



STATE OF KANSAS

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September 16, 1988

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ATTORNEY GENERAL OPINION NO. 88-135

The Honorable Kenneth W. Green
State Representative
327 Marmaton
El Dorado, Kansas 67042

Re: State Boards, Commissions and Authorities -- Public
Employees Retirement Systems; Kansas Public
Employees Retirement System -- Retirement Date;
Service After Retirement; Amendment by 1988
Legislature

Synopsis: L. 1988, ch. 302, § 6 does not pertain to KPERS
members who retired before July 1, 1988. Members
who retired on or after July 1 of this year may be
employed by a KPERS participating employer for up
to thirty days in the calendar year with no
restrictions or requirements. There are also no
restrictions on KPERS members who retired on or
after July 1 of this year and are employed as
substitute teachers or are officers, employees,
appointees, or members of the legislature. KPERS
participating employers which employ members who
retired on or after July 1, 1988 in any capacity
other than those specifically exempted for more
than thirty days in the calendar year are required
to reimburse the retirement system for the
retirement benefits paid to the member while the
member is re-employed. Cited herein: K.S.A. 1987
Supp. 74-4914, as amended by L. 1988, ch. 302, §
6.

* * *

Dear Representative Green:

As State Representative for the seventy-fifth district, you request our interpretation of an amendment made by the 1988 legislature to a statute concerning the Kansas Public Employees Retirement System (KPERS). In 1988 House Bill No. 2838 the legislature added the following provision to K.S.A. 1987 Supp. 74-4914 pertaining to the date of retirement:

"(6) If a retirant who retired on or after July 1, 1988, is employed, elected or appointed in or to any position or office for which compensation for service is paid by a participating employer for a period of more than 30 days in any one calendar year, such participating employer shall pay to the system, in such form and manner prescribed by the board, an amount equal to the retirement benefits made to or on behalf of such retirant. Upon request of the executive secretary of the system, the secretary of revenue shall provide such information as may be needed by the executive secretary to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers or officers, employees, appointees or members of the legislature." L. 1988, ch. 302, § 6.

Concern has been raised that the above amendment prohibits teachers who retired after July 1, 1988 from holding a job with an employer who participates in the retirement system.

School districts as employers are eligible to participate in KPERS. Members of KPERS who retired before July 1 of this year may become re-employed with no restrictions as to the employer or employee. KPERS members who retired on or after July 1, 1988, however, are subject to the statutory amendment cited above.

We believe the language in L. 1988, ch. 302, § 6 is clear. Persons who retired on or after July 1, 1988 are not prohibited from being employed. Rather, participating employers who employ KPERS members who retired on or after July 1 for more than thirty days in the calendar year are required to reimburse KPERS for all benefits paid to the

retirant while he or she is re-employed. The re-employed retired person will continue to receive benefits. Teachers are not treated any differently than other KPRS members. However, the amendment does not apply to retirants employed as substitute teachers. Retirants employed as officers, employees, appointees or members of the legislature are also exempt from the new provision.

The effect of L. 1988, ch. 302, § 6 is summarized as follows: The amendment does not pertain to KPERS members who retired before July 1, 1988; members who retired on or after July 1 of this year may be employed by a KPERS participating employer for up to thirty days in the calendar year with no restrictions or requirements; there are also no restrictions on KPERS members who retired on or after July 1 of this year and are employed as substitute teachers or are officers, employees, appointees, or members of the legislature; KPERS participating employers which employ members who retired on or after July 1, 1988 in any capacity other than those specifically exempted for more than thirty days in the calendar year are required to reimburse the retirement system for the retirement benefits paid to the member while the member is re-employed.

Very truly yours,



ROBERT T. STEPHAN
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