

## MINUTES

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

January 9, 2009  
Room 545-N—Statehouse

#### Members Present

Senator Steve Morris, Chairperson  
Representative Richard Carlson, Vice-Chairperson  
Representative Geraldine Flaharty, Ranking Minority Member  
Senator Anthony Hensley  
Senator Laura Kelly  
Senator Ruth Teichman  
Senator Dwayne Umbarger  
Representative Vaughn Flora  
Representative Margaret Long  
Representative Rob Olson  
Representative Sharon Schwartz  
Representative Arlen Siegfried

#### Staff

Julian Efird, Kansas Legislative Research Department  
Mike Steiner, Kansas Legislative Research Department  
Gordon Self, Office of the Revisor of Statutes  
Melissa Doebelin, Office of the Revisor of Statutes  
Gary Deeter, Committee Secretary

The Chairperson asked Legislative Research Department staff to address a proposal developed in his office on the previous date that would address those school districts that hire retired Kansas Public Employees Retirement System (KPERS) members either directly, with an individual contract, or indirectly through a contracting agency ([Attachment 1](#)). Staff reviewed current law for those KPERS members working after retirement, noting that a teacher who retires and is hired by the same school district faces a \$20,000 cap on salary; whereas, a teacher who is hired by a different school district has no salary cap. In the latter case, the school district must pay a KPERS surcharge of about 15.0 percent that is adjusted annually. However, if a retired KPERS member is employed through an independent contractor, and goes back to work for the same school district, the teacher avoids the salary cap. If the retired KPERS member goes to work for another school district as a contract employee, then the district does not have to pay a surcharge.

The proposed change would apply the same restrictions for a contract employee that must be followed by an individual KPERS retiree hired directly by a school board or who goes to work for another school district after retirement.

Members discussed extensively the ramifications of the proposal, including:

- The proposal is a short-term proposal. Further study is needed to address additional disparities and issues of working after retirement;
- Some small rural school districts that find it difficult to hire specialized employees, such as math teachers, may be disadvantaged if they have to pay a surcharge. A contract firm gives them more leverage in finding and affording such teachers;
- Doing nothing will make the problem worse;
- The use of contracted teachers creates two problems: 1) the contractor, not the school board, supervises the teacher, and the issue of liability is clouded by indefinite responsibility; and 2) KPERS is short-changed because contracted employees do not result in contributions to the retirement system; and
- The KPERS retirees who go back to work for the same school district from which they retired is not under the \$20,000 salary cap, like individually contracting teachers are.

Dale Dennis, Deputy Commissioner, Kansas State Department of Education, identified two concerns that impinge on a school district's function. He said some school districts do not want to pay the surcharge and would rather pay a contracting entity to supply school teachers, a procedure he called of doubtful but untested legality. Further, he noted the inequity of a teacher barred by a salary cap from working in a home district who can be hired by a neighboring district and avoid the salary cap.

Glenn Deck, Executive Director, KPERS, responded to members' questions. He replied that the trend in other states seems to be to allow using contractors to employ teachers and supply them to school districts. He noted three states that have imposed the same requirements on contracting firms that provide retired teachers to school districts and that apply to individual teachers and school districts in regard to working after retirement. He responded that under Kansas law it is illegal for a school district to refuse to pay a KPERS surcharge.

*A motion was made by Representative Olson, seconded by Senator Kelly, to recommend the proposal identified in Attachment 1 to be introduced in the 2009 Kansas Legislature as a Senate bill. The motion passed.*

*Next, Representative Flora requested that the Committee introduce a new bill (based on 2008 HB 2971) to allow vocational-technical teachers to purchase KPERS credit (Attachment 2). Representative Flora made a motion to recommend introduction of the bill by the Committee. Senator Hensley seconded the motion. The motions carried. The bill will be referred to the House for introduction.*

Prepared by Gary Deeter  
Edited by Julian Efird

Approved by Committee on:

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January 21, 2009

(Date)