MINUTES
KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM
BOARD OF TRUSTEES

April 27, 2023

The meeting of the Board of Trustees was called to order by Chairperson James Zakoura at 10:02 a.m. on April 27, 2023, in the Retirement System Board Room, Topeka, Kansas.

Board members present:	James Zakoura, Chairperson (Zoom) Ernie Claudel (Zoom) Ron Johnson (Zoom) Steven Johnson (Zoom) Emily Hill (Zoom) Brad Stratton (Zoom) Ryan Trader (Zoom) Jo Yun (Zoom)
Board members absent:	Sam Williams

Chairperson James Zakoura welcomed virtual guests: Melissa Renick and Steven Wu, Kansas Legislative Research Department (Zoom), and all other participants.

Public Comments

There were no public comments.

2023 Approved KPERS Related Legislation Overview and Implementation

Chairperson Zakoura recognized Alan Conroy, Executive Director. Mr. Conroy stated that at the last Board meeting on March 24, 2023, the Board requested to have a Special Board meeting to receive an updated status report and information on KPERS related approved legislation from the 2023 Legislature. The bills that were approved include HB 2100 – Environmental, Social and Governance Investing, which was allowed to become law without the Governor's signature, and HB 2196 – Deferred Retirement Option Program, which was signed into law by the Governor.

House Bill 2100 – Environmental, Social, and Governance Investing

Chairperson Zakoura recognized Alan Conroy, Executive Director. Mr. Conroy stated that HB 2100, approved by the 2023 Legislature defines environmental, social, and governance (ESG) factors. Mr. Conroy stated that Jarod Waltner, Planning and Research Officer, will give an overview of the history of HB 2100; Bruce Fink, Chief Investment Officer, will present an overview of the investment point of view of HB 2100; and Laurie McKinnon, General Counsel, will present the legal implications of HB 2100.

Mr. Conroy introduced Jarod Waltner, Planning and Research Officer. Mr. Waltner stated that HB 2100 as approved by the 2023 Legislature defines Environmental, Social, and Governance (ESG) factors. The bill prohibits the use of ESG when negotiating contracts for any purpose. It limits the Board from granting proxy voting authority without written commitments to act only on the new statutory guidelines. The bill would prohibit state agencies from adopting rules and regulations for ESG purposes. It eliminates the statutory annual reporting on alternative investments to the Joint Committee on Pensions, Investments and Benefits. The bill would also indemnify the Board and KPERS staff from legal action when making decisions in compliance with the new law. HB 2100 was first introduced during the 2022 Legislative Session. The environmental, social, and governance investing limits is a relatively new legislative policy. Three different versions of ESG investing limits bills were introduced during the 2023 Legislature.

The Board of Trustees primary fiduciary duty is to oversee the Trust and to make investment decisions that secure the highest returns with the least amount of risk to provide benefits for KPERS members and their beneficiaries. HB 2100 adds restrictions on any consideration on environmental, social, and governance factors when entering into contracts, including investment management contracts.

The primary fiscal impact expected is based on the proxy voting provisions. The bill will allow KPERS to hire a proxy voting service that will commit in writing to adhere to the new law. KPERS included $915,000 in the fiscal impact estimate for HB 2100 for 1.0 FTE position, and contracting with a proxy voting service, on an annual basis.

Chairperson Zakoura recognized Laurie McKinnon, General Counsel. Ms. McKinnon reviewed the Board of Trustee duties and responsibilities including the Board of Trustees' primary fiduciary duty is to oversee the Trust and make investment decisions that secure the highest returns with the least amount of risk to provide benefits for KPERS members and their beneficiaries. The Board is required to adhere to statutory guidelines, which in HB 2100 adds restriction on any consideration of environmental, social, and governance factors when entering into contracts, including investment management. It also amends the System's investment statute at K.S.A 74-4921 (3) as follows: "No moneys in the fund shall be invested or reinvested if any investment objective is for economic development of social purposes or objectives."

Under the new law, the Board and its investment managers and contractors may not give preferential treatment or discriminate on whether a company meets or fails to meet one or more of the following where the company engages in:

- Eliminating, reducing, offsetting, or disclosing greenhouse gas emissions.
- Instituting or assessing corporate board, employment, composition, compensation, or disclosure criteria that incorporates characteristics protected under state law.
- Divesting from, limiting investment in, or limiting the activities or investments of any company for failing or not committing to meet environmental standards or disclosures.
- Accessing abortion, sex or gender change or transgender surgery.
- Divesting from, limiting investment in, or limiting the activities or investments of any company that engages in, facilitates or supports the manufacture, import, distribution, marketing, advertising, sale or lawful use of firearms, ammunition or component parts and accessories of firearms or ammunition.

The new law provides the Kansas Attorney General with enforcement authority over HB 2100 and any contract subject to the act. If there is reasonable cause to believe a person has engaged in, is engaging in, or is about to engage in a violation, the Attorney General may require the party to file a statement or report in writing, under oath, as to the facts and circumstances of the alleged violation, and file other data and information as the Attorney General may deem necessary. In addition to the remedies available at law or equity, any investment manager or contractor that serves as a fiduciary to the Retirement System that violates provisions of the act shall pay damages to the State in an amount equal to three times all moneys paid to the manager or contractor for their services.

In a cause of action against the Retirement System based on any action, inaction, decision, divestment, investment, report or other determination made in compliance with Act, the State shall indemnify and hold harmless for damages, court costs and attorney fees, and defend the Retirement System and its current or former employees, Board members or officers of the System related to the act or omission on which damages are based.

Chairperson Zakoura recognized Bruce Fink, Chief Investment Officer. Mr. Fink reviewed HB 2100 and discussed the investment implications of the bill. Mr. Fink also described the impact of the bill on the System's investment mandates. He noted that staff will propose updates to the System's Statement of Investment Policy, Objectives, and Guidelines in order to formalize policy relative to the requirements in HB 2100.

Mr. Fink also discussed the impact the bill will have on proxy voting and recommended that the Board explore the possibility of hiring a proxy voting service to vote the System's proxies.

Staff responded to questions regarding the impact of HB 2100.

Chairperson Zakoura moved that the Board of Trustees authorize the Executive Director and the Chief Investment Officer to form a Procurement Negotiating Committee (PNC) for the purpose of conducting a competitive search process, in accordance with Section 14 (D) of the System's Statement of Investment Policy, Objectives and Guidelines, to seek a qualified firm to provide proxy voting services. Trustee Stratton seconded the motion. The motion carried.

House Bill 2196 – Deferred Retirement Option Program and the Transfer of the Kansas Department of Wildlife and Parks Law Enforcement Officers to KP&F

Chairperson Zakoura recognized Alan Conroy, Executive Director. Mr. Conroy stated that Jarod Waltner, Planning and Research Officer, will give an overview of the history of HB 2196; Mary Beth Green, Chief Benefits Officer, will present an overview of HB 2196; and Laurie McKinnon, General Counsel, will present the legal implications of HB 2196.

Mr. Conroy introduced Jarod Waltner, Planning and Research Officer. Mr. Waltner reviewed HB 2196 as approved by the Legislature and signed by the Governor which includes two policy changes:

- Expands the KP&F Deferred Retirement Option Program (DROP) from a pilot group to all KP&F employers and extends the sunset date to January 1, 2031.

- Makes the Kansas Department of Wildlife and Parks (KDWP) an affiliated employer under KP&F and makes certified law enforcement officers at KDWP eligible for KP&F coverage.

A Deferred Retirement Option Program (DROP) is a plan design feature where a member initiates the calculation of a retirement benefit but opts to defer actual receipt of the benefit for a specified period. During this DROP period, the member continues working. The member's benefit is credited to a notional account during the DROP period. At the end of the DROP period, the member receives a lump-sum payment of the DROP account balance.

The 2015 Legislature passed a pilot deferred retirement option program (DROP) for KP&F members starting January 1, 2016. The DROP only applied to troopers, examiners, or officers of the Kansas Highway Patrol. The DROP was given an initial sunset date of January 1, 2020.

In 2019 the DROP was expanded to include agents of the Kansas Bureau of Investigation as eligible participants. The sunset was extended to January 1, 2025.

KP&F members and their employer must agree on participation in the DROP. A member can enter the DROP when eligible for normal (unreduced) retirement. The member elects to continue working for a 3, 4, or 5-year DROP period. The member has an opportunity to extend their initial election to a maximum of 5 years. No additional benefits are earned by the member upon entering DROP. At the end of the DROP period, the member receives a lump sum of the accumulated balance in the DROP account, which includes the accrued benefit payments and interest.

HB 2196 makes the Kansas Department of Wildlife and Parks (KDWP) an affiliated employer under the KP&F plan on July 1, 2023. Certified law enforcement officers in the parks, law enforcement, and public lands divisions are defined as eligible for KP&F coverage for future service. KDWP is required to pay $2.7 million in unfunded actuarial liabilities for KPERS benefits earned by the group of impacted employees.

KDWP reported there are currently 167 positions that will become eligible for KP&F coverage for future service. Approximately $9.8 million in total payroll for moving from KPERS to KP&F. The impacted members will keep their KPERS existing service until July 1, 2023. After that date they will earn KP&F service.

KDWP employer contributions will increase by about $1.0 million FY 2024 because of the higher KP&F employer contribution rate.

- The FY 2024 KPERS employer contribution rate is 12.57%.
- The FY 2024 KP&F employer contribution rate is 22.86%.

HB 2196 requires KDWP to pay the $2.7 million unfunded actuarial liability that remains in KPERS after the positions move to KP&F. The payments can be made in level-dollar payments over 20 years or as a one-or two-payment tranche.

The Governor included $1.5 million in a Governor's Budget Amendment for the first payment with the intent to recommend the remaining balance in her Fiscal Year 2025 budget recommendation.

Since KDWP is paying the full actuarial required contribution, no actuarial costs are expected.

Chairperson Zakoura recognized Mary Beth Green, Chief Benefits Officer. Ms. Green reviewed the DROP expansion implementation of the two provisions in HB 2196. The number of employers participating in DROP increases from two state agencies to an estimated 135 cities, counties, fire districts and state agencies. Appointing authority signs initial DROP application forms to acknowledge member's DROP participation.

The number of members eligible for future DROP participation increases from approximately 550 to nearly 8,000 members. Approximately 540 to 600 members will become eligible on the effective date of April 27, 2023. A projection of another 350 to 450 will become eligible within next two years.

The KPERS Communication team has been working to update and distribute the DROP brochures to employers and will be announcing Webinars for the employers and members.

Benefits and Member Services will provide educational services in group webinars, individual phone, in-person, and virtual counseling. Establishing dedicated email box handled by experienced staff. The tentative dates for the first webinars are May 2, 3, and 5, 2023.

The Information Technology (IT) team is assisting with improvements to displays, calculations and accounting codes, and to implement the new sunset date of January 1, 2031. IT will be assisting on a few changes to improve the functionality when DROP accounts are paid out to members. IT will also be developing a new DROP calculator for the Member Web Portal.

KPERS will send an announcement email (or emails) to KDWP to forward to employees explaining the change. Given the diverse locations and schedules of the members, KDWP prefers virtual webinars and group counseling. Webinars will be provided on various days and times. KPERS will provide individual phone, in-person and virtual counseling on demand and establish dedicated email box handled by experienced staff. Also, KPERS will provide information and training to KDWP Human Resources staff, which will be tailored to KDWP's needs and preferences.

KPERS will work with KDWP staff to enroll members in KP&F and end participation in KPERS and begin new member and employer contribution rates. Staff will collect and document information on accumulated sick and annual leave at the transfer for pre-1993 members. HB 2196 provides such amounts shall be included in eventual final average salary calculations. Implement special HB 2196 provision for those who do not become vested in KP&F may have service after June 30, 2023, considered as KPERS service at retirement. Because KP&F members do not have basic life insurance coverage, there will be special enrollment opportunity for up to $250,000 of optional life insurance without medical underwriting. KP&F death and disability benefits are part of the retirement benefit plan design, not a separate program like KPERS.

Chairperson Zakoura recognized Laurie McKinnon, General Counsel. Ms. McKinnon reviewed the legal considerations of HB 2196. The Deferred Retirement Option Program (DROP) statutes provide constructive guidance on the operation of the program. The decision for a member to enter the DROP plan is a decision made between the employer and employee.

The Legal Department will assist with the implementation of HB 2196 and whatever issues arise from both employers and members.

Staff responded to questions.

Other Business

No other business was discussed.

Board Self Evaluation

There was no further discussion.

Trustee Claudel moved that the meeting be adjourned. Trustee Trader seconded the motion. The meeting adjourned at 11:40 a.m.