MEMORANDUM

To: House Financial Institutions and Pensions Committee

From: Alan D. Conroy

Date: February 12, 2025

Subject: Informational Testimony HB 2194

House Bill 2194 changes working after retirement rules by adding teachers at local school districts to the list of positions exempted from working after retirement employer contributions.

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

Current Working After Retirement Rules

The Internal Revenue Service (IRS) requires a *bona fide* retirement before an individual can begin receiving benefits from a qualified pension plan. While the IRS mandates a break in service, it does not specify a required length. Each plan establishes its own break-in-service requirement. KPERS has set a 180-day waiting period for members who retire before age 62 and a 60-day waiting period for those who retire at age 62 or later.

In addition, in 2005, the Legislature introduced employer contributions for retirees returning to work. These contributions were originally intended to offset the actuarial impact of retirees filling positions typically held by active members.

The current working after retirement rules include:

For Retirees:

- Must wait 180 days (if retired before age 62), or 60 days (if retired at 62+) before returning to work.
- No prearranged agreement to return to work.
- Not re-enrolled in KPERS; additional service does not change retirement benefits.
- Continue receiving KPERS benefits while working.
- No earnings limit and no employee contributions.

KPERS

For Employers:

- Pay the statutory rate on the first $40,000 of compensation (11.54% in FY 2025).
- Pay 30% on compensation above $40,000.

Employers have the discretion to negotiate salaries with retirees returning to work. Some may adjust salaries to account for the statutory employer contributions.

By statute, these contributions are the employer's responsibility and cannot be withheld from the retiree's pay.

There are no restrictions on a KPERS retiree working for a non-KPERS employer.

Employer Contribution Exemptions
Over time, the Legislature has exempted certain positions from the statutory working after retirement employer contribution. Some of the exemptions include:

- 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)
- Licensed nurses and direct support positions at Community Developmental Disability Organizations (exempt)

House Bill 2194
HB 2194 adds teachers at local school districts working in a position that requires a certification to the list of groups exempt from the employer working after retirement contribution.

Currently, KPERS does not collect positions specific information from employers so we do not know how many positions filled by retirees would have been exempt. In CY 2024, there were about 3,100 total positions in the School group that were filled by a retiree for at least a portion of the year.

In CY 2024, across all KPERS employers (State, School and Local), there were 4,602 retirees were reported as working after retirement.

Actuarial Impact
HB 2194 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).

In FY 2024, all School employers made approximately $9.0 million in working after retirement contributions. The loss of $9.0 million, or likely less, in employer contributions is not enough to have a noticeable impact on plan funding. However, the contributions that are not paid now will have to be paid in the future through additional employer contributions.

The more exemptions that exist, the more potential there is for adverse cost impact to KPERS.

I would be pleased to respond to any questions the Committee has regarding House Bill 2194.