

CHAPTER 155

(HB 574)

AN ACT relating to the use of a divided referendum for determining Social Security coverage.

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

Section 1. KRS 61.435 is amended to read as follows:

- (1) In order for any service performed by an employee in a position covered by a retirement system to be included in an agreement as permitted by KRS 61.430, a ***referendum pursuant to Section 218(d)(3) or Section 218(d)(7) of the Social Security Act shall be held***~~[majority of the members of the retirement system must vote in the affirmative]~~ on the question of whether the service covered by the retirement system should be included in the agreement. The procedure for obtaining the vote of the members of the retirement systems shall be as follows:
 - (a) Upon request of the political subdivision concerned, the Governor shall authorize a referendum within the retirement system concerned and designate an agency or individual to supervise the manner of conducting it;
 - (b) Any referendum shall be conducted in accordance with the requirements of Section 218 (d) (3) ***or Section 218(d)(7)*** of the Social Security Act;
 - (c) ***In the case of a referendum authorized under Section 218 (d)(6) of the Social Security Act, the retirement system will be divided into two (2) parts or divisions. One (1) part or division of the retirement system shall be composed of positions of those members of the system who desire coverage under the agreement as permitted by KRS 61.430. The remaining part or division of the retirement system shall be composed of positions of those members who do not desire coverage under such an agreement. Each part or division shall be deemed to be a separate retirement system for the purposes of Section 218 (d) of the Social Security Act. The positions of individuals who become members of the system after such coverage is extended shall be included in the part or division of the system composed of members desiring the coverage, with the exception of positions that are excluded in the agreement***~~[The votes shall be cast in secret on written ballots;~~
 - (d) ~~An opportunity to vote shall be given only to those employees who occupied positions covered by the retirement system, and were members of the system, on the date upon which the notice of referendum was given and on the date upon which the referendum was held; and~~
 - (e) ~~Notice that the referendum is to be conducted shall be given to every member of the retirement system at least ninety (90) days before the date the referendum is held].~~
- (2) Upon receiving satisfactory evidence that the conditions specified in this section and Section 218 (d) (3) ***or Section 218(d)(7)*** of the Social Security Act have been fulfilled, the Governor or any agency or individual designated by ***the Governor***~~[him]~~ shall so certify to the commissioner.
- (3) For purposes of this section, in any case where a retirement system covers the employees of two (2) or more political subdivisions, or of the Commonwealth and one or more political subdivisions, there are deemed to exist separate retirement systems with respect to the

Commonwealth or each political subdivision. Also for purposes of this section, where a retirement system covers the employees of one or more of the state universities or of one or more of the public junior colleges or of any combination of state universities there shall be deemed to exist separate retirement systems with respect to each state university and each public junior college.

Approved April 2, 2002