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**Testimony to the House Commerce, Labor and Economic Development Committee
Opposing HB2426
April 11, 2015**

Chairman Hutton and Committee Members,

It is our understanding this bill is intended to apply to regular KPERS and not to KP&F members. Based on that premise, our interest in this bill is on behalf of the 77% of law enforcement agencies employing about one-third of the law enforcement officers in Kansas who are members of regular KPERS. These are officers predominantly in small agencies located in rural Kansas. In addition, all non-enforcement personnel are members of regular KPERS and also will be adversely effected by this bill if they entered the system prior to July 1, 1993.

We need to point out that we believe the current provisions of section 2 of the bill do apply to KP&F, presumably unintentionally. This is based on the amendments to KSA 74-4902 on page 3, lines 33-41, which we believe apply to KP&F since this the KP&F definitions in KSA 74-4951 do not include a different definition for “compensation” in the KP&F plan. When a different definition is not in statute applicable to the KP&F plan, the definition in KSA 74-4502 applies (see page 1 lines 30-32). **We respectfully request this be remedied if the committee chooses to move this bill forward.**

One point of our opposition to this bill is the removal of the current provision allowing employees entering the system prior to July 1, 1993, to include compensation for accrued time owed by the employer in the calculation of their final average salary. In the early 90’s changes were made to the plan and a legislative decision was made to continue the existing final average salary calculation methodology for existing employees. It is our understanding this decision was made in consideration of case law protecting contractual rights of the employees the courts established existed in the KPERS statutes. We believe that earlier consideration was well founded and should not be changed at this late stage of the effected employee’s careers. The fiscal note indicating the reduced cost to the retirement system is a statement of the reduction in benefits these employees will receive under this bill, a reduction from what they have been told since the date of their employment would be available to them when they retire.

There are a few points we would also like to emphasize relevant to this process. The pool of employees the bill will effect is a diminishing number which over time will reach zero. If this bill were to result in a large number of unanticipated retirements in the next few months, the financial impact on employers could be substantial as accrued time and other retirement expenses are encountered at a greatly accelerated rate during the current fiscal year with no opportunity to plan for such additional expenses. A provision already is in place that was designed to limit the cost to the KPERS system for large “bumps” in compensation. That is found at the bottom of page 2 and top of page 3 in current law which requires the employer to pay the actuarial costs if the compensation is raised by more than 15% during two consecutive years of service in substantially the same position.

For law enforcement, the impact of this bill will be felt most directly on the smaller agencies of rural Kansas. These are agencies who already struggle to hire and retain officers. The process of replacing retiring officers will hit these agencies during the fiscal year in which budgets are already established.

Another point of our opposition is found on page 1, lines 11 and 12 which limit the accrual of local employee's vacation leave. This provision has nothing to do with the final average salary calculation but merely dictates local policy which should be left to local elected officials to decide based on their constituents desires. Consideration must also be given to existing contracts, both written and implied, between these local employers and their employees. It is lines 14-18 that limit the application of the accrued leave time in the final average salary calculation to a maximum of 240 hours. **We strongly urge you to strike the provisions in lines 11-12 which limits accruals for local employees to 240 hours**, if you proceed with this bill.

Potential conflicts in the bill include the provision on page 1, lines 14-18 which allows application of vacation time in excess of 240 hours as of July 1, 2015, in the final average salary calculation and the provisions on page 3 lines 33-37 which appear to prohibit the use of time earned prior to July 1, 2015. Another potential point of clarity appears on page 3, lines 39-41. Does this prohibit the employer from paying the accruals based on the wages at the time they are paid by requiring the payment at the July 1, 2015 rate? Or, is the intent to only credit the hourly rate as of July 1, 2015, toward the final average salary calculation regardless of the rate actually used to pay the employee owed for the time. To require the local employer to compensate the employee at a lower rate could result in the local governing body violating legal contractual obligations with their employees.

The listed reduction of the UAL in the fiscal note is only a fraction of one percent of the UAL. The savings to the state in employer payments appears to not be changed according to the fiscal note, and the reduction in local payments is small. **We encourage you to not move this bill forward and leave the current conditions for the calculation of final average salary for those entering the system prior to July 1, 1993, unchanged.**

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HB2426 Speaking Points
House Commerce, Labor, and Economic Development Committee
May 11, 2015

The following were points I added to the written testimony when I spoke to the committee:

KPERS vs KP&F

1/3 of Kansas LEO and 77% of LE Agencies are under regular KPERS, not KP&F

LE in KPERS are generally the lowest paid officers and are in rural areas of the state.

Difficult to understand from the bill who is being targeted: KP&F; KPERS; Pre-1993 members; post-1993 members.

Proponent comment that this bill “takes nothing away” from anyone.

Well. . .yes it does. It changes the rules of an existing retirement plan and decreases employee benefits.

The 1993 split was created to avoid the constitutional issue of the state breaking the “contract” the system represents between employees and employers regarding retirement.

The Pre-1993 pool of employees is a finite number of members that shrinks about 10% each year.

This bill, if passed, will result in a large number of unanticipated retirements.

This is difficult for employees who are nearing retirement and have built their plans around existing rules.

It is difficult on local agencies who will have to pay off accruals for more retirees than they anticipated.

Most importantly for public safety employees, it will remove a large number of experienced law enforcement officers and firefighters.

With experience comes a measure of safety by recognizing developing situations quicker; a calmer approach as by the time you are reaching retirement age in our profession you have seen enough that nothing gets you too excited (other than being shot, a roof of a burning building collapsing from under your feet, or messing with our safety or retirement).

We need this experience to mentor the younger officers.

What this bill will save is a very small part of the UAL, probably less than ½%