

**CHAPTER 484****(HB 636)**

AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the ... UrbanCounty Government";
- (2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;
- (3) "Department" shall mean the police department or the fire department of a government;
- (4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;
- (5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;
- (6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urbancounty government, for salary or compensation, or service otherwise creditable as herein provided;
- (7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (9) "Total service" shall mean prior service, membership service, and ***service credit purchased by a member as provided in Section 2 of this Act***~~{military service}~~;
- (10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;
- (11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;
- (12) "Occupational death" shall mean death due to occupational causes, including, but not limited to, injury or disease;

- (13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);
- (14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;
- (15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;
- (16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;
- (17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;~~and~~
- (18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of *human resources*~~personnel~~" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described; *and*
- (19) *"Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" may include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government.*

Section 2. KRS 67A.402 is amended to read as follows:

- (1) (a) *Except as otherwise provided in paragraph (b) of this subsection, any member who has at least five (5) years of total service credit as a member of the fund may purchase service credit, that is not otherwise purchasable, for up to a maximum of four (4) years of service. The member shall not be entitled to purchase any service credit for which he has been given credit in another defined benefit retirement fund; however, the member may purchase government service credit by transferring funds directly from another public defined benefit retirement plan if the member provides proof that he is not eligible for a retirement benefit from the other public defined benefit retirement fund*~~[was honorably discharged from any branch of the armed services of the United States may purchase service credit for up to a maximum of four (4) years of active military service within five (5) years from July 15, 1990, or from the date he becomes a member of the fund, whichever occurs later].~~
- (b) *Any provision of law to the contrary notwithstanding, no service credit purchase under this subsection shall be counted toward the accrual of a health or other medical insurance retirement benefit in this retirement system.*
- (2) A member who purchases service credit~~[for military service]~~ shall *file an application with the board within the five (5) year period. The member shall* pay to the fund~~[in a lump sum one hundred percent (100%) of]~~ an amount which shall be determined by actuarial method

consistent with the methods prescribed for determining the purchase of prior service credit *which shall be the principal*.

- (3) *Payment of the principal shall be made in a lump sum or payment of the principal and interest may be made by installments. Interest, at the annual rate of return on investments of the fund for the preceding year, shall be established by the commissioner of finance on or before August 31 of each year and shall be based on financial statements of the fund for the year ending June 30, except that the interest shall not be less than three percent (3%). Interest shall be added to the principal for the time period for which installments are to be made.*
- (4) *If payments are made by installment, the cost of purchasing the service credit shall be recalculated annually based upon the member's current salary, the interest rate established by the commissioner of finance, and other factors required by the actuarial method. The member's payments shall be adjusted annually to reflect the annual recalculation of the cost of purchasing service credit. Installment payments shall be consecutive and the total number of monthly installments shall not be less than twelve (12) or more than two hundred forty (240). The member shall pay the installments by payroll deduction.*
- (5) *Payments shall not be considered accumulated contributions of the member and shall not be picked up by the urban-county government. No employer contribution shall be paid on the installments. The board shall determine how much of the total cost represents payment for one (1) quarter of the service to be purchased and the member shall receive service credit for one (1) quarter of the service each time this amount is paid.*
- (6) *If the member dies, retires, or ceases to be a member of the fund before he has made all installment payments for the purchase of service credit, the fund shall refund to the member, his qualified surviving spouse, or his estate, the portion of any payment that does not represent a full quarter of service.*
- (7) *A member who does not repay a refund of contributions, as provided in subsection (3) of Section 6 of this Act, shall be entitled to purchase service credit for prior membership service.*
- (8) *The member may cancel a purchase obligation at any time, but once canceled, a member shall have forever forfeited, waived, and relinquished the right to purchase service credit.*

Section 3. KRS 67A.430 is amended to read as follows:

- (1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service ~~up to and including thirty (30) years, subject to a maximum of seventy five percent (75%) of average salary~~. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than \$100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).
- (2) Any retiree or surviving spouse who as of January 1, 1996, is receiving a monthly annuity of less than the amount established as the poverty guideline for a single person by the United States Department of Commerce shall have the pension increased to the amount established as the poverty guideline for calendar year 1996, and the board may increase this annuity as provided by KRS 67A.690(1).

Section 4. KRS 67A.460 is amended to read as follows:

- (1) If a total and permanent occupational disability occurs, the member shall receive an annuity calculated pursuant to subsection (2) of this section. This benefit shall begin at the time his salary ceases, and shall be paid during his entire lifetime. At the member's death, his eligible widow, if any, shall receive the benefits as provided under KRS 67A.492, and his minor children, if any, shall receive benefits as provided under KRS 67A.440.
- (2) The minimum annuity rate for a total and permanent occupational disability shall be sixty percent (60%) of the member's last rate of salary. The minimum rate shall be increased by one half (1/2) of the amount by which the member's percentage of disability exceeds twenty percent (20%), but this increase shall be not more than fifteen percent (15%) of the member's last rate of salary and the member's total annuity shall not be greater than seventyfive percent (75%) of his last rate of salary.
- (3) The member's percentage of disability shall be the average of the impairment rating determined by two (2) physicians selected by the board under KRS 67A.480, using the latest edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment".
- (4) *If a member is eligible for a service retirement annuity under KRS 67A.410(1) or (2) and the amount of his service retirement annuity would exceed the amount of his total and permanent occupational disability annuity, as determined by the board under this section, then the member may elect to receive an additional service retirement annuity payment equal to the amount by which his service retirement annuity would have exceeded the amount of his total and permanent occupational disability annuity, in addition to his disability annuity, by filing with the board the application required by KRS 67A.410. A member who is eligible for a certificate entitling him to a service retirement annuity under KRS 67A.410(2) shall not be eligible to receive this additional service retirement annuity payment until he attains the age of forty-six (46).*

Section 5. KRS 67A.492 is amended to read as follows:

- (1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving widow must have been married to the member for at least **one (1) year prior to the member's death or** six (6) months prior to **the member's** retirement in order to be eligible for the benefits provided in this section.
- (2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:
  - (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.
  - (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance

continued at the same rate after his death to his eligible widow until her death or remarriage.

Section 6. KRS 67A.500 is amended to read as follows:

- (1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member or picked up by the urban-county government pursuant to KRS 67A.510(2) after the date of establishment, without interest. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.
- (2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.
- (3) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under *KRS 67A.360 to 67A.690* ~~the provisions hereof~~. ***Any member who is reemployed after withdrawing from service and who received a refund of contributions shall, within ninety (90) days of his reemployment or prior to retirement, whichever occurs first, [After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to] make a repayment to the system of the amount or amounts previously received as a refund, including [six percent (6%)] interest at the rate determined by the board to be the actual rate of return on investments made by the board, but not less than three percent (3%) per annum, from the dates of the refund to the date of repayment, compounded annually. Upon the restoration of such refunds, [as herein provided,] such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service, with interest, and shall be made in a single lump sum payment. [Such] Repayments shall not be picked up by the urban-county government. If repayment is not made within the specified time period, the member shall have forever forfeited, waived, and relinquished the right to have reinstated to his account the credited service represented by the refunds for which repayment was not made, but shall not be precluded from purchasing service credit as provided in Section 2 of this Act.***
- (4) Any member who has received, or who is entitled to receive, a refund, but who within six (6) months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions, including those picked up pursuant to KRS 67A.510(2), and service under his original fund.

Section 7. KRS 67A.530 is amended to read as follows:

- (1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***twelve (12)*** ~~eleven (11)~~ members, consisting of the mayor, the commissioner of public safety, the commissioner of finance, the director of ***human resources*** ~~personnel~~, ***two (2)*** ~~one (1)~~ retired ***members*** ~~member~~ of the fund, the chiefs of the police and fire department, and two (2) active members of each department,

who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing such department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

- (2) The retired fund ~~members~~~~member~~ shall be selected by retired fund members by ballot to serve ~~[a]~~ two (2) year ~~terms~~~~term~~. ***One (1) retired fund member shall be a retired fire department member, and the other shall be a retired police department member.*** Retired fund members *of a department* shall submit the names of at least three (3) nominees *from their department* to the pension board not less than three (3) months before the term of office is due to expire. ~~[For the term beginning October 15, 1990, names of nominees shall be submitted to the pension board by no later than July 15, 1990.]~~ The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former ~~department~~~~position~~ of each of the ~~three (3)~~ candidates. Retired fund members shall vote for one (1) candidate *from each department* by marking a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board. In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.
- (3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban-county form of government shall retain his office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.

Section 8. KRS 67A.560 is amended to read as follows:

- (1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president shall serve as president in the absence of the president.
- (2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits, and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.
- (3) The commissioner of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed

by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

- (4) The commissioner of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.
- (5) The commissioner of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the pension fund.
- (6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of *urban-county*~~[city]~~ contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service, and other essential factors. *Beginning July 1, 2000, and* at least once every *two (2)*~~[three (3)]~~ years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost-of-living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the Circuit Court of any county in which the government is located.
- (7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

**Approved April 21, 2000**