MEMORANDUM

To: House Financial Institutions and Pensions

From: Alan D. Conroy, Executive Director

Date: February 15, 2023

Subject: HB 2272; Working After Retirement

House Bill 2272 changes working after retirement rules by adding the licensed nurses and direct support workers at Community Developmental Disability Organizations (CDDOs) the list of positions exempted from working after retirement employer contributions.

This would be the tenth exemption or adjustment to the working after retirement employer contributions.

Current Working After Retirement Rules

When a member retires from KPERS and begins receiving benefits, they cannot return to work for a KPERS affiliated employer for 180 days if they retired before age 62 or for 60 days if they were age 62 or older.

The Internal Revenue Service (IRS) requires a "bona fide" retirement for a person to begin received benefits from a pension plan. The statutory waiting period serves as the test for a bona fide retirement from KPERS.

After their waiting period, a KPERS retiree can return to work for KPERS affiliated employer if there was no prearranged agreement for the retiree to return. However, the KPERS retiree cannot be re-enrolled in KPERS as an active member. When a KPERS retiree returns to work for a KPERS affiliated employer, they continue receiving their KPERS benefit. They also have no earnings limitation and are not required to make any contributions to KPERS.

Statutory working after retirement rules require KPERS affiliated employers who hire KPERS retirees to make contributions on the payroll of KPERS retirees. Employers contribute the statutory employer contribution rate (8.43% in CY 2023 for Local employers) on the first $25,000 of retiree salary and 30% for salary above $25,000. This contribution is intended to help offset the actuarial cost of a non-contributing retiree filling a position that could be filled by an active, contributing member. Some employers may adjust the salary paid to a retiree to shift the cost of the contributions to the retiree, but statutorily the contribution is an employer contribution.

KPERS

Employer Contribution Exemptions
Certain positions are exempt from or have different employer contributions for working after retirement, including:

- Licensed professional nurses at state institutions (different employer contribution rate)
- Daily call substitute teachers without a contract (exempt)
- Law enforcement officers at the Kansas Law Enforcement Training Center (KLETC) (different employer contribution rate)
- Members of the Regents retirement plan (exempt)
- Poll workers (exempt)
- State or local elected officials (exempt)
- STARBASE employees (exempt)

House Bill 2272
HB 2272 adds licenses nurses and direct support positions at Community Developmental Disability Organizations (CDDOs) to the list of exemptions from working after retirement employer contributions. This would be the tenth exemption or adjustment from the statutory working after retirement rules.

Because KPERS does not collect position specific information, it is not possible to determine how many retirees are currently working in these licensed nurse or direct support positions. In our discussions with the CDDOs, they provided an estimate of 1-2 positions per CDDO per year. There are 27 CDDOs in Kansas.

HB 2272 also strikes several expired sections of K.S.A. 74-4914.

Actuarial Impact
HB 2272 adds more positions to the list of exemptions from working after retirement employer contributions. The required employer contributions for working after retirement are in place to help offset the actuarial cost of KPERS covered positions being filled by retirees (who do not make KPERS contributions).

The more exemptions that exist, the more potential for adverse cost impact to KPERS. It is not possible to quantify the reduction in potential contributions in future years. However, given the very limited applicability of the proposed exemption the anticipated impact would be negligible.

Administrative Costs
The changes in HB 2272 updating of publications and education efforts for employers and members. These costs can be accomplished within the existing appropriation request.

I would be pleased to answer any questions the Committee has regarding HB 2272.