

61.680 Consent of employees to deductions -- Consolidation for determination of eligibility and determination of benefits -- Waiver -- Choice among retirement systems -- Reciprocal arrangements.

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his or her compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:
 1. Upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, including those members who participate in the hybrid cash balance plan within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, on or after January 1, 2014, and regardless of the transition of administration of the County Employees Retirement System to the County Employees Retirement System board of trustees;
 2. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits;
 3. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system;
 4. If the member has prior service in more than one (1) system administered by Kentucky Retirement Systems, he or she shall obtain at least twelve (12) months' current service in each system in which he or she has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this subsection; and
 5. Upon the determination of benefits, each system shall pay the applicable amount of benefits due the member.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
 1. Notifies the system of his or her desire to maintain separate

retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System; or

2. Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.
 - (c) If the member has not contributed at least one (1) year in a system in which he or she has prior service, his or her current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3)
 - (a) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him or her to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he or she is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his or her membership.
 - (b) Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.
 - (c) A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4)
 - (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the

Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his or her election and participate in the system under which his or her position would normally participate, if he or she elects to cancel his or her option prior to January 1, 1977.
 - (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his or her term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his or her term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his or her employee contributions, service credit and employer contributions made on his or her behalf are being transferred to the other retirement system shall contribute to the system in which his or her employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he or she elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) (a) Except as provided by KRS 61.545(3)(b)2., any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his or her wages and contributions consolidated and his or her retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (b) The provisions of this subsection shall not apply to an individual serving as a volunteer who is receiving compensation from the employer equal to or less than a nominal fee as defined by KRS 61.510 and 78.510 if the compensation paid to the volunteer is excluded from the definition of

creditable compensation as provided by KRS 61.510(13) or 78.510(13).

- (7) (a) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his or her actual service credit in each system in which he or she has service credit when his or her combined service credit in all the systems, plus any service credit he or she has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
- (b) Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky Retirement Systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

Effective: April 14, 2022

History: Amended 2022 Ky. Acts ch. 216, sec. 29, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 96, sec. 10, effective June 29, 2021; and ch. 102, sec. 70, effective April 1, 2021. -- Amended 2018 Ky. Acts ch. 107, sec. 29, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 32, sec. 16, effective June 29, 2017. -- Amended 2013 Ky. Acts ch. 120, sec. 67, effective July 1, 2013. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 22, effective June 27, 2008. -- Amended 2008 Ky. Acts ch. 78, sec. 1, effective July 1, 2008. -- Amended 2006 Ky. Acts ch. 52, sec. 5, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 86, sec. 9, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 52, sec. 13, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 385, sec. 25, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 19, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 240, sec. 46, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 351, sec. 2, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 111, sec. 42, effective July 13, 1984. -- Amended

1982 Ky. Acts ch. 166, sec. 8, effective July 15, 1982; ch. 326, sec. 15, effective July 1, 1982; and ch. 458, sec. 3, effective April 15, 1982. -- Amended 1980 Ky. Acts ch. 186, sec. 15, effective July 15, 1980; and ch. 188, sec. 19, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 321, secs. 30 and 40. -- Amended 1974 Ky. Acts ch. 128, sec. 29. -- Amended 1972 Ky. Acts ch. 116, sec. 56. -- Amended 1964 Ky. Acts ch. 86, sec. 7. -- Amended 1960 Ky. Acts ch. 165, Part II, sec. 16. -- Created 1956 Ky. Acts ch. 110, sec. 35.

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.