

CHAPTER 111

(HB 502)

AN ACT relating to pension plans for second class cities.

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

➔Section 1. KRS 95.859 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 95.851(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. If the calculated benefit for a member is less than four thousand eight hundred dollars (\$4,800) per year, the board may increase the annual benefit to a minimum of four thousand eight hundred dollars (\$4,800) if the increase can be supported on an actuarially sound basis by the fund.
- (2) Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars (\$10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred seventy dollars (\$170) per month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500) per month if the increase can be supported on an actuarially sound basis by the fund. When Social Security benefits are increased, the surviving widows' minimum shall be increased by a like percentage, but the pension increase shall not exceed five percent (5%).
- (3)
 - (a) Within six (6) months after the performance of the actuarial study required by KRS 95.872(6), the rate of retirement annuity of each annuitant shall be increased annually by an amount determined by the study to reflect so much of the annual increase in the cost of living of the annuitant as may be supported on an actuarially sound basis by the fund. So long as the same is published, such studies shall rely on the percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by the United States Department of Labor's Bureau of Labor Statistics, not to exceed five percent (5%). In any year that the percentage increase in the annual average of the consumer price index for all items is less than five percent (5%), the board may set the annual increase at a rate higher than the increase of the consumer price index but not in excess of five percent (5%), if the board determines that the increase can be supported on an actuarially sound basis by the fund. The increases shall be payable to all members of the fund on the effective date of the increases, and all increases granted on July 15, 1990, or thereafter shall be compounded.
 - (b) *If the board determines that no annual cost of living adjustment on annuities can be paid in accordance with paragraph (a) of this subsection, the city may, by action of the city's legislative body, require the fund to provide an increase in annuities paid to annuitants of the fund subject to the following conditions:*
 1. *Any cost of living adjustment the city directs the fund to pay shall not exceed the percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by the United States Department of Labor's Bureau of Labor Statistics or five percent (5%), whichever is less;*
 2. *Each annual cost of living adjustment provided under this paragraph shall require the action of the city's legislative body before being provided to annuitants of the fund; and*
 3. *The city's legislative body shall have the authority to suspend, reduce, or repeal any cost of living adjustments approved under this paragraph if in their judgment the welfare of the city so demands.*
- (4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in subsection (3) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section, not to exceed a total of five percent (5%).

➔Section 2. KRS 95.872 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, 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 city treasurer 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 city treasurer 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, 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 board.
- (5) The director of law of the city 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 board.
- (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 city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every 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 *subsection (1) to (3)(a) of KRS 95.859*. 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 city is located.
- (7) The board shall establish rules and regulations to implement the provisions of KRS 95.851 to 95.884 and KRS 95.991 which shall not be inconsistent therewith.

Signed by Governor April 11, 2012.