

CHAPTER 7

(HB 430)

AN ACT relating to policemen's and firefighters' retirement funds of urban-county governments and declaring an emergency.

WHEREAS, the Mayor of Lexington created a Police and Fire Pension Task Force composed of police and fire representatives, business leaders, and civic leaders; and

WHEREAS, the Police and Fire Pension Task Force voted to approve proposed changes to KRS 67A.360 to 67A.690; and

WHEREAS, members of the Policemen's and Firefighter's Retirement Fund of the Lexington-Fayette Urban-County Government ratified the task force changes through a vote; and

WHEREAS, the provisions of KRS 67A.360 to 67A.690 are intended to represent the expressed will of the General Assembly to maintain state oversight and involvement of a policemen's and firefighters' retirement fund created by an urban-county government under the terms codified in this Act;

NOW, THEREFORE,

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 from service on a certificate prior to September 18, 2002, ***or who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act***, 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:
 - (a) Prior to September 18, 2002, withdrew from service on a certificate when they attain the age of forty-six (46) years if, at the time they withdrew from service, they elected to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46);
 - (b) ***Withdraw on a certificate entitling them to a pension benefit at the age of forty-one (41) as provided by subsection (3)(a) of Section 5 of this Act if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-one (41); or***

(c) *Withdraw on a certificate entitling them to a pension benefit at the age of fifty (50) as provided by subsection (3)(b) of Section 5 of this Act if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age fifty (50).*

- (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.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the Urban-County Government";
- (2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;
- (3) "Department" shall mean the police department or the fire department of a government;
- (4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;
- (5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;
- (6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;
- (7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (9) "Total service" shall mean prior service, membership service, and service credit purchased by a member as provided in KRS 67A.402;
- (10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;
- (11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;
- (12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease;
- (13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);
- (14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

- (15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;
- (16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;
- (17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;
- (18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of human resources" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described;~~{and}~~
- (19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" shall include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government;
- (20) ***"Participation date" means the date the member was hired by the government in a position eligible to participate in the fund; and***
- (21) ***"Actuarial funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the actuary in the annual actuarial valuation of the fund.***

➔Section 3. KRS 67A.390 is amended to read as follows:

The following persons shall become members of the fund:

- (1) All active full-time members of a department in service on the day prior to the date of establishment;
- (2) All persons who become full-time members on or after the date of establishment who shall become members as a condition of employment, ***except that, effective July 1, 2013, any member who retires and receives a retirement annuity from the fund shall not be eligible to participate in the fund following retirement and earn a second retirement annuity from the fund;*** and
- (3) All members of a department who on the date of establishment are working in a civilian or appointive capacity for the government, the Commonwealth of Kentucky, or the United States of America, while on an approved leave of absence from a department.

➔Section 4. KRS 67A.402 is amended to read as follows:

- (1) (a) Except as otherwise provided in paragraph ~~(d)~~~~(b)~~ of this subsection, any member ***whose participation date in the fund is prior to the effective date of this Act,*** 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.
 - (b) ***Except as otherwise provided in paragraph (d) of this subsection, any member whose participation date in the fund is on or after the effective date of this Act, who has at least five (5) but no more than ten (10) years of membership service may, subject to the limitations provided by this section, purchase periods of active military duty service in the Armed Forces of the United States, not to exceed four (4) years, that are not otherwise credited under KRS 67A.400(2)(c). The member shall provide verification of the period of active military duty as prescribed by the board.***
 - (c) The member shall not be entitled to purchase any service credit ***under this section*** 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.
- ~~(d)~~~~(b)~~ Any provision of law to the contrary notwithstanding;~~{-}~~
- I. No service credit purchase under this subsection shall be counted toward the accrual of a health or other medical insurance retirement benefit in this ***fund;***~~{retirement system}~~

2. *No service purchased under this section by a member whose participation date in the fund is on or after the effective date of this Act, shall be used to determine the member's eligibility to retire or to withdraw on a certificate under subsection (2) or (3)(b) of Section 5 of this Act; and*
 3. *The amount of service a member can purchase under this section shall not exceed the amounts specified by paragraphs (a) and (b) of this subsection.*
- (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. 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 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 *whose participation date in the fund is prior to the effective date of this Act*, 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 5. KRS 67A.410 is amended to read as follows:

- (1) *For members whose participation date in the fund is prior to the effective date of this Act:* ~~[Beginning September 18, 2002, any]~~
 - (a) *The member may, at his or her option, retire on a service retirement annuity if he or she has completed at least twenty (20) years of total service, provided the member retires and begins receiving a service retirement annuity prior to July 1, 2013; or*
 - (b) *The member may, at his or her option, retire on a service retirement annuity if he or she is at least forty-one (41) years of age and has completed at least twenty (20) years of total service if the member retires on or after July 1, 2013.*
- (2) *For members whose participation date in the fund is on or after the effective date of this Act, the member may, at his or her option, retire on a service retirement annuity if he or she is at least fifty (50) years of age and has at least twenty-five (25) years of membership service.*
- (3) (a) *Any member whose participation date in the fund is prior to the effective date of this Act, who does not retire by July 1, 2013, who withdraws from service prior to age forty-one (41) after having completed at least twenty (20) years of total service, and who has not accepted a refund of contributions, shall receive upon application to the fund, a certificate entitling the member to a service retirement annuity upon his or her attainment of age forty-one (41).*

- (b) *Any member whose participation date in the fund is on or after the effective date of this Act, who withdraws from service prior to age fifty (50) after having completed at least twenty-five (25) years of membership service, and who has not accepted a refund of contributions, shall receive upon application to the fund, a certificate entitling the member to a service retirement annuity upon his or her attainment of age fifty (50).*
- (c) *Upon the death of a member prior to age forty-one (41) who is holding a certificate issued by the fund pursuant to paragraph (a) of this subsection or upon the death of a member prior to age fifty (50) who is holding a certificate issued by the fund pursuant to paragraph (b) of this subsection, the surviving spouse shall receive an annuity in accordance with Section 11 of this Act based upon the survivorship payment option selected by the member.*
- (d) *The certificates provided by this subsection shall be issued by the fund and shall specify the amount of the annuity earned and accrued at the date of withdrawal from service, except that the amount of annuity earned and accrued at the date of withdrawal shall be actuarially adjusted to reflect the survivorship payment option selected by the member upon application for a certificate.*
- (4) *Provided the member has met the terms required by this section to receive a service retirement annuity*~~[Upon fulfillment of this term],~~ the board shall grant the retirement annuity upon receipt of the application of the member.

→Section 6. KRS 67A.420 is amended to read as follows:

Each member shall be subject to compulsory retirement according to the rules of the government in which he is employed, ~~except provided, however,~~ that any member able to perform his assigned duties shall not be precluded from serving:

- (1) At least twenty (20) years *if the member's participation date in the fund is prior to the effective date of this Act; or*
- (2) *At least twenty-five (25) years if the member's participation date in the fund is on or after the effective date of this Act.*

→Section 7. KRS 67A.430 is amended to read as follows:

- (1) (a) *For a member whose participation date in the fund is prior to the effective date of this Act,* 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.
- (b) *For a member whose participation date in the fund is on or after the effective date of this Act, the rate of retirement annuity shall be two and one-quarter percent (2.25%) of average salary, as defined in KRS 67A.360(13), for each year of total service.*
- (c) Fractional periods of service shall be considered in the calculation of such annuities according to *the rate provided by paragraph (a) or (b) of this subsection, based upon the participation date of the member*~~[the aforesaid rate. Provided, however, that No retiree, or his or her surviving spouse, whether the member 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, was receiving a monthly annuity of less than one thousand two hundred fifty dollars (\$1,250) 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. 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 8. KRS 67A.440 is amended to read as follows:

- (1) (a) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to ~~seventy-five (75%)~~~~[(60%)]~~ percent (75%)~~[(60%)]~~ of the member's last rate of salary. This annuity shall be payable until she dies. In addition, if any minor children of the member, under age eighteen (18), survive the member, the widow or parent or legal guardian shall receive on account of each child, ten percent (10%) of the member's

last rate of salary until each child attains age eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to a child between the ages of eighteen (18) and twenty-three (23). The combined payments to a widow and minor children shall not exceed **one hundred**~~seventy-five~~ percent ~~(100%)(75%)~~ of his final rate of salary. When more than one (1) child survives the member, the amount payable by reason of such children shall be divided equally among them.

(b) Any surviving widow who is drawing a benefit pursuant to paragraph (a) of this subsection on July 1, 2013, that is less than the amount computed under paragraph (a) of this subsection, shall have her retirement annuity increased to the amount determined under paragraph (a) of this subsection.

- (2) If the member is not survived by a widow, or, if she remarries, and there are minor children of the member, the following benefits shall be paid:
- (a) One (1) minor child, fifty percent (50%) of the final rate of salary;
 - (b) Two (2) minor children, an additional fifteen percent (15%) of final salary;
 - (c) Three (3) or more minor children, an additional ten percent (10%) of final salary, subject to a maximum combined payment of seventy-five percent (75%) of the member's final rate of salary.

These benefits shall be divided in equal amounts for each child and paid to the parent or legal guardian of each child under eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to the child between the ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the total annuity payment shall be reduced by percentage amount in reverse order.

- (3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

➔Section 9. 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 salary ceases, and shall be paid during his or her entire lifetime. At the member's death, his or her eligible surviving spouse, 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:
 - (a) **Fifty percent (50%) of the member's last rate of salary if the member's rate of disability is less than twenty percent (20%) and the disablement is the direct result of documented occupational injuries for service to the department that occurred on or after July 1, 2013;**
 - (b) **Sixty percent (60%) of the member's last rate of salary if the member's rate of disability is less than twenty percent (20%) and the disablement is the direct result of documented occupational injuries for service to the department that occurred prior to July 1, 2013; or**
 - (c) Sixty percent (60%) of the member's last rate of salary **if the member's rate of disability is equal to twenty percent (20%) or more.** The minimum **annuity rate provided by this paragraph** 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 "Guides to the Evaluation of Permanent Impairment".
- (4) If a member is eligible for a service retirement annuity under KRS 67A.410 and the amount of the member's 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 service retirement annuity would have exceeded the amount of his or her total and permanent occupational disability annuity, in addition to the member's disability annuity, by filing with the board the application required by KRS 67A.410.

➔Section 10. KRS 67A.470 is amended to read as follows:

- (1) (a) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least five (5) years of total service, he shall be entitled to a disability retirement annuity ***determined under this section***.
 - (b) ***For a member whose participation date in the fund is prior to the effective date of this Act***, the amount of ***the disability retirement*** ~~annuity~~ shall be equal to two and one-half percent (2.5%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary and a maximum payment of seventy-five percent (75%) of average salary.
 - (c) ***For a member whose participation date in the fund is on or after the effective date of this Act***, the amount of ***the disability retirement annuity shall be equal to two and one-quarter percent (2.25%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-two and one-half percent (22.5%) of such average salary and a maximum payment of sixty-seven and one-half percent (67.5%) of average salary.***
 - (d) Payment of ***the disability*** ~~annuity~~ ***as provided by this section*** shall be made during disability of the member. After the member's death, his eligible widow, if any, shall receive the benefits as provided in KRS 67A.492, and his minor children, if any, shall receive benefits as provided under KRS 67A.450.
- (2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

➔Section 11. KRS 67A.492 is amended to read as follows:

- (1) (a) Upon the death of a retired member, his or her surviving spouse 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.
 - (b) ***Upon the death of a member who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act, his or her surviving spouse shall receive an annuity equal to sixty percent (60%) of the member's service retirement annuity.***
 - (c) The surviving spouse must have been married to the member for at least three (3) years prior to the member's death or six (6) months prior to the member's retirement ***or withdrawal on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act***, in order to be eligible for the benefits provided in this section. Effective April 4, 2006, 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, ***and any member who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act***, shall have the option at retirement ***or upon application for a certificate*** to purchase an increased annuity allowance for his or her surviving spouse. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. 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 death to his or her eligible surviving spouse until the surviving spouse's death.
 - (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 death to his or her eligible surviving spouse until the surviving spouse's death.

➔Section 12. KRS 67A.500 is amended to read as follows:

- (1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member or picked up by the urban-county government pursuant to KRS 67A.510(2) after the date of establishment, without interest. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.

- (2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.
- (3) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under KRS 67A.360 to 67A.690. Any member who is reemployed after withdrawing from service and who received a refund of contributions shall, within ninety (90) days of his reemployment or prior to retirement, whichever occurs first, make a repayment to the system of the amount or amounts previously received as a refund, including interest at the rate determined by the board to be the actual rate of return on investments made by the board, but not less than three percent (3%) per annum, from the dates of the refund to the date of repayment, compounded annually. Upon the restoration of such refunds, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service, with interest, and shall be made in a single lump sum payment. Repayments shall not be picked up by the urban-county government. If repayment is not made within the specified time period, the member shall have forever forfeited, waived, and relinquished the right to have reinstated to his account the credited service represented by the refunds for which repayment was not made, but shall not be precluded from purchasing service credit as provided in KRS 67A.402 *if the member began participating in the fund prior to the effective date of this Act*.
- (4) Any member who has received, or who is entitled to receive, a refund, but who within six (6) months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions, including those picked up pursuant to KRS 67A.510(2), and service under his original fund.

➔Section 13. KRS 67A.510 is amended to read as follows:

- (1) (a) Each active member shall contribute a sum equal to not less than ten and one-half percent (10.5%) nor more than eleven percent (11%) of current salary, to be determined by the legislative body of the urban-county government, *except that:*
1. *For members whose participation date in the fund is prior to the effective date of this Act, the members shall, effective July 1, 2013, contribute a sum equal to twelve percent (12%) of current salary to the fund; and*
 2. *For members whose participation date in the fund is on or after the effective date of this Act, the member shall contribute a sum equal to twelve percent (12%) of current salary to the fund.*
- (b) The commissioner of finance of the government is hereby authorized to deduct such amount *provided by this subsection* from the salary *paid to* ~~of~~ each active member *during any pay period* ~~in semi-monthly installments~~. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982, employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.
- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government

shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 14. KRS 67A.520 is amended to read as follows:

The government shall make **annual**~~current~~ contributions to the fund ~~on an actuarially funded basis,~~ toward the annuities and benefits ~~herein~~ provided by **KRS 67A.360 to 67A.690 based upon the results of the annual actuarial valuation of the fund required by subsection (6)(c) of Section 15 of this Act.** These contributions **by the government** shall be equal to the sum of the **normal contribution amount and an additional amount to be known as the actuarially accrued liability contribution amount.**~~following:~~

- (1) **For purposes of this section, the normal contribution amount shall be an annual amount that, when combined with all active member contributions to the fund, is sufficient to fund the benefits earned during the year**~~resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every two (2) years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least two (2) years.~~
- (2) **For purposes of this section, the actuarially accrued liability contribution amount shall be an annual amount that is sufficient to amortize the total unfunded actuarially accrued liability of the fund over a period of thirty (30) years, using the level-dollar amortization method, for a period beginning July 1, 2013, and ending June 30, 2043. The level-dollar amortization method shall be used to determine the government's contribution payable on or after July 1, 2013.**~~An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.~~
- (3) **The government contribution to the fund computed under this section shall:**
 - (a) **Be determined using the entry age normal cost method;**
 - (b) **Effective July 1, 2013, and for each fiscal year thereafter, not**~~In any event, the total contribution of the government shall~~ **be less than twenty million dollars (\$20,000,000) annually for the thirty (30) year period occurring on or after July 1, 2013, unless the pension fund has a actuarial funding level equal to or greater than one hundred percent (100%) as determined by the actuarial valuation of the fund, in which case, the contribution payable by the government shall be equal to the normal contribution amount specified by this section; and**~~at least seventeen percent (17%) of the salaries of the active members participating in the fund~~
 - (c) **Be fixed by the board annually, in accordance with this section and based upon the results of the annual actuarial valuation required by subsection (6)(c) of Section 15 of this Act, and shall be in effect for a period of one (1) fiscal year. The board shall notify the government of the rates payable under this section following the board's acceptance of the actuarial valuation.**
- (4) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the Circuit Court of any county in which the government is located an injunction or mandamus requiring the government to comply **with this section**~~herewith~~.

➔Section 15. 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 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 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 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 office, and that the commissioner shall safely keep and shall 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 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 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, except that the board shall have the power to hire independent counsel, the cost of such independent counsel to be borne by the pension fund.
- (6) (a) The board ~~shall~~~~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 conduct the annual actuarial valuation of the fund**, to determine ~~the government's rates of urban-county~~ contribution **as provided by Section 14 of this Act**, and to make periodic analyses of the operation of the fund.
- (b) 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.
- (c) **Beginning with the fiscal year ending June 30, 2013, and each fiscal year thereafter, an actuarial valuation of the fund shall be completed by the actuary employed by the fund. The valuation shall include a description of the actuarial assumptions used and descriptive statistics on the actuarial health of the fund, and shall determine the government's contribution in accordance with Section 14 of this Act. Actuarial assumptions used in the fund's valuation shall be reasonably related to the experience of the fund and represent the actuary's best estimate of anticipated experience.**
- (d) **At least once every five (5) years, the board shall cause**~~Beginning July 1, 2000, and at least once every two (2) years thereafter~~ **an actuarial experience study of the fund to be completed by the actuary employed by the board. The actuarial experience study shall include a review of actuarial assumptions, actuarial tables, and actuarial funding methods used in the actuarial valuation**~~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~~. **Based upon the results of the experience study, the actuary employed by the fund shall recommend the actuarial assumptions, actuarial**~~all mortality and interest~~ **tables, and actuarial funding methods to be adopted by the board**~~, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430~~.
- (e) In the event **the actuarial valuation or actuarial experience study**~~such survey~~ is not undertaken as provided **by this subsection**~~herein~~, any member of the fund or any annuitant may obtain an injunction or mandamus requiring **the actuarial valuation or actuarial experience study be completed**~~such survey and investigation~~, or may obtain the appointment of a person or persons to **complete the actuarial valuation or actuarial experience study**~~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 16. KRS 67A.580 is amended to read as follows:
- (1) An adequate system of accounts and records shall be established and maintained for the fund that will reflect fully the requirements of the provisions of KRS 67A.360 to 67A.690. This system shall be integrated, to the extent possible with the accounts, records, and procedures of the government to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

- (2) All assets of the fund shall be credited according to the purposes for which they are held in the following designated reserve accounts:
- (a) **Members' Contribution Reserve.** The amounts contributed by the members, including those picked up pursuant to KRS 67A.510(2), shall be credited to this reserve, together with regular interest thereon as herein provided. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions or amounts picked up by the urban-county government. Upon the granting of a service retirement annuity, disability annuity, or survivor's annuity or benefit, the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death payments representing member's contributions shall be charged to this reserve.
 - (b) **Employer's Contribution Reserve.** The amounts contributed by the government under the provisions hereof, for service retirement annuity, disability retirement annuity, and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, an amount representing the excess of the actuarial value of the annuity, or benefit over the accumulated contributions of the member, shall be transferred from this reserve to the retirement reserve.
 - (c) **Retirement Reserve.** Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, the accumulated contributions of the member, including those picked up pursuant to KRS 67A.510(2), and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investments shall be charged to this reserve. All payments on account of any annuity made by the fund shall be charged to this reserve. ~~Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the employee's contributions for membership service for the fiscal years next following the date of such valuation.~~ Any deficiency in this reserve shall be removed by an increase in the amount of government's contributions for future membership service.

➔Section 17. KRS 67A.690 is amended to read as follows:

- (1) (a) ***The increase in retirement annuities provided and authorized by paragraphs (b) and (c) of this subsection shall be provided when:***
- 1. ***A member who retired prior to July 1, 2013, ~~when a member~~ has been retired for one (1) year or attained forty-seven (47) years of age, whichever is later;***
 - 2. ***The member ~~[, or when he]~~ would have been retired for one (1) year or attained forty-seven (47) years of age, whichever is later, in the event the member ~~[is deceased,]~~ died prior to July 1, 2013;***
 - 3. ***A member who retires on or after July 1, 2013, has been retired five (5) years or attained fifty (50) years of age, whichever is sooner; or***
 - 4. ***The member would have been retired for five (5) years or attained fifty (50) years of age, whichever is sooner, in the event the member dies on or after July 1, 2013.***
- (b) ***Except as provided by paragraph (c) of this subsection, for each member, widow, or dependent child who is eligible for an increase in retirement annuities as provided by paragraph (a) of this subsection, the board shall increase his or her retirement annuity by: ~~[or the annuity paid to his widow or dependent children by not less than]~~***
- 1. ***Two percent (2%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity of less than forty thousand dollars (\$40,000);***
 - 2. ***One and one-half percent (1.5%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity of at least forty thousand dollars (\$40,000) but less than seventy-five thousand dollars (\$75,000); or***
 - 3. ***One percent (1%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity equal to or greater than seventy-five thousand dollars (\$75,000), except that no member, widow, or dependent child receiving an annualized***

retirement annuity equal to or greater than one hundred thousand dollars (\$100,000) shall receive an increase in his or her retirement annuity until January 1, 2016.

(c) *If the fund has an actuarial funding level greater than eighty-five percent (85%), as determined by the most recently completed actuarial valuation of the fund, the board shall, in lieu of the increase provided by paragraph (b) of this subsection, increase retirement annuities for members, widows, and dependent children as follows, provided the increase meets the requirements of paragraph (d) of this subsection:*

1. *For members whose participation date in the fund is prior to the effective date of this Act, who are eligible for an increase in retirement annuities as provided by paragraph (a) of this subsection, the board may increase retirement annuities by an amount not less than two percent (2%) nor more than five percent (5%) per year, compounded annually;*
2. *For members whose participation date in the fund is on or after the effective date of this Act, who are eligible for an increase in retirement annuities as provided by paragraph (a) of this subsection, the board may increase retirement annuities by an amount not more than three percent (3%) per year, compounded annually; and*
3. *Increases provided under this paragraph shall be in lieu of the increases provided under paragraph (b) of this subsection.*

(d) *The board shall determine annually whether an increase in retirement annuities can be provided under paragraph (c) of this subsection. No increase in retirement annuities shall be provided under paragraph (c) of this subsection, if the increase in retirement annuities will reduce the actuarial funding level of the fund below eighty-five percent (85%) ~~and such increase shall be determined and granted annually thereafter by the board.~~*

- (2) Beginning July 1, 2001, notwithstanding any other provision to the contrary, any member, retired *prior to July 1, 2013*, under occupational disability, as provided in KRS 67A.460, or nonoccupational disability shall be entitled to an increase in his or her annuity, or in the event of death the annuity paid to his or her spouse or dependent, after he or she has been retired one (1) year regardless of age or date of retirement. *Members retiring under occupational disability, as provided in KRS 67A.460, or nonoccupational disability, on or after July 1, 2013, shall be entitled to an increase in his or her annuity as provided by subsection (1) of this section.* The amount of the annual increase shall be the same as described in subsection (1) of this section, compounded annually, and the increase shall be determined and granted annually thereafter by the board. For a member retired on occupational disability for a length of time in excess of one (1) year prior to June 21, 2001, the board shall increase the member's annuity as described in this paragraph, on July 1, 2001, and each July 1 thereafter.
- (3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990, in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of forty-seven (47), whichever was later, or would have been retired one (1) year or reached the age of forty-seven (47), whichever was later, in the event the member died before being retired one (1) year or reaching the age of forty-seven (47). In the case of retirement under disability, no age or length of retirement criteria shall apply.
- (b) After calculation of the new annuity level, members of age forty-seven (47) or more affected by this subsection, or survivors of a member who would have been forty-seven (47) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded increases calculated pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1990. If the member has not attained the age of forty-seven (47) or would not have attained the age of forty-seven (47) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or

would have attained age forty-seven (47), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.

- (4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

→Section 18. Notwithstanding any other provision of this Act to the contrary, any person employed by the Lexington-Fayette Urban County Government who, on the effective date of this Act, is in training for a position that qualifies for participation in the fund described by KRS 67A.360 to 67A.690, shall be considered to have a participation date in the fund prior to the effective date of this Act for purposes of determining benefits under KRS 67A.360 to 67A.690.

→Section 19. Whereas the financial integrity of the pension funds administered by urban-county governments are imperative to the public employees, retirees, and taxpayers of urban-county governments, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 14, 2013.