

CHAPTER 52

(SB 51)

AN ACT relating to public employees.

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

Section 1. KRS 156.026 is amended to read as follows:

- (1) For purposes of this section, full-time service in a local school for not less than one hundred forty (140) days during the school year entitles an employee who transfers to the Department of Education to a full year of experience credit on the Personnel Cabinet pay schedule and a full year for the purpose of accumulation of annual leave and sick leave in the Department of Education.
- (2) An employee of a local school district who transfers to become an employee of the Department of Education after June 30, 1983, shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(4)~~(3)~~. The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining salary in accordance with the current Personnel Cabinet pay schedule, and the rate of accumulation of annual and sick leave in the Department of Education.
- (3) For purposes of determining eligibility for additional leave or other benefits based on longevity of service, an employee transferring from a school district to the Department of Education after June 30, 1983, shall be given credit for each year of service in the school district, as determined under subsection (1) of this section.

Section 2. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
 - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
 - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
 - (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in-law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;~~and~~
 - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days;
and
 - (e) ***"Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.***
- (2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal affidavit or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4)~~(3)~~ of this section.
- (3) ***A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the***

teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:

- (a) *The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;*
 - (b) *The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;*
 - (c) *The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;*
 - (d) *The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and*
 - (e) *Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and KRS 78.545 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.*
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
- ~~(5)~~~~(4)~~ Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
- ~~(6)~~~~(5)~~ Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- ~~(7)~~~~(6)~~ A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- ~~(8)~~~~(7)~~ (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick

leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

- (b) A teacher or employee may receive donations of sick leave if:
1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
 - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
 2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
 3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

~~(9)(8)~~ A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

~~(10)(9)~~ After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

~~(11)(10)~~ Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection ~~(10)(9)~~ of this section.

~~(12)(11)~~ The death benefit provided in subsection ~~(10)(9)~~ of this section may be cited as the Baughn Benefit.

Section 3. KRS 161.157 is amended to read as follows:

An employee of the Department of Education or the Education Professional Standards Board who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155~~(4)(3)~~ and shall be allowed credit for each full year of employment with the Department of Education or the Education Professional Standards Board for the determination of pay under the school districts' single salary schedule.

Section 4. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance.
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10)~~(9)~~ or any other statutory provision.
- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10)~~(9)~~ shall be based on the full actuarial cost as defined in KRS 161.220(22).

Section 5. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 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, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, 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. 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 but not the amount of benefits. 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)~~(9)~~, shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.
 - (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.
 - (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) 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 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 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 membership. 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. 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 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 election and participate in the system under which his position would normally participate, if he elects to cancel his 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 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 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) Effective July 1, 1974, 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 employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his 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 elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) 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 wages and contributions consolidated and his 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).
- (7) 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 actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he 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.

- (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.

Approved March 28, 2006.