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MEMORANDUM

To: Chairman Longbine and members of the Joint Committee on Pensions, Investments and Benefits.

From: David Wiese, Assistant Revisor

Date: October 29, 2018

Subject: **2018 enacted KPERS legislation and January 1, 2018, working after retirement rule.**

The following is a brief overview of KPERS-related bills enacted into law during the 2018 legislative session (HB 2444 and SB 260) and a review of the new working after retirement rule passed by the 2017 Legislature and effective on January 1, 2018.

HB 2444

House Bill No. 2444 repealed two statutes, K.S.A. 2017 Supp. 74-4921c and 74-4921d, relating to prohibited investments and divestment procedures in companies with certain business operations in Sudan. The bill was introduced by the joint committee on pensions, investments and benefits during the 2017 interim. K.S.A. 74-4921c provided the procedures for the KPERS board to identify investments in Sudan and the conditions for when divestment in such investments must occur. The section also required KPERS to submit an annual Sudan divestment report to the joint committee on pensions, investments and benefits. K.S.A. 74-4921d provided for indemnification from the state for KPERS board members, state officers and employees and any research firms or contract investment managers by reason of any decision to restrict, reduce or eliminate investments pursuant to K.S.A. 74-4921c.

SB 260

Senate Bill No. 260 transferred responsibility for procuring a firm to conduct the annual KPERS financial-compliance audit from the legislative division of post audit to the KPERS board of trustees. Sections 8-10 of SB 260 contain the KPERS-specific audit requirements and procedures. The bill removed KPERS financial-compliance audit language from legislative post audit statutes and placed the language into new stand-alone statutes (K.S.A. 74-49,136 and 74-49,137), along with language requiring the executive director of KPERS to monitor the performance of the firm conducting an audit to ensure such audit is performed in accordance with the specifications developed for such audit. The bill also established a timeline for performance of the audit. The executive director shall submit a preliminary draft of the management's discussion and analysis and the financial statements by October 1 of each year to the secretary of administration and the audit firm, with final drafts of such documents due by October 15. The final audit opinion letter shall be submitted by November 1 of each year by the audit firm to the executive director, the secretary of administration and the legislative post audit committee. Finally, the bill added a new section (K.S.A. 46-1136) to the legislative post audit act requiring, at least once every three years, the legislative post audit committee to direct the division of post audit to conduct a performance audit of KPERS. The legislative post audit committee shall consider recommendations and requests for KPERS-related performance audits by the joint committee on pensions, investments and benefits or by any other committee or member of the legislature.

2017 House Substitute for SB 21

New working after retirement provisions effective January 1, 2018 :

1. For all retirements after 1/1/18, there is a 180-day waiting period if a retirant retires prior to age 62 and a 60-day waiting period if the retirant retires at age 62 or older.
2. No annual earnings limitation for all retirants regardless of retirement date.
3. If a retirant is employed in a covered position, the participating employer shall pay to the system the statutory employer contribution rate on the first \$25,000 of a retirant's compensation in a calendar year and a 30% contribution rate on all compensation in excess of \$25,000 in a calendar year. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.
4. If a retirant is employed in a non-covered position, the participating employer does not make contributions to the system.
5. Prearranged agreements for employment continue to be prohibited.
6. Employers are required to enroll and report to the system when compensation is paid to any retirant.
7. Certain retirants are specifically exempt from the general 1/1/18 working after retirement rule. (Licensed nurses, Law enforcement training center, KP&F, Judges and Regents retirement systems, Substitute teachers without a contract, Poll workers, State and local elected officials and Independent contractors/3rd party entities)
8. No retirants shall make contributions to the system or receive credit for service while employed under the working after retirement rule.
9. January 1, 2018, was the sunset date of special exemptions for hardship, special education and hard-to-fill positions. On and after such date, retirants under these exemptions are covered under the new rule.