

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 9, 1994 in Room 531-N of the Capitol.

All members were present except: Senator Bogina
Senator Lee

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Representative Kenneth R. King-Chairman,
Joint Committee on Pensions, Investments & Benefits
Meredith Williams, Executive Secretary, KPERS
Michael Johnston, Secretary of Transportation and
KPERS Trustee

Others attending: See attached list

Chairman Ramirez called the meeting to order and welcomed Representative King, who is the Chairman of the Joint Committee on Pensions, Investments and Benefits to the Committee as the first conferee on: **HB 2596**--KPERS; confirmation and investigation of members of board of trustees; review of information; **HB 2597**--KPERS; closed or executive meetings of joint committee pension, investments and benefits; **HB 2598**--KPERS; members of the board of trustees and members of system participating in election thereof; qualifications.

HB 2596, as amended, would revise the current statutes concerning background investigations and the legislative process to review members who are appointed to the KPERS Board of Trustees. The bill would make the four members appointed by the Governor and the two appointed by legislative leaders subject to background checks by the KBI and to a legislative confirmation process, including reviews by the Joint Committee on Pensions, Investments and Benefits, as well as by a standing Senate committee, and confirmation by the Senate.

Representative King distributed copies of his testimony (Attachments 1, 2, and 3) His testimony on **HB 2596** stated that the bill was introduced to clarify how confidential KBI reports of KPERS Board members would be handled. It allows the Chairman and Ranking Minority Member to review the reports. If they do not agree on the report, they have the authority to recommend the entire Joint Committee discuss the information in closed or executive session.

HB 2597, would allow the Joint Committee to go into executive session. There would be five specific instances where going into executive session would be permissible: 1) Legal matters of the system; 2) Proprietary information of the system; 3) Real estate matters of the system; 4) Other confidential information relating to the confirmations process for the appointed members of the board of trustees of the system; and 5) Financial information concerning selected direct placement investments of the system that were made prior to July 1, 1993.

It was pointed out that public disclosure of such information can have an adverse impact on litigation and on the market value as well as marketability of the KPERS assets, and that disclosure, in some instances, is prohibited by contract or by law.

Representative King stated that **HB 2598** was requested by the KPERS Board to clarify that anyone that is elected by public employees to serve on the KPERS Board will be an active contributing member; inactive, vested member; or retirant. It codifies the 1993 election and makes clear any action taken by the Board would not be invalidated.

The effect of **HB 2598** will be to allow one of the trustees who now is an inactive KPERS member (no longer working for a covered employer nor vested in the System) to serve out her term. In the future, inactive members who are not vested will be ineligible for election to the KPERS Board.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, Room 531-N
Statehouse, at 1:30 p.m. on March 9, 1994.

Representative King answered several questions relative to the three bills and ended his testimony.

The next conferee to speak in support of the three bills was Meredith Williams, Executive Secretary, KPERS. Mr. Williams distributed copies of his testimony (Attachments 4, 5, and 6)

Mr. Williams began by stating the Board of Trustees beginning July 1 of the current year now consists of nine members, four of those members being appointed by the governor and one each by the President of the Senate and the Speaker of the House. Two members for the first time are elected by the one hundred eighty-six thousand members of the retirement system. The state treasurer is an ex-officio member by virtue of her position. The current law suggests that all nine members are subject to KBI investigation. The Attorney General balked at performing those investigations, given the current language. As a result of that, the joint committee came together and produced this bill for consideration. The changes that this bill will bring about would provide that only the six appointed members on the board of trustees would be subject to KBI investigation. The three elected members, the two elected by the members of the retirement system and the state treasurer, would not be subjected to the KBI investigation. Additionally, at present, only the four members appointed by the governor are subject to the Senate confirmation process. This bill would provide that the two members, one appointed by the President of the Senate and the Speaker of the House, would also be subject to the Senate confirmation process. There is also language in the bill that indicates that when the KBI report is completed, it first go to the Chair, with the Chair, in turn, sharing it with the Ranking Minority Member. If they feel the information should be shared with the full joint committee, it is then so done. The transmittal of those KBI reports to the members of the joint committee according to the bill is to be done in closed or executive session. The House amendments added some language to make it more clear that the transmittal would take place in closed session and also provided a penalty - a level 10 nonperson felony - if that information is inappropriately disclosed. The final provision of the bill requires the Retirement System to assume the costs of the KBI investigations which will be on average, one thousand dollars.

It was surmised that if a report came back and there was something irregular in the particular person's background, the governor would then back that person out from nomination. An incident was mentioned regarding a person with an alleged criminal background who had applied for some type of position.

Steve Starr, Deputy Director, KBI, was present and gave some input. He stated the individual referred to was not given a background check. The reason for the background check is that the governor can make a more informed decision.

Michael Johnston, Secretary of Transportation and KPERS trustee, was the last conferee on **HB 2596** and **HB 2597** and was present to speak in opposition to them. (Attachment 7) Secretary Johnston was appearing on his own and not at the request of anyone. He spoke of the events that led to the creation of the Joint Committee and its permanent legislative oversight. His statement reflected the belief that the Legislature has already taken steps to assure none of the errors of the past will happen again by approving an expanded professional KPERS staff. The KBI reports, presumably required to assist in finding conflicts of interest, have never been a part in the mix of the confirmation process. It will have a chilling effect on recruitment to the board. Other boards and commissions may think material of this nature essential to their confirmation processes. Secretary Johnston told the committee that in addition to a very detailed life history, the reports contain personal financial information that many people believe to be personal, including the spouse's joint debt and/or bank records. The information would be of little value in searching for potential conflicts of interest. Mr. Johnston included samples for review. The House amended **HB 2596** to make disclosure of this information a severity level 10, nonperson felony. Secretary Johnston stated the bill, as Representative King stated, seeks to clarify the use of these reports. Secretary Johnston is suggesting that the reports ought to be repealed.

In response to a question of where the legislation initiated, Secretary Johnston replied that it was part of committee discussion in 1991. KPERS was reconstituted by a bill passed last year. The whole KBI thing was triggered. The special committee did not know quite how to handle the reports. Representative King is correct in stating the law calls for the reports, but the law was only enacted in 1992 and has never yet been operational. Secretary Johnston stated the easiest way to solve the problem is to repeal the provision entirely. Secretary Johnston answered a few questions and then proceeded on to **HB 2597** where he stated that, once again, the sharing of this type of information is neither wise nor necessary for prudent oversight. He commented that some of this information you don't want to know. The enactment of these measures will ultimately lead to problems for both the Legislature and the Board of Trustees.

Due to time constraints, the Chairman thanked Secretary Johnson and adjourned the committee.

The next meeting is scheduled for March 10, 1994.

Senate

Governmental Organization

DATE: March 9, 1994

[illegible]

STATE OF KANSAS

KENNETH R. KING
REPRESENTATIVE, SEVENTY-SEVENTH DISTRICT
BUTLER COUNTY
ROUTE 1
LEON, KANSAS 67074-9803
(316) 775-5340
STATE CAPITOL BUILDING—112-S
TOPEKA, KANSAS 66612-1504
(913) 296-7644



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: JOINT COMMITTEE ON PENSIONS
INVESTMENT & BENEFITS
VICE-CHAIRMAN: TRANSPORTATION
MEMBER: FINANCIAL INSTITUTIONS & INSURANCE
MEMBER: AMERICAN LEGISLATIVE EXCHANGE
COUNCIL

HB 2596

March 9, 1994

Testimony Before the
Senate Governmental Organization Committee
by

Kenneth R. King
Representative, 77th District

Mr. Chairman and members of the committee.

HB 2596 was introduced by the Joint Committee on Pensions, Investments and Benefits. The bill was introduced to clarify how confidential KBI reports of KPERS Board members would be handled. It allows only the Chairman and Ranking Minority Member to review the reports. If they do not agree that it is a good report, they have the authority to recommend the entire Joint Committee discuss the information in closed or executive session.

*Senate Gov. Org.
Attachment 1
3/9/94*

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HOUSE OF
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COUNCIL

HB 2597

March 9, 1994

Testimony Before the
Senate Governmental Organization Committee
by

Kenneth R. King
Representative, 77th District

Mr. Chairman and members of the committee.

HB 2597 was also introduced by the Joint Committee on Pensions, Investments and Benefits. This bill would allow the Joint Committee to go into executive session. There would be five specific instances where going into executive session would be permissible.

They are:

1. Legal matters of the system
2. Proprietary information of the system
3. Real estate matters of the system
4. Other confidential information relating to the confirmations

process for the appointed members of the board of trustees of the system, and

*Senate Gov. Org.
Attachment 2
3/9/94*

5. Financial information concerning selected direct placement investments of the system that were made prior to July 1, 1993

The Joint Committee is charged with the general oversight of KPERS activities. It is the committee's opinion that to give proper oversight they need the authority to go into executive session. This recommendation is due to the large number of legal matters and continued problems with KPERS real estate investments.

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TOPEKA

HOUSE OF
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COMMITTEE ASSIGNMENTS
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MEMBER: AMERICAN LEGISLATIVE EXCHANGE
COUNCIL

HB 2598

March 9, 1994

Testimony Before the
Senate Governmental Organization Committee
by

Kenneth R. King
Representative, 77th District

Mr. Chairman and members of the committee.

This bill was requested by the KPERS Board to clarify that anyone that is elected by public employees to serve on the KPERS Board will be an active contributing member; inactive, vested member; or retirant. It codifies the 1993 election and makes clear any action taken by the Board would not be invalidated.

A present Board member was elected to represent the state employees. Since elected, this member is no longer employed by the State of Kansas and is not a vested or active member of KPERS. This bill evolved due to a ruling by the Attorney General that legal action would be taken if the legislature didn't correct the problems that were pointed out.

*Senate Gov. Org.
Attachment 3
3/9/94*

HOUSE BILL NO. 2596
Testimony by KPERS
Senate Governmental Organization Committee
March 9, 1994

The Joint Committee on Pensions, Investments and Benefits introduced this bill to amend the statutory process for reviewing the qualifications of members of the Retirement System's Board of Trustees as well as the statutory confirmation process for the appointed members of the Board.

The Board of Trustees consists of four members appointed by the Governor, one member appointed by the Speaker of the House, one member appointed by the President of the Senate, two members elected by the Retirement System's members, and the State Treasurer. Current law provides that all nine members will be subject to an investigation by the Kansas Bureau of Investigation, the results of which will be made available to the Joint Committee on Pensions, Investments and Benefits and to a designated Senate committee. The four members appointed by the Governor are subject to Senate confirmation. The Joint Committee is to make recommendations to the designated Senate committee concerning the confirmation of Trustees. The six appointed members are required to have "...demonstrated experience in the financial affairs of a public or private organization or entity which employs 100 or more employees or had at least five years' experience in the field of investment management or analysis, actuarial analysis or administration of an employee benefit plan."

House Bill No. 2596 would eliminate the requirement that the State Treasurer and two elected members of the Board undergo a KBI investigation. It also specifies that the two members appointed by the Speaker of the House and the President of the Senate would be subject to Senate confirmation. Accordingly, passage of this legislation would require that all six appointed Trustees go through the confirmation process.

The bill also establishes a procedure for the Joint Committee on Pensions, Investments and Benefits to receive and review the KBI reports. It specifies that such reports, other than conviction data, shall be handled in a confidential manner by transmitting the reports to the Committee Chair. In turn, the Chair will review the reports with the Ranking Minority Member in a closed session. Upon the recommendation of either the Chair or the Ranking Minority Member, the full Committee will review the reports in closed or executive session.

The final provision of the bill requires the Retirement System to assume the costs of the KBI investigations. The KBI has indicated that such investigations should cost, on average, \$1,000.

House Committee amendments clarified the requirement that the KBI reports be provided only in executive session and added a severity level 10, nonperson felony penalty for the disclosure of confidential material contained in the KBI reports.

KPERS

Senate Gov. Org.
Attachment 4
3/9/94

HOUSE BILL NO. 2597
Testimony by KPERS
Senate Governmental Organization Committee
March 9, 1994

The Joint Committee on Pensions, Investments and Benefits introduced this bill to further specify and expand the reasons that the Joint Committee could recess for a closed or executive meeting. Current law provides that the Joint Committee can only recess for a closed or executive meeting to receive and discuss Kansas Bureau of Investigation reports relating to the qualifications of the four Retirement System Trustees appointed by the Governor.

Specifically, this legislation would allow the Joint Committee to recess for a closed or executive meeting to receive and discuss Retirement System information related to:

- legal matters;
- proprietary information;
- real estate matters;
- confidential KBI reports; and
- financial information concerning selected direct placement investments made prior to July 1, 1991.

The practical impact of the legislation is two-fold. The Joint Committee would be permitted to meet with Retirement System counsel in a closed or executive meeting. Additionally, the Joint Committee would be permitted to receive confidential, proprietary information concerning the Retirement System's non-publicly traded investments in such a setting. The public disclosure of such information can have an adverse impact on the market value and marketability of such assets and, in some instances, is prohibited by contract or by law.

The House Committee amendment was technical in nature.

KPERS

*Senate Gov. Org.
Attachment 5
3/9/94*

HOUSE BILL NO. 2598
Testimony by KPERS
Senate Governmental Organization Committee
March 9, 1994

The Joint Committee on Pensions, Investments and Benefits introduced this bill to address concerns raised by the first election of two trustees to the reconstituted KPERS Board of Trustees.

Effective July 1, 1993, the Board of Trustees consists of four members appointed by the Governor, one member appointed by the Speaker of the House, one member appointed by the President of the Senate, two members elected by the Retirement System's members, and the State Treasurer. The Spring 1993 election resulted in the election of an inactive, non-vested member of the Retirement System to serve in the "non-school" position.

House Bill No. 2598 would require that future elected members of the Board of Trustees be active, contributing members of the Retirement System; inactive, vested members; or retired members. Inactive, non-vested members would not be permitted to serve.

House Bill No. 2598 would ratify the 1993 Trustee election; the inactive, non-vested status of a current elected trustee would not disqualify such trustee from completing the trustee's current term. Additionally, the proposed legislation would not invalidate any Board actions prior to the effective date of the legislation.

KPERS

Senate Gov. Org.
Attachment 6
3/9/94



Michael L. Johnston
Secretary of Transportation

KANSAS DEPARTMENT OF TRANSPORTATION
Docking State Office Building
Topeka 66612-1568
(913) 296-3566
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Joan Finney
Governor of Kansas

**TESTIMONY
SENATE GOVERNMENTAL ORGANIZATION COMMITTEE
HB 2596 AND HB 2597**

**By Michael L. Johnston
Secretary of Transportation**

March 9, 1994

Mr. Chairman and Committee Members:

Mr. Chairman, thank you for allowing me to appear here today. I appear on my own as a current KPERS Trustee and not at the request of anyone. I also do not appear on behalf of the administration. I would like to share with you some of my thoughts about both HB 2596 and HB 2597.

Permit me to give a brief history. In the mid to late 1980s, many people began to be concerned with both the administration and the investment practices of the KPERS,

*Senate Gov. Org
Attachment 7
3/9/94*

Senate Governmental Organization Committee

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specifically those dealing with real estate and so-called direct placements. With an acceleration of those concerns culminating with events surrounding KPERS Home Savings investment, the Legislature, by adoption of HCR 5016, created the Joint Committee on Kansas Public Employees Retirement System Investment Practices on March 7, 1991. The joint committee held meetings on 32 separate days through December of 1991, took testimony from 89 individuals, and accumulated literally thousands of pages of testimony. One of their recommendations was the creation of a new joint legislative committee on KPERS "to establish a permanent oversight committee." It is that committee which is the sponsor of the measures currently before you.

As a general proposition, most people would agree that insufficient professional KPERS staff, inappropriate Trustee behavior, and inadequate management controls were major

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factors which led to the legislative study committee in 1991 and its legitimate offspring, The Joint Committee on Pensions, Investments and Benefits, whose role is continued legislative oversight. As a former legislator, I have an understanding and fondness for the Legislature as an important democratic institution and support proper legislative oversight. Indeed, I believe the Legislature has already taken steps to assure we don't revisit many of the errors of the past by approving an expanded professional KPERS staff, which I see as the single most important element of reform. But I also believe that these measures and other elements of the changes which have occurred cross the line from prudent oversight and are both unwise and unnecessary. Moreover, I do not question the motives of legislators in 1991 or today, and in fact, several legislators prominent in these recommendations are people for whom I have both professional respect and personal affection.

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My experience, however, does give me a broader and more balanced perspective from which to view these potential conflict of roles.

HB 2596 attempts to clarify who may see KBI reports conducted on persons who have been appointed to the Board and under what conditions. Presumably these reports were required as part of the KPERS reform legislation in 1992 to assist in finding conflicts of interest. The reason this has been such a sensitive issue is because these reports have never been part of the mix in the confirmation process. It should stay that way. In my view, these reports will not help the committee make better recommendations. They will have a chilling effect on recruitment to this important board, and I believe open the gates to further Senate use of these reports for other confirmation activities. It won't take long for others to argue that other boards and commissions are just as important and this

Senate Governmental Organization Committee

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material essential to the confirmation process. For those who don't know, in addition to very detailed life history information, these reports have personal financial information that many people believe to be just that, personal. I respectfully do not believe any member of the Legislature should be privy to my personal financial details including my wife's through joint debt and/or bank records, nor do I believe anyone should have to surrender that in this confirmation process to be eligible for public service. What's more, this information will be of little value in searching for potential conflicts of interest. Trustees already fill out statements of substantial interest and other specific documents related to real estate and direct placement potential conflicts. I have included samples in this material for your review. Rather than repeal the requirements for these reports altogether as I had hoped and recommended, the House amended the bill to make the disclosure of this confidential

Senate Governmental Organization Committee

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information a severity level 10, nonperson felony. My hope is that the Legislature will retreat from this dangerous path and repeal any reference to these reports. And believe me, over time and even with the House penalty, as the circle of access gets wider some of this confidential information will be divulged and most likely for reasons we all understand, politics, gossip, etc. It need not happen!!

HB2597 would specifically authorize the joint committee access to virtually all confidential legal information and other confidential information concerning real estate and direct placements. Why? I would ask what value would this information be to the joint committee? What is the committee to do with it? How does it assist in "prudent oversight," whatever that is? Would this level of oversight evolve to the extent that virtually all decisions of the Board of Trustees are subject to joint committee approval? Would we then be joint

Senate Governmental Organization Committee

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fiduciaries with joint liability? Once again, I believe the sharing of this information is neither wise nor necessary for prudent oversight. Moreover, the untimely publication or release of such information could damage the Retirement System's legal position and impair the market values and marketability of specific direct placement and real estate investments. I have attached a document which summarizes a listing of oversight activities that would keep the Legislature engaged with KPERS on a level without parallel in America and without the subjects of either of these two bills.

Finally, although I have other comments about the issue of Trustee qualifications, I will save them for another time since these bills do not specifically deal with that issue. I simply have come to believe strongly that the enactment of these measures will not assist the joint committee in doing its work but will ultimately lead to problems for both the Legislature and the

Senate Governmental Organization Committee

Page 8

March 9, 1994

Board of Trustees. The Legislature deserves enormous credit for helping with the structural changes that have already taken place in helping manage the assets of the System. Likewise, many others deserve credit for their work in the changes that have and are taking place with KPERS. But I respectfully urge you to keep in mind that the KPERS Board of Trustees, acting legally as fiduciaries, and the Legislature, acting in its oversight capacity, have different roles and responsibilities. Let us think and reason together so we can avoid conflict and jointly protect the interest of the members of our retirement system.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEMINVESTMENT DISCLOSURE FORMName Michael L. JohnstonAddress 5700 Sw 31st Terr.
Topeka, KS 66614Capacity: Member, Board of Trustees ✓
Executive Officer of KPERs Board Members: Please list present occupation or employment Secretary, Kansas Dept. of TransportationAddress of employment (if different from above) Docking State Office Bldg.
Topeka, KS. 66612

Investment Holdings as of November 1, 1992:

Please list all direct or beneficial ownership holdings of the following Retirement System investments which are subject to the filing requirements of Section 13(d) of the Securities Exchange Act of 1934:

CompanyDescription of Holdings[REDACTED]None[REDACTED]None[REDACTED]None[REDACTED]None[REDACTED]None[REDACTED]None

Please indicate the number of shares held and voting class of stock (i.e., common or preferred), options, or warrants to purchase shares of common stock.

Please list all transactions (purchases or sales) which have occurred in these holdings since November 1, 1992:

<u>Company</u>	<u>Date of Transaction</u>	<u>Description</u>	<u>Amount</u>
<i>None</i>			

***Please answer the following questions:


During the last five years, have you been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors)? (If so, please give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case.)

No

During the last five years, were you a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws? (If so, please identify and describe such proceedings and summarize the terms of such judgment, decree or final order.)

No

Are you a U.S. citizen? *Yes*

Signature  Date *1-14-93*

RECEIVED

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

INVESTMENT DISCLOSURE FORM

25 AUG 17 P2:41

Name Michael L. Johnston

Address Kansas Department of Transportation
7th Floor, Docking SOB
Topeka, KS 66612

Capacity: Member, Board of Trustees X
Executive Officer of KPERS

Board Members: Please list present
occupation or employment Secretary of Transportation

Address of employment
(if different from above)

Investment Holdings as of July 1, 1993:

Please list all direct or beneficial ownership holdings of the following Retirement System investments which are subject to the filing requirements of Section 13(d) of the Securities Exchange Act of 1934:

<u>Company</u>	<u>Description of Holdings</u>
<u> </u>	<u>None</u>
<u> </u>	<u>None</u>
<u> </u>	<u>None</u>
<u> </u>	<u>None</u>
<u> </u>	<u>None</u>
<u> </u>	<u>None</u>

Please indicate the number of shares held and voting class of stock (i.e., common or preferred), options, or warrants to purchase shares of common stock.

July 14, 1993

7-12

KPERS

Please list all transactions (purchases or sales) which have occurred in these holdings since July 1, 1993:

<u>Company</u>	<u>Date of Transaction</u>	<u>Description</u>	<u>Amount</u>
None			

***Please answer the following questions:

During the last five years, have you been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors)? (If so, please give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case.)

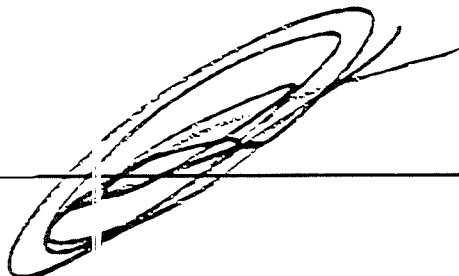
No.

During the last five years, were you a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws? (If so, please identify and describe such proceedings and summarize the terms of such judgment, decree or final order.)

No.

Are you a U.S. citizen? Yes.

Signature



Date 08/12/93

July 14, 1993

KPER3

7-13

Proposed Ideal System of Legislative Oversight

- Quarterly reporting to a designated legislative committee (either the existing Legislative Budget Committee or the Joint Committee on Pensions, Investments and Benefits) of the following information:
 - Investment Performance Report, produced independently by CDA Investment Technology, Inc.;
 - Litigation Status Report;
 - Member Services Activity Report (Benefits Summary / "Serving the Customer");
 - Venture Capital Portfolio Report;
 - Real Estate Portfolio Report;
 - Financial Report, including all administrative and investment expense categories;
 - Changes in the Statement of Investment Policy, Guidelines, and Objectives;
 - Changes in asset allocation targets;
 - Changes in investment manager, consultant, and advisor relationships; and,
 - Changes in actuarial assumptions.

- At one of its quarterly meetings, the same designated legislative committee could receive and review:
 - Annual Financial Audit Report prepared by an independent accounting firm under contract to the Legislative Division of Post Audit (includes a review of and opinion on the KPERS' system of internal controls);
 - Triennial Investment Performance Audit Report prepared by the staff of the Legislative Division of Post Audit (current law requires that this audit be conducted on an annual basis);
 - Annual Actuarial Valuation conducted by the System's actuary; and,
 - KPERS Annual Report.

- Once every three or four years, the same designated legislative committee may wish to commission an independent actuarial review or audit. (The System's actuarial experience and the actuarial assumptions made by the Board of Trustees drive the employer contribution rates.)

- The Legislative Post Audit Committee would continue to receive and review the Annual Financial Audit Report, the Biennial Investment Performance Audit Report, and any other Performance Audit Reports directed by the Committee. The Legislature, through the Post Audit mechanism, currently has the ability to direct whatever audit work it deems appropriate. Current statutory provisions allow Legislative Post Audit staff to review confidential information pertaining to the Retirement System's non-publicly traded investments.

- House Appropriations and Senate Ways and Means Committees, together with Legislative Fiscal Staff, continue to review annual budget request. All KPERS expenditures continue to be subject to appropriation acts.

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Proposed Ideal System of Legislative Oversight

Page 2

- Maintain existing statutory restrictions on future investments in non-publicly traded investments.
- Maintain expanded Board of Trustees with following changes:
 - All appointed Trustees subject to Senate confirmation;
 - Eliminate specific qualification requirements and replace with more generic requirements. (Mike Russell, convicted former Board Chair, and his fellow Board members met the current qualification requirements.) The emphasis should be on selecting well-intentioned, honest, and intelligent members.
 - Eliminate potentially chilling effect of legislative review of KBI reports. Perhaps such a report could be mandated with distribution limited to the appointing authority.
- Minimize or prevent closed or executive sessions to review litigation matters or confidential, proprietary financial, operational, or valuation information relating to non-publicly traded investments. Sharing such information with non-fiduciaries can limit the Retirement System's legal rights and impair the market value and marketability of such assets. The inappropriate release of such information could also violate contractual, statutory, and regulatory responsibilities of the Retirement System and subject the Retirement System and legislators to liability.

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