

61.5955 Election by member participating in KERS, CERS, or SPRS on or after September 1, 2008, but before January 1, 2014 -- Participation in hybrid cash balance plan -- Private letter ruling -- Administrative regulations -- Restriction.

Notwithstanding any provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary:

- (1) Subject to the provisions of this section, any member who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System on or after September 1, 2008, but prior to January 1, 2014, may in lieu of the benefits he or she is currently eligible to receive from the systems, elect to receive the benefits and rights provided to members who began participating in the systems on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to KRS 61.597 or 78.5512 for members in nonhazardous duty positions or pursuant to KRS 16.583 or 78.5516 for members in hazardous duty positions, as applicable;
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Kentucky Public Pensions Authority and shall apply to all service or accounts in the Kentucky Retirement Systems or the County Employees Retirement System;
- (3) For each member who makes an election provided by this section:
 - (a) Any service credit the member has accrued prior to January 1, 2014, shall be considered as service credit earned on or after January 1, 2014, for purposes of determining benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;
 - (b) On the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account as provided by KRS 16.583, 61.597, 78.5512, or 78.5516, as applicable, and considered part of the member's accumulated account balance;
 - (c) On the member's effective election date, an employer pay credit as provided by KRS 16.583, 61.597, 78.5512, or 78.5516, as applicable, shall be added to the member's accumulated account balance for each month the member contributed to the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to his or her effective election date; and
 - (d) Interest credits as provided by KRS 16.583, 61.597, 78.5512, or 78.5516, as applicable, shall only be applied for periods occurring on or after the member's effective election date;
- (4) Before accepting an election provided by this section, the Kentucky Public Pensions Authority shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable;
- (6) (a) A member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall not be eligible to make an election prescribed by this section until

the Kentucky Retirement Systems receives a favorable private letter ruling from the Internal Revenue Service regarding this section.

- (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
 - (c) The Kentucky Public Pensions Authority may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section; and
- (7) This section shall not apply to retirees who were reemployed on or after September 1, 2008, and who are not eligible to participate in the systems during reemployment.

Effective: April 1, 2021

History: Repealed and reenacted 2021 Ky. Acts ch. 102, sec. 44, effective April 1, 2021. -- Amended 2018 Ky. Acts ch. 107, sec. 38, effective July 14, 2018. -- Created 2017 Ky. Acts ch. 125, sec. 6, effective March 27, 2017.

Legislative Research Commission Note (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.