



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

June 8, 1976

ATTORNEY GENERAL OPINION NO. 76- 172

Mr. John K. Corkhill
Executive Secretary
Kansas Public Employees Retirement System
400 First National Bank Tower
One Townsite Plaza
Topeka, Kansas 66603

Re: Senate Bill 994

Synopsis: Senate Bill 994 provides that the date of participation in the regent's plan for all individuals so electing is August 18, 1976, and that no matching amounts will be provided for lump sum payments to KPERs.

* * *

Dear Mr. Corkhill:

You have asked our opinion regarding two questions related to Senate Bill 994 enacted by the 1976 session of the Kansas legislature. This legislation was effective upon publication in the official state paper and has been in effect since April 19, 1976.

Your first question relates to the date participation in the retirement plan established by the State Board of Regents under the authority of K.S.A. 1975 Supp. 74-4925 commences. As amended by Senate Bill 994 K.S.A. 1976 Supp. 74-4925(5)(b) provides that participation for such individuals who elect under the above legislation will be effective August 18, 1976. You have advised us that all employees entitled to make such election are not covered under the state's regular payroll system which runs from the 18th of the month to the 17th of the month and, in fact, some are paid on a calendar month basis and some are paid bi-weekly. The Board of Regents, personnel officers of the various institutions, Division of Accounts and Reports and KPERs staff have advised that if this could be construed as meaning the beginning of the payroll period for the fall

John K. Corkhill
Page Two
June 8, 1976

academic year certain problems in "splitting the payroll" for various deductions would be greatly simplified. While we can sympathize with the administrative problems involved, the language is clear and unambiguous and in our opinion can mean no other commencement date other than August 18, 1976, for all employees who elect to participate in the regents' plan under the provisions of Senate Bill 994.

Your second question regards the transfer of monies from the Kansas Public Employees Retirement Fund to the Board of Regents plan for all employees who elect to transfer to that plan under the provisions of Senate Bill 994. K.S.A. 1976 Supp. 74-4925(5)(c) provides in part for such individuals who elect participation:

"...there shall be transferred on or after August 18, 1976, from the Kansas public employees retirement fund to such plan an amount equal to the sum of (i) the amount of the accumulated contributions which have been credited to the account of such employee with the Kansas public employees retirement system plus (ii) an amount equal to that actually contributed by such employee to said system."

There is no question that the legislation provides under the provisions of (i) all amounts credited to the employee's individual account on August 17, 1976. The question which you have posed regards an interpretation of the phrase "actually contributed" which appears in part (ii).

At first blush it would appear that such language would be the sum of the member's accumulated contributions less all interest which has been credited to the individual member's account. This would mean that matching funds would be provided for not only the employee contributions but all lump sum payments which have been made by individuals or which might be made by individuals prior to August 18, 1976.

We have examined the provisions of K.S.A. 74-4919, K.S.A. 74-4919a through 74-4919i and 74-4936a and the amendments thereto. It appears that therein the legislature provides for member contributions in three instances; K.S.A. 74-4919, K.S.A. 74-4919c and K.S.A. 74-4919h. These member contributions are at the rate of 4% of compensation in 74-4919 and in the latter two statutes at the rate of 8% of compensation. All other provisions for receiving service credit and payment of money by members specifically calls for single lump sum payments of a specified amount as determined in various circumstances.

John K. Corkhill
Page Three
June 8, 1976

In addition, we have examined the material which your actuary supplied which was the basis of the fiscal note provided the legislature at the time of their consideration of Senate Bill 994. It is our understanding that this information provided to the legislature contemplated that there would be no cost to the state involved in the transfer of individuals from KPERS to the regents' plan because the state's matching funds would apply only to actual contributions made by the members and that the state would have already made contributions at the same time as the employee contributions were received.

While the luxury of hindsight would suggest that a somewhat more precise expression of this intention might have been incorporated into the language of the bill, it is our opinion that the legislature used the term "actually contributed" for a definite purpose, and that it applies only to employee contributions as set out in K.S.A. 74-4919 as 4% of compensation; K.S.A. 74-4919c as 8% of compensation and K.S.A. 74-4919h as 8% of compensation. Any lump sum payments for service credit should be excluded from the calculation of the amount of state matching funds to be transferred on behalf of members of KPERS electing to transfer to participation in the retirement plan of the State Board of Regents.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:MC:bg