

CHAPTER 144**(SB 108)**

AN ACT relating to retirement for police and firefighters in urban-counties and declaring an emergency.

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

Section 1. KRS 67A.345 is amended to read as follows:

- (1) All members of the policemen's and firefighters' retirement fund of the urban-county government, operated pursuant to KRS 67A.360 to 67A.690, and all members of the urban-county government city employees pension fund who retired prior to July 1, 1999, and who did not terminate their participation in the group health insurance plan provided by the urban-county government before that date, and all members who retire on or after July 1, 1999, or who ~~withdrew~~~~[withdraw]~~ from service on a certificate **prior to September 18, 2002**~~[pursuant to KRS 67A.410(2)]~~, shall continue to be eligible to participate, at the member's cost, in a group health insurance plan approved by the urban-county council for such retirees.
- (2) The urban-county government shall provide, on behalf of all eligible members of the policemen's and firefighters' retirement fund and city employees pension, the following benefits:
 - (a) A sum equal to the single premium for the plan coverage selected by the retiree, but not more than one hundred percent (100%) of the urban-county government's contribution to the health insurance component of the benefit pool for current urban-county government employees; and
 - (b) Upon the death of a member of the policemen's and firefighters' retirement fund due to occupational causes, the urban-county government shall pay to the approved provider of the group health insurance plan one hundred percent (100%) of the cost of the family medical coverage for the member's surviving spouse and dependent children as long as they remain eligible for a monthly retirement allowance from the retirement fund.
- (3) No benefits shall be available under this section to retired members who were not, immediately prior to July 1, 1999, participants in the group health insurance plan coverage provided to urban-county government employees and retirees or who retire on or after July 1, 1999, and, at the time of their retirement, do not elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section.
- (4) Benefits shall be available under this section to members of the policemen's and firefighters' retirement fund who, **prior to September 18, 2002**, ~~withdrew~~~~[withdraw]~~ from service on a certificate ~~[pursuant to KRS 67A.410(2)]~~ when they attain the age of forty-six (46) years if, at the time they ~~withdrew~~~~[withdraw]~~ from service, they ~~elected~~~~[elect]~~ to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46).
- (5) All payments shall be made to the approved provider of the group health insurance plan, not to the retiree, and the retiree shall not be entitled to receive any portion of the government contribution remaining after payment is made to the approved provider.
- (6) Group rates under the group health insurance plan approved by the urban-county council under subsection (1) of this section shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a qualified and participating retiree, if the premium for the spouse, dependent, or disabled child is paid by the retired member, spouse, dependent, or disabled child, by payroll deduction or similar method.

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 *or she* 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 *or she* is not eligible for a retirement benefit from the other public defined benefit retirement fund.

- (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 shall file an application with the board ***no later than sixty (60) days prior to the anticipated service purchase payment date*** ~~[within the five (5) year period]~~. The member shall pay to the fund 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 ***or she*** has made all installment payments for the purchase of service credit, the fund shall refund to the member, his ***or her*** qualified surviving spouse, or his ***or her*** 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 KRS 67A.500(3), 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.404 is amended to read as follows:

- (1) Any member who retires based on age and service on ***or after*** January 1, 1990, or ***based on service on or after September 18, 2002*** ~~[thereafter]~~, may purchase service credit for unused sick leave accrued while contributing to the retirement fund from which the retirement benefit is to be paid in accordance with this section.
- (2) A member retiring based on age and service, ***or based on service only, on or after September 18, 2002***, who chooses to purchase service credit for unused, accumulated sick leave as provided in this section shall notify the board of his ***or her*** intention upon submitting his ***or her*** retirement application to the board. The urban-county government shall certify the retiring member's unused, accumulated sick leave balance, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month and rounded to the nearest number of whole months. This number of months shall be added to the member's service credit for the purpose of determining his ***or her*** rate of retirement annuity pursuant to KRS 67A.430 and his ***or her*** total service credit pursuant to KRS 67A.400. The value of the unused, accumulated sick leave shall be based on the daily salary rate calculated from the member's last annual salary. Payment for unused sick leave, up to a maximum of seven hundred and twenty (720) hours for members employed by the division of police and one thousand and eight (1,008) hours for members employed by the division of fire, shall be incorporated into the annual salary of the final year of service, provided that the member contributes to the retirement fund the amount set forth in KRS 67A.510 and the urban-county government matches such contribution by the amount set forth in KRS 67A.520(1) on the unused, accumulated sick leave.

Section 4. KRS 67A.410 is amended to read as follows:

- ~~{(1) **Beginning September 18, 2002**, any member may, at his *or her* option, retire on a service retirement annuity upon or after attainment of the age of forty six (46) years,} if he *or she has* ~~{shall have}~~ completed at least twenty (20) years of total service. Upon fulfillment of *this term* ~~{these terms}~~, the board shall grant the retirement annuity upon receipt of the application of the member.~~
- ~~{(2) Any member who withdraws from service prior to age forty six (46) years after having completed at least twenty (20) years of total service, and who does not accept a refund of contributions, shall receive, upon application, a certificate entitling him to a service retirement annuity upon his attainment of age forty six (46) and specifying the amount of the annuity earned and accrued at the date of withdrawal from service.~~
- ~~{(3) Upon the death, prior to age forty six (46), of a member holding a certificate granted pursuant to subsection (2) of this section, the surviving spouse shall receive an annuity equal to sixty percent (60%) of the annuity specified on the certificate, subject to the conditions and additional benefits found in KRS 67A.450(1)(a), 67A.450(1)(b), 67A.450(2), and 67A.450(3).~~
- ~~{(4) The benefits provided in KRS 67A.600 and 67A.690 to an eligible member who retires or withdraws from service under the provisions of subsection (1) or (2) of this section after July 15, 1994, or to the member's surviving spouse or dependent children, shall be calculated when the member is retired for one (1) year or attains the age of forty seven (47), whichever is later, or would have been retired for one (1) year or reached the age of forty seven (47), whichever is later, if the member died before being retired one (1) year or reaching the age of forty seven (47).~~
- ~~{(5) On or before March 3, 2003, the board shall provide for a vote by the full active membership on a provision that would allow members to retire with full benefits after twenty (20) years of total service, regardless of age. If a majority of the active membership voting votes in favor of a twenty (20) year service provision, the urban-county government, in coordination with the board, shall enact the twenty (20) year service provision within a period of six (6) months. Notwithstanding any statute to the contrary, any member retiring after the enactment of the twenty (20) year service provision, if enacted, shall be eligible to retire with twenty (20) years of service regardless of age.}~~

Section 5. 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. 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 *or her* surviving spouse ~~{widow}~~, whether *the member* ~~{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 July 1, 2005 ~~{2004}~~, *was* ~~{is}~~ receiving a monthly annuity of less than one thousand *two hundred fifty* dollars ~~(\$1,250)~~ ~~{(\$1,000)}~~ shall have the pension increased to one thousand *two hundred fifty* dollars ~~(\$1,250)~~. *Such increase shall be retroactive to July 1, 2005, and the retiree or surviving spouse shall receive a lump sum payment equal to the difference between the amount of the monthly annuities received between July 1, 2005, and July 15, 2006, and the amount that would have been received had the monthly annuity been increased on July 1, 2005.* ~~{(\$1,000), and}~~ The board shall increase this annuity at the same rate as annually provided by KRS 67A.690(1), and such increase shall be determined and granted annually thereafter by the board.

Section 6. KRS 67A.450 is amended to read as follows:

- (1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his *or her surviving spouse* ~~{widow}~~ shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:
- (a) The *surviving spouse* ~~{widow}~~ had been married to the member at least six (6) months prior to his *or her* death;
- (b) The *surviving spouse's* ~~{widow's}~~ annuity will terminate in any event when the *surviving spouse dies* ~~{widow remarries}~~. The annuity of each child or children shall continue until each child attains age

eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).

- (2) If, in addition to a *surviving spouse*~~[widow]~~, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the *surviving spouse's*~~[widow's]~~ annuity for the first child, and twenty-five percent (25%) of the amount of the *surviving spouse's*~~[widow's]~~ annuity for each additional child, subject to a maximum combined payment for the *surviving spouse*~~[widow]~~ and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.
- (3) If the member is not survived by a *surviving spouse*~~[widow]~~ who qualifies under KRS 67A.450(1)(a) and there are minor children, the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.

Section 7. 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 *the member's*~~[his]~~ salary ceases, and shall be paid during his *or her* entire lifetime. At the member's death, his *or her* eligible *surviving spouse*~~[widow]~~, if any, shall receive the benefits as provided under KRS 67A.492, and his *or her* 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 seventy-five percent (75%) of his *or her* 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 *the member's*~~[his]~~ service retirement annuity would exceed the amount of his *or her* 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 *the member's*~~[his]~~ service retirement annuity would have exceeded the amount of his *or her* total and permanent occupational disability annuity, in addition to *the member's*~~[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 8. KRS 67A.490 is amended to read as follows:

- (1) Upon death of a member, occurring while in active service, if no *surviving spouse's*~~[widow's]~~ annuity, children's annuities or dependent parent annuities are payable, the designated beneficiary of the member or his *or her* estate shall be entitled to a death benefit equal to the total contributions made by the member, including the amount of any employee contributions picked up by the urban-county government pursuant to KRS 67A.510(2), without interest, or *one thousand five*~~[three]~~ hundred dollars (~~(\$1,500)~~~~[(300)]~~), whichever is greater.

- (2) Upon death of a retired member, if no *surviving spouse's*~~[widow's]~~ annuity, children's annuities or dependent parent annuities shall be due and payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member, including those picked up pursuant to KRS 67A.510(2), to this fund to the date of retirement, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be *one thousand five*~~[three]~~ hundred dollars *(\$1,500)*~~(\$300)~~. If a *surviving spouse's*~~[widow's]~~ annuity, children's annuities or dependent parent annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments to all survivors of the member, whether such termination occurs by death~~[, remarriage]~~ or other cause.

Section 9. KRS 67A.492 is amended to read as follows:

- (1) Upon the death of a retired member, his *or her* surviving *spouse*~~[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 *spouse*~~[widow]~~ must have been married to the member for at least *three (3) years*~~[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. *Effective the effective date of this Act, the benefits provided by this section shall be made eligible to surviving spouses of any retired member who died on July 14, 2000, or thereafter.*
- (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 *or her* surviving *spouse*~~[widow]~~. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to *the member*~~[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 *or her* lifetime and have seventy-five percent (75%) of such retirement allowance continue after *the member's*~~[his]~~ death to his *or her* eligible *surviving spouse*~~[widow]~~ until *the surviving spouse's*~~[her]~~ death~~[or remarriage]~~.
- (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his *or her* lifetime and have such retirement allowance continued at the same rate after *the member's*~~[his]~~ death to his *or her* eligible *surviving spouse*~~[widow]~~ until *the surviving spouse's*~~[her]~~ death~~[or remarriage]~~.

Section 10. 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 *the secretary's*~~[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. *The secretary*~~[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. *The commissioner*~~[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 *or her* 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 *the*~~[his]~~ office, and that *the commissioner shall*~~[he will]~~ safely keep and *shall*~~[will]~~ truthfully account for all money and properties that come into his *or her* hands as treasurer of the fund, and that upon the expiration of his *or her* term of office, he *or she shall*~~[will]~~ deliver to his *or her* successor all securities, unexpended moneys, and other properties that come into his *or her* hands as treasurer of the fund. The bond *shall*~~[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 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) 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.

Section 11. KRS 67A.570 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban-county government or city of the first, second, or third class in this Commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this Commonwealth, ***or in international or other securities as permitted under federal law***. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the commissioner of finance and shall be subject to the order of the board. The board may at the cost of the pension fund employ or engage consultants to provide investment advice to aid the board in its determinations.

SECTION 12. A NEW SECTION OF KRS 67A.360 TO 67A.690 IS CREATED TO READ AS FOLLOWS:

- (1) ***Each current, former, or retired member's account shall be administered in a confidential manner and specific data regarding a current, former, or retired member shall not be released for publication unless authorized by the member. However, the board may release account information to the urban-county government or to any other governmental agency as it deems necessary or in response to a lawful subpoena or order issued by a court of law.***
- (2) ***A subpoena served upon the board that requires the production of any specific data regarding a current, former, or retired member is sufficient if the secretary of the board delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the secretary, or an affidavit stating the information required by the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of the secretary unless, after the production of documents or affidavit, a separate subpoena is served upon the board specifically directing the testimony of the secretary.***
- (3) ***The certification shall be signed before a notary public by the secretary and shall include the name of the member, the member's Social Security number, and a legend substantially to the following effect: "The records are true and complete reproductions of the original records which are housed in the board's office. This certification is given by the undersigned in lieu of his or her personal appearance."***
- (4) ***When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.***

- (5) *When the affidavit or copies of record are delivered to a party for use in a deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the secretary of the board. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.*
- (6) *Records of the board that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony by use of legible and durable copies, certified in accordance with the provisions of this section.*

Section 13. Whereas, the fiscal year for the urban-county begins July 1, 2006, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 4, 2006.