

## CHAPTER 44

## ( HB 119 )

AN ACT relating to the training of city government officials.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 3 of this Act:*

- (1) *"City" means:*
  - (a) *Any city of any class;*
  - (b) *An urban-county government that does not participate in the county officers training program under KRS 64.5275; and*
  - (c) *A consolidated local government that does not participate in the county officers training program under KRS 64.5275;*
- (2) *"City officer" means:*
  - (a) *Any individual elected to a city office existing under KRS Chapter 83A;*
  - (b) *Any individual elected to a city office existing under KRS Chapter 67A or 67C, if the respective government does not participate in the county officers training program under KRS 64.5275;*
  - (c) *Any individual appointed to fill a vacancy in an elected city office as defined under paragraph (a) or (b) of this subsection; and*
  - (d) *Any individual serving in a nonelected city office as defined by KRS 83A.080 that is designated by the city as eligible for participation in the city officers training program in the ordinance adopted pursuant to Section 2 of this Act;*
- (3) *"Training unit" means fifteen (15) clock hours of attendance or participation in qualifying courses during a calendar year; and*
- (4) *"Training incentive multiplier" means a number of one (1) to (4) that is used to calculate the final training incentive to be paid to a city officer eligible to participate in the training incentive program.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city may elect, by adopting an ordinance meeting the requirements of this section, to establish an incentive program for city officers to obtain educational training related to their duties and responsibilities as city officers and the functions of city governments.*
- (2) *The ordinance shall apply to all elected city officers within the city, and the city may allow any nonelected city officer holding an office existing or created under KRS 83A.080 to participate in the incentive program.*
- (3) *The ordinance shall designate a base training incentive payment amount that shall be awarded to the city officer for the completion of a training unit during service as a city officer within the city. This base incentive payment amount shall be no less than one hundred dollars (\$100) and no more than five hundred dollars (\$500). The training incentive payment amount established in the ordinance shall not be adjusted by any index reporting changes to consumer prices or any other method to account for inflation.*
- (4) *The ordinance shall require city officers to complete a number of continuing education hours equal to at least one (1) training unit during each calendar year in order to receive a training incentive payment.*
- (5) *The ordinance shall state that the city shall award the training incentive payment to the city officer for the completion of a training unit during the calendar year. The training incentive payment awarded shall be the base training incentive payment multiplied by the training incentive multiplier earned by the city officer. The city officer shall accumulate no more than one (1) training incentive multiplier per calendar year of continuous service, for a maximum of four (4) training incentive multipliers.*
- (6) *The ordinance shall provide that a city officer who fails to earn at least one (1) training unit in any calendar year shall receive no training incentive payment for that calendar year and shall have his or her training incentive multiplier reset to one (1) for the following year.*

- (7) *The ordinance may permit the city officer to carry forward no more than fifteen (15) hours of excess credit hours earned in one (1) calendar year to apply to the minimum fifteen (15) hours training unit required in the next calendar year. "Excess hours" means credit hours earned beyond fifteen (15) during a single calendar year.*
- (8) *The ordinance shall require the city officer to present proof of his or her completion of the annual training unit and shall establish the time that the city officers shall receive their training incentive payments.*
- (9) *Each city shall, in the ordinance establishing the city officers training program, establish a policy regarding the reimbursement to the city officer, or payment to the provider for the city officer's attendance of an event hosting a course where the officer seeks to earn credit.*
- (10) *The ordinance shall specify criteria for the presentation of proof of attendance by city officers and the criteria for the evaluation of a course's relevance to the duties and functions of city officers and the functions of city governments. In addition to other courses that may be deemed relevant by the city, courses that provide instruction on statutory powers and duties of cities and city officers, intergovernmental relationships, municipal finance and budgeting, municipal taxation, ethics, open records, open meetings, economic development, or municipal police powers shall satisfy the criteria established in the ordinance.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

- (1) *A city may, by ordinance, elect to repeal the training incentive program.*
- (2) *The training incentive payments provided under Section 2 of this Act shall not be included in the calculation for a retirement allowance for any city officer participating in the County Employees Retirement System set out in KRS 78.510 to 78.852.*
- (3) *Training incentive payments provided under Section 2 of this Act shall not be considered compensation and shall not be required to be included in the ordinance establishing the compensation of elected city officers under KRS 67C.129, 67C.131, 83A.070, or when applicable, KRS 64.610.*
- (4) *Training incentive payments provided under Section 2 of this Act shall not be a factor in setting elected city officers' maximum compensation under KRS 83A.075(2).*
- (5) *Nothing in Sections 1 to 3 of this Act shall be construed to prohibit a city from enacting or establishing alternative incentives for the continuing education and training of its elected officers or employees.*

➔Section 4. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;

- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time. ***Creditable compensation shall not include training incentive payments for city officers paid as set out in Sections 1 to 3 of this Act;***
- (14) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the

provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
  - (d) For a member who begins participating on or after September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit; or
  - (e) For a member who begins participating on or after September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. No disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
  - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
  - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
  - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the

number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
  - (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; and
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order.

**Signed by Governor March 16, 2011.**