

2019 LEGISLATIVE UPDATE

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Public Pension Oversight Board

March 25, 2019

Bills Passed

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- **KRS Retired Reemployed Provisions**

- **HB 55: Retired Reemployed Elected Officials**

- ✦ Voids retirement of an elected official who retires from KRS and is re-elected to the same office within 12 months of retiring.
- ✦ AA: Not requested by system; not anticipated to decrease liability per systems.

- **HB 381: Retired Reemployed Police Officers at Universities**

- ✦ Permits postsecondary institutions participating in KERS to not pay employer contributions/retiree health reimbursements on retired police officer reemployed by the institution provided the officer retired with at least 20 years of service credit with no administrative charges pending and met the separation of service requirements in statute.
- ✦ Police officers employed under the provisions may be employed for 1 year, renewable by contract at the discretion and need of the institution; limits number reemployed under the program to greater of 5 officers or 25% of the university police force in 2018.
- ✦ AA: Not requested by system; per systems would not significantly increase or decrease the unfunded actuarial liability of KERS but would result in lower employer contributions/pmts. to system.

Bills Passed

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- **KRS Retired Reemployed Provisions (*continued*)**
 - **HB 419: Contracting/Reemployment of retired state and local employees**
 - ✦ Modified/amended rules, procedures, and timeline regarding KRS certification process for retirees who are reemployed by a participating agency or on contract with a KRS participating agency;
 - ✦ Provides that the member's certification of whether a prearranged agreement existed shall be done at the time of retirement rather than upon reemployment;
 - ✦ Provides that employment accepted after 12 months following a member's retirement shall not constitute a prearranged agreement, or require certification or notification by the employee and employer;
 - ✦ Specifies conditions by which a member's retirement may be voided if the member is an independent contractor/leased employee with a participating agency and the systems determines the member is an employee of the agency rather than an independent contractor/leased employee;
 - ✦ Required systems to issue final determination within 30 days of receipt of all information required by regulation to determine whether employ has/does not have a prearranged agreement to return to work with the participating agency or whether the retired member's employment qualifies as an independent contractor or leased employee.
 - ✦ AA: Not requested by system; No impact

Bills Passed

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- **KRS/TRS Housekeeping & Investment Manager Requirements**

- **HB 80 – KRS Housekeeping**

- ✦ Allows KRS board to conduct trustee elections by electronic ballot, but retain option to use paper ballot to synchronize the election of the trustees from CERS during 2021.
- ✦ Grants KRS the option, rather than the requirement, to pursue penalties for a participating agency's failure to timely file all contributions and reports.
- ✦ Provides that 1% employee contribution for retiree health for employees who began participating on or after 9/1/2008 shall be deposited in the 115 retiree health trust under KRS 61.701.
- ✦ AA: Not requested by system; could reduce adm. costs due to synchronization of CERS elections & electronic ballots

- **HB 489 – KRS and TRS Investment Manager Requirements**

- ✦ Requires investment managers of KRS and TRS to adhere with the Investment Advisers Act of 1940, as amended, and all applicable federal statutes, rules, and regulations applicable to investment managers. Removes requirement for these managers to follow CFA Code of Conduct.
- ✦ Repeals and reenacts SB 151 provision regarding conflict of interest that provided no member of GA, public servant, trustee or employee of KRS/TRS board shall have any interest in the business of KRS while employed/serving AND for five (5) years following employment/service.
- ✦ AA: No impact.

- **Other Retirement Incentives**

- **SB107: Ky. Public Employees Deferred Compensation Authority Automatic Enrollment**

- ✦ Provide that employees of the executive, legislative, or judicial branches of Kentucky state government hired on or after July 1, 2019, shall be automatically enrolled in the 401(k) voluntary retirement plan with a monthly employee contribution of \$30 per month;
- ✦ Provides that the employee shall continue to contribute to the plan unless or until the employee makes an election to change the contribution.
- ✦ Require the KDC to report to the Public Pension Oversight Board by December 31, 2019, on the development of the automatic enrollment provisions and options to improve participation in the plans.

HB 358

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Current Law:

- 2015: HB 62 allowed most quasi-governmental entities in: (1) KERS to voluntarily cease participation in the system (exception of health depts. & post-secondary institutions) and; (2) CERS who are non-stock/non-profit entities. Cost based upon assumed rate of return of system and could pay off costs over 20 years in installments with interest at the assumed rate of return. Created provisions for involuntary cessation of participation.
- 2017: HB 351 removed installment option and set costs based upon lesser of assumed rate of return or 30 yr. treasury rate but not less than 3.5% less than assumed rate of return (currently the 30 year treasury rate of around 3%).
- If agency ceases participation (voluntary or involuntary), employees stop participating in systems as of cessation date (no future accruals).

HB358 GA:

- Window to allow post-secondary institutions (regional state supported universities, KCTCS, Kentucky Higher Education Student Loan Corporation) to opt out by April 1, 2020, with effective cessation date of June 30, 2020, and allow these agencies to pay costs over 25 years in installments at the assumed rate of return. Current employees would be given choice to elect to stay in the systems. Costs would be based upon 30 year treasury rate but not less than 3%.
- Reduces employer rate in FY 19-20 from 83.43% of pay to 49.47% of pay for quasi-governmental agencies in KERS.
- AA: \$121 million for rate reduction for quasi-state agencies in KERS.

HB 358 SCS1

- Window for post-secondary institutions to cease participation in KERS:
 - × Bases actuarial costs on assumed rate of return of 3% if the institution is paying by installments and 4.5% if the institution is paying by lump-sum; and allows that employers may pay off the costs in installment payments, with interest of 5.25% (pension) or 6.25% (retiree health), using contributions paid to KERS in FY 2019-2020 as a base with the value increasing by 1.5% annually until all costs are paid off.
 - × Provides that Tier I/II employees may elect to continue participating in the system after the institution's effective cessation date up to specified service/age dates;
- Provides that all quasi-governmental employers shall be required to involuntarily cease participation in KERS and pay the actuarial costs of ceasing participation unless the agency makes an election to continue participating in KERS on or before December 31, 2019;
 - × Bases actuarial costs on an assumed rate of return of 3% if the institution is paying by installments and 4.5% if the institution is paying by lump-sum; and allows that employers may pay off the costs in installment payments, with interest of 3.0% for pension/retiree health, using contributions paid to KERS in FY 2019-2020 as a base with the value increasing by 1.5% annually until all costs are paid off.
 - × Provides that all current/future employees of a quasi-governmental employer who is involuntarily ceasing participation shall not participate in KERS after June 30, 2020.
- Reduces employer rate in FY 19-20 from 83.43% of pay to 49.47% of pay for quasi-governmental agencies in KERS.
- AA: \$1.036 billion for rate reduction & cessation provisions (\$121 million for rate reduction and \$915 million for cessation provisions).

Other Bills for Possible Concurrence

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- **SB41 HFA1: Quasi Employer Rate Freeze**
 - Provides that KERS employer contribution rate shall remained at 49.47% of pay in FY 2019-2020 for quasi government.
 - AA: Not completed by likely \$121 million similar to other bills.
- **SB162 HFA 1: Retired Reemployed Police Officers**
 - Excludes salary and wages paid to an employee for services as a Kentucky State Police School Resource Officer (KSPSRO) from creditable compensation.
 - AA: Not completed on final bill.

Other Bills Introduced of Note

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- **HB 504** – TRS Pension Reform Bill for New Members
 - Created new tier of benefits for non-university members entering TRS on or after Jan 1, 2020, consisting of Foundational DB benefit and supplemental benefit component based on account balance. Provided that the TRS board could make adjustments to contain employer costs within 10% of pay.
 - AA: Projected savings over 20 years of \$560 million.
- **HB 505** – TRS Level Dollar Phase In
 - Required employers to play full actuarially required contribution to TRS
 - Reduce payroll growth assumption utilized in actual valuation reduced annual until 2025, when valuation use level dollar amortization method.
 - AA: Costs over 20 years of \$467 million, savings over 30 years of \$3.7 billion.
- **HB 525** – TRS Board Composition/Nomination Process
 - Added board members
 - Revised the nomination process for eight elected trustees representing active/retired members.

Other Bills Introduced - Senate

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- **SB10** - would allow quasi-govt. employers to cease participation in KERS, provided agency pays cost as specified by bill.
- **SB105** - Constitutional amendment to permit casino gaming with 100% of benefit to pensions
- **SB158** – allow mayor or member of city legislative body to draw CERS benefits for other covered employment without resigning.
- **SB168** – require retirement systems to disclose of names, status, and projected or actual benefit payments of any member upon request
- **SB169** – require external investment managers of TRS to adhere with the Investment Advisers Act of 1940 instead of CFA Code of Conduct.
- **SB228** – TRS housekeeping bill, permitting TRS to accept electronic signatures and requirement of investment managers to follow federal law instead of CFA Asset Manager Code of Professional Conduct
- **SB257** – allow mayor or member of city legislative body to draw CERS benefits for other covered employment without resigning.

Other Bills Introduced - House

- **HB12** – limit use of sport wagering revenue to administrative costs, problem gambler treatment funding, and pension system funding
- **HB56** – Require KRS to notify employers/employees if contributions are not made timely and publicly publish the employer name/amount of delinquent contributions.
- **HB126** – Require systems to follow state model procurement code for investment management services, make violation of ethical or fiduciary duties of trustees/managers Class D felony.
- **HB175** – Designate tax revenue from expanded gaming to unfunded liability of KERS and TRS.
- **HB186** – Permit members of GA participating in KERS or LRP hybrid cash balance plans to opt-out of participation
- **HB190** – Designate the annual fee revenue from expanded gaming to the unfunded liability of KERS and TRS.
- **HB206** – Include temporary service as special Circuit Judge by an active District Court Judge in the definition of "service" for purposes of JRP provided the temporary service exceeds three consecutive months.
- **HB230** – Require additional transparency, fiduciary, and ethical duties from KRS board, employees, and managers.
- **HB290** – Allow mayor or member of city legislative body to draw CERS benefits for other covered employment without resigning.
- **HB307** – Continue employer contribution rate freeze for nonhazardous employees of KERS quasi employers/agencies
- **HB348** – Constitutional amendment to permit expanded gaming, proceeds designated to unfunded liability of KERS and TRS
- **HB383** – Define and tax vapor products, designate proceeds to Kentucky permanent pension fund managed by Finance Cabinet
- **HB384** – Provide CERS employer contribution rate shall not increase by more than 12% per year
- **HB401** – Repeal 18 RS SB 151/EN and reenact to pre-2018 language
- **HB457** – Allow member of GA to make one-time irrevocable election to not participate in LRP or KERS