ESTABLISHED 1960

LETTER TO KENTUCKY LEGISLATORS
FROM MEMBERS OF
KENTUCKY ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

November 21, 2014

Dear Senator/Representative:

You may have heard discussion of an issue – referred to as "spiking" – during one of the many recent conversations regarding Kentucky's retirement systems.

This issue comes from KRS 61.598, which requires employers to pay actuarial costs, resulting from certain increases in creditable compensation, to the Kentucky Employees Retirement System. The statute impacts employers of participants retiring after January 1, 2014 who experienced an annual increase in compensation in excess of 10% in any of the last five fiscal years of employment, unless the increase was due to a bona fide promotion or career advancement.

Kentucky public school districts recently began receiving notices of additional actuarial costs due to spiking. There are three immediate areas of concern impacting districts, the first two of which may actually be unintended consequences of the legislation.

First, employees who experience a reduction in compensation can trigger an assessment when they return to their normal pay in the following year. For example, if an employee is off work due to the Family Medical Leave Act, worker's compensation or other situations, they could have a reduction in pay for an extended time period. When that employee returns to their normal position and normal compensation in the following year, the employer may face an additional assessment, if there is a pay difference of greater than 10% upon return.

Second, KRS 61.598(3)(b) affords governmental agencies a spiking exemption for "lump-sum payments for compensatory time paid to an employee upon termination of employment". School district lump-sum payments at retirement are in the form of sick leave payouts, which unlike compensatory time are not exempted from spiking determination. Districts participating in the retirement system's alternate sick leave program are now experiencing assessments.

Finally, it is important to note that Kentucky public school districts face various employment challenges that are unique, as compared to other governmental agencies. In most school districts, bus drivers work four hours daily transporting students to and from school. Those same employees drive on field trips, athletic trips and other extra trips, as required. Fluctuations in extra trips have resulted in many of the pension spiking determinations. Districts are in a very difficult situation since bus driver positions, with their unusual work schedule, are often very difficult to fill. Denying senior drivers the opportunity for the extra trips to avoid spiking creates additional problems.

We, the undersigned, are grateful for your support of Kentucky public education and would appreciate your consideration in amending KRS 61.598 to address these concerns, which negatively impact school districts, taxpayers and students of the Commonwealth of Kentucky.