professional creates an incentive a member to "retire" but continue working in their same or a similar position. That scenario creates an actuarial cost to the plan. Because the cost is behaviorally based, KPERS is not able to calculate the net actuarial impact of SB 138.

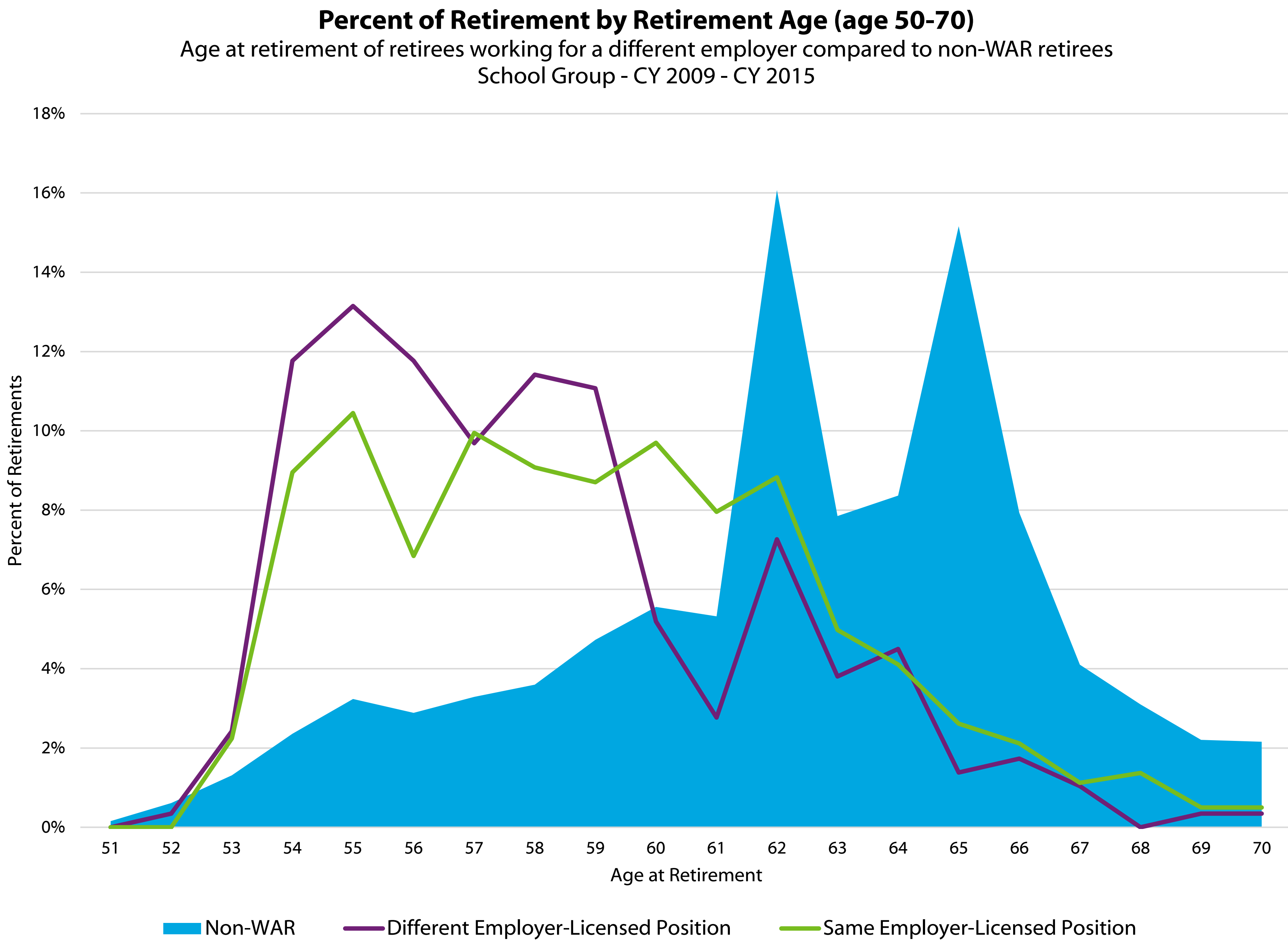
However, reviewing data from 2009 to 2015 (the time period the licensed school exemption was in place), there is evidence that retirees who had returned to work under the exemption were retiring younger than other retirees (Attachment A). The legislative changes made in 2015 and 2016 were intended to both address legal issues and to reduce the incentives for members for retirees to begin drawing benefits before they are prepared to stop working (i.e. retire at younger ages). SB 138 would eliminate a number of protections to KPERS that were enacted in 2015 and 2016, including:

- The higher, 30% employer contribution rate applied the new exemptions (hard-to-fill, special education, and hardship), is reduced to the actuarial rate plus 8% (24.38% in FY 2018) under SB 138.
- There is no requirement for a triennial review of the actuarial adequacy of the employer contribution rate similar to the required review of the 30% contribution rate.
- Unlike the hard-to-fill, special education, and hardship exemptions, SB 138 does not limit the period of time retirees can work under the licensed school professional exemption.
- There are no requirements to document attempts to fill positions with active members as required for special education, hard-to-fill, and hardship. Currently, the Joint Committee on Pensions and Benefits can review such documentation and revoke the exemption if it determines the employer has not made sufficient efforts to hire a non-retiree.
- SB 138 expands eligibility for the exemption to members who took early retirement before May 1, 2017, rather than limiting eligibility to those who took early retirement before May 28, 2009, as provided under the previous licensed school professional exemption.
- Under current law, the grandfathered licensed school professional exemption and the new exemptions would sunset July 1, 2020. SB 138 reinstates a licensed school professional exemption without any sunset date.

The exact actuarial costs of the changes in SB 138 cannot be calculated because they each may affect member behavior in a different way. However, when these changes to KPERS working after retirement policies are taken as a whole, **it is expected that eligible KPERS members (licensed school professionals) will have increasing incentives to start receiving KPERS retirement benefits at younger ages, similar to the patterns seen beginning in 2009, which would increase actuarial liabilities to the System.**

I would be pleased to answer questions you may have regarding SB 138 or provide additional information upon request.

Attachment


Percent of Retirement by Retirement Age (age 50-70)
Age at retirement of retirees working for a different employer compared to non-WAR retirees
School Group - CY 2009 - CY 2015
18%
16%
14%
12%
10%
8%
6%
4%
2%
0%
Percent of Retirements
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
Age at Retirement
Non-WAR
Different Employer-Licensed Position
Same Employer-Licensed Position

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