

CHAPTER 133

(HB 238)

AN ACT relating to public pension plan reporting.

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

➔Section 1. KRS 6.350 is amended to read as follows:

- (1) A bill which would increase or decrease the benefits or increase or decrease participation in the benefits or change the actuarial accrued liability of any state-administered retirement system shall not be reported from a legislative committee of either house of the General Assembly for consideration by the full membership of that house unless the bill is accompanied by an actuarial analysis.
- (2) (a) An actuarial analysis required by this section must show the economic effect of the bill on the state-administered retirement system *over a twenty (20) year period*, including:
 1. An estimate of the effect on the *unfunded* actuarial accrued liabilities *and funding levels* of the affected systems; and
 2. A projection of the annual *employer costs*~~cost~~ to the systems of implementing the legislation *over the*~~for at least~~ twenty (20) *year period*~~years~~. The annual *employer* cost projection shall include the effect on the contributions of participating employers as a percentage of total payroll and in total dollars of contributions.
- (b) If a bill affects more than one (1) state-administered retirement system, the actuarial analysis shall project costs for each affected state-administered retirement system.
- (c) An actuarial analysis shall state the actuarial assumptions and methods of computation used in the analysis and shall state whether or not the bill or resolution, if enacted, would, in the opinion of the actuary, make the affected state-administered retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. Actuarial cost methods and assumptions that meet actuarial standards of practice established by the Actuarial Standards Board shall be used in all cost projections.
- (d) An actuarial analysis required by this section shall be prepared by an actuary who is a fellow of the *Conference of Consulting Actuaries* or~~Society of Actuaries,~~ a member of the American Academy of Actuaries~~, or an enrolled actuary under the Employees' Retirement Income Security Act of 1974~~.
- (3) (a) An actuary commissioned to make an actuarial analysis that is required by this section, or for the purpose of seeking appropriations for a state-administered retirement system, shall include in the analysis a complete definition of each actuarial term used in the analysis and, either in the analysis or in a separate actuarial valuation report made available as a public record, an enumeration and explanation of each actuarial assumption used to complete the actuarial analysis.
- (b) If the actuary commissioned to complete the actuarial analysis is relying upon assumptions that have not been previously established by the actuary in an actuarial valuation of the affected state-administered retirement system, the actuary shall clearly note and describe the new assumption and the basis for selecting the assumption.
- (4) The actuarial analysis required by this section shall be completed by the actuary retained by the affected state-administered retirement system. The state-administered retirement systems shall provide the analysis without cost to the General Assembly.
- (5) For purposes of this section, the *terms*~~term~~:
 - (a) "State-administered retirement system" shall include:
 - 1.~~(a)~~ The Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System administered by the Kentucky Retirement Systems and established under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;
 - 2.~~(b)~~ The Kentucky Teachers' Retirement System established under KRS 161.220 to 161.716;
 - 3.~~(c)~~ The Judicial Retirement Plan established under KRS 21.345 to 21.580; and

~~4.(d)~~ The Legislators' Retirement Plan established under KRS 6.500 to 6.577; *and*

(b) *"Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage.*

➔Section 2. KRS 7A.240 is amended to read as follows:

The Public Pension Oversight Board shall have the authority to:

- (1) Except for information protected under KRS 61.661 or 161.585 or information specific to the account of a current or former employee or retiree, require the state-administered retirement systems, or any other state agency, to provide any and all information necessary to carry out the duties of the board, including any actuarial analysis. The cost of providing the information to the board, including any actuarial analysis, shall be included in the administrative budget of the state-administered retirement systems or the state agency;
- (2) Conduct public hearings in furtherance of its general duties, at which it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public;
- (3) Establish a uniform format for reports and data submitted to the board by the state-administered retirement systems and the frequency and due dates for the reports and data;
- (4) Request the Auditor of Public Accounts to perform a financial or special audit of the state-administered retirement systems; and
- (5) Subject to selection and approval by the Legislative Research Commission, utilize the services of consultants, actuaries, managers, legal counsel, and auditors to render professional, managerial, and technical assistance, as needed. *The cost for actuarial services required by subsections (8) and (9) of Section 3 of this Act shall be paid by the state-administered retirement systems to the Legislative Research Commission and shall be included in the administrative budget of the state-administered retirement systems.*

➔Section 3. KRS 7A.250 is amended to read as follows:

The Public Pension Oversight Board:

- (1) Shall, from time to time, conduct an impartial review of all the laws governing the state-administered retirement systems and recommend any changes it may find desirable with respect to benefits and administration, funding of benefits, investments of funds, and the improvement of language, structure, and organization of the statutes;
- (2) Shall, once every five (5) years, review the benefits provided to employees who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, and recommend any changes to the provisions affecting these employees that are necessary to maintain the actuarial soundness of the systems;
- (3) Shall review semiannually the investment programs of the state-administered retirement systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, total return objectives, relative volatility, performance evaluation guidelines, investment policies, and securities litigation policies and recoveries from fraud or other corporate malfeasance. The board may establish an advisory committee, as provided by KRS 7A.260, which may include investment professionals to assist in complying with the provisions of this subsection;
- (4) May review any benefits, bylaws, policies, or charters established by the state-administered retirement systems;
- (5) Shall, at the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to laws affecting the state-administered retirement systems and report to the Speaker or the President on the probable costs, actuarial implications, and desirability as a matter of public policy;
- (6) May review all new or amended administrative regulations of the state-administered retirement systems and provide comments to the Administrative Regulation Review Subcommittee established by KRS 13A.020;
- (7) Shall research issues related to the state-administered retirement systems as directed by the Legislative Research Commission;~~and~~
- (8) *Shall at least once every five (5) years have an actuarial audit performed for the state-administered retirement systems to evaluate the reliability of each system's actuarial assumptions and methods. The actuarial audit shall be performed by an actuary retained by the Public Pension Oversight Board;*

- (9) *Shall prior to each budget biennium have an actuarial review of the funding requests and needs submitted by the state-administered retirement systems. The review shall be performed by an actuary retained by the Public Pension Oversight Board; and*
- (10) *Shall publish an annual report covering the board's evaluation and recommendations with respect to the operations of the state-administered retirement systems. The report shall be submitted to the Legislative Research Commission no later than December 31 of each year and shall include at a minimum any legislative recommendations made by the board, a summary of the financial and actuarial condition of the state-administered retirement systems, and an analysis of the adequacy of the current levels of funding.*

➔Section 4. KRS 21.440 is amended to read as follows:

- (1) (a) The investment committee for the judicial retirement fund shall at least once in every two (2) year period procure an actuarial valuation of the judicial retirement fund. The valuation shall, **at a minimum**, include:
1. A description of the actuarial assumptions used *in the actuarial valuation, which ~~and such assumptions~~* shall be reasonably related to the experience of the fund and represent the actuary's best estimate of anticipated experience;
 2. *A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;*
 3. *A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;*
 4. *The actuarially recommended contribution rate for employers for the upcoming budget periods;*
 5. *A twenty (20) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and*
 6. *A sensitivity analysis that evaluates the impact of changes in plan assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation assumptions, on employer contribution rates, funding levels, and unfunded liabilities. ~~[For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this spread between investment and salary assumptions shall be reviewed and adjusted annually, based upon the most recent five (5) year experience of the fund.]~~*
- (b) *At least once in each five (5) year period, the Board of Trustees of the Judicial Form Retirement System shall cause an actuarial investigation to be made of all the relevant experience under the retirement plan relative to the actuarial assumptions and funding methods previously adopted by the board. The actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.*
- (c) *Pursuant to the investigation, the board shall from time to time revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under KRS 21.345 to 21.580.*
- (d) *For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigation required by paragraph (b) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.*
- (e) A copy of the valuation, *the five (5) year actuarial investigation, and any analysis required by this subsection* shall be forwarded *electronically* to the Legislative Research Commission within ten (10) days of receipt by the committee, *and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over*

the Judicial Form Retirement System. The actuarial valuation required by paragraph (a) of this subsection shall be submitted no later than November 15 following the close of the fiscal year.

- (f) *All the investigations and valuations shall be certified to the board by an actuary who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.*
- (2) (a) The board of trustees of the Judicial Form Retirement System shall annually procure an audit of the system and each of the funds therein. The audit shall be conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. The board shall make copies of the audit required by this section available for examination by any member or beneficiary in the office of the manager of the system and in such other places as may be necessary to make the audit available to all members and beneficiaries. A copy of the audit shall be sent to the Legislative Research Commission within ten (10) days of receipt by the committee.
- (b) Once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.

➔Section 5. KRS 61.670 is amended to read as follows:

- (1) (a) As soon as practicable after its organization, the board shall adopt the actuarial tables necessary for the administration of the system and for the annual determination of *actuarial* assets and liabilities of the system.
- (b) The board shall cause an actuarial valuation to be made annually. The valuation shall *at a minimum* include:
1. A description of the actuarial assumptions used *in the actuarial valuation, which*~~and the assumptions~~ shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience;~~;~~
 2. *A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;*
 3. *A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;*
 4. *The actuarially recommended contribution rate for employers for the upcoming budget periods;*
 5. *A twenty (20) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and*
 6. *A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation rates, on employer contribution rates, funding levels, and unfunded liabilities.*
- (c) At least once in each ~~five (5)~~~~ten (10)~~ year period, the board shall cause an actuarial investigation to be made of all the experience under the retirement system *relative to the actuarial assumptions and funding methods previously adopted by the board. The actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.*
- (d) Pursuant to the *actuarial* investigation the board shall, from time to time, revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under KRS 61.510 to 61.692, KRS 16.505 to 16.652, and KRS 78.510 to 78.852.

- (e) *For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigation required by paragraph (c) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.*
- (f) All ~~actuarial~~ investigations, *analyses*, and valuations shall be certified to the board by *an actuary who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries* ~~or a fellow of the Society of Actuaries~~.
- (2) A copy of each ~~five (5)~~ ~~ten (10)~~ year actuarial investigation, *actuarial analysis*, and annual valuation *required by subsection (1) of this section* shall be forwarded *electronically* to the Legislative Research Commission. ~~The annual valuation shall be forwarded~~ no later than ten (10) days after receipt by the board, *and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Retirement Systems. The actuarial valuation required by paragraph (1)(b) of this subsection shall be submitted no later than November 15 following the close of the fiscal year.*
- (3) The Legislative Research Commission ~~may~~ ~~shall~~ employ an actuary with the same qualifications as the actuary employed by the board, and the board shall, free of charge, provide the actuary employed by the Commission with the same data provided to its own actuary, and any supplementary data he may require. The actuary employed by the Commission shall review the assumptions, determinations and recommendations of the board actuary, and legislative proposals related to the retirement systems, and report his findings to the Commission and to the board. The board shall pay fifty percent (50%) of the cost of the Commission's actuary, and the Commission shall pay the other fifty percent (50%).

➔Section 6. KRS 161.400 is amended to read as follows:

- (1) (a) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.
- (b) At least once in each ~~five (5)~~ ~~six (6)~~ year period ~~after the first year of operation of the system~~, the actuary shall make an actuarial investigation into the actuarial assumptions *and funding methods* used, including but not limited to mortality, investment rate of return, and service and compensation of the members and beneficiaries of the retirement system, *relative to the actuarial assumptions and funding methods previously adopted by the board. The actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period* ~~and make a valuation of the assets and liabilities of the funds of the system~~.
- (c) At least annually the actuary shall make an actuarial valuation of the retirement system. The valuation shall include:
1. A description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience;
 2. *A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;*
 3. *A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;*
 4. *The actuarially recommended contribution rate for employers for the upcoming budget periods;*
 5. *A twenty (20) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and*

6. *A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation rates, on employer contribution rates, funding levels, and unfunded liabilities.*
- (d) On the basis of the results of the valuations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550.
- (e) *For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigation required by paragraph (b) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.*
- (2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation. The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. ~~Effective July 1, 1992, the spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.~~
- (3) A copy of each *five (5) year* actuarial investigation, *actuarial analysis*, and valuation *required by subsection (1) of this section* shall be forwarded *electronically* to the Legislative Research Commission no later than ten (10) days after receipt by the board, *and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Teachers' Retirement System. The actuarial valuation required by paragraph (1)(c) of this subsection shall be submitted no later than November 15 following the close of the fiscal year.*
- ➔ Section 7. KRS 48.040 is amended to read as follows:
- (1) On or before April 1 of each odd-numbered year, representatives designated by the Governor, the Chief Justice and the Legislative Research Commission for their respective branches shall propose drafts of uniform forms to be used by all budget units in submitting their budget estimates, requests and recommendations, and shall recommend to the Legislative Research Commission such rules and regulations deemed necessary for the preparation of such budget estimates, requests and recommendations.
- (2) On or before July 1 of each odd-numbered year, the Legislative Research Commission shall prescribe uniform forms, records, and instructions to be used by branch budget units. Included in such forms shall be a section requiring budget units to identify the amount of funds to be spent on agency publications.
- (3) (a) *On or before August 15 of each odd-numbered year, each of the state-administered retirement systems as defined by subsection (5) of Section 1 of this Act shall submit to the state budget director's office and the Legislative Research Commission a preliminary projection of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.*
- (b) *On or before November 15 of each odd-numbered year, the state-administered retirement systems as defined by subsection (5) of Section 1 of this Act shall submit revised projections to the state budget director's office and the Legislative Research Commission, based upon the most recently completed actuarial valuation, of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.*
- (c) *The Legislative Research Commission shall distribute the information received under this subsection to the committee staff and co-chairs of any committee that has jurisdiction over a state-administered retirement system.*
- (4) On or before September 1 of each odd-numbered year, the Finance and Administration Cabinet shall supply each branch of government with at least three (3) complete sets of the prescribed uniform forms and instructions for the preparation of estimates and statements, and one (1) copy of the complete statement of the expenditures of each budget unit of the branch to aid each branch of government in preparing its estimates and statements.
- (5) ~~(4)~~ Upon request, the Finance and Administration Cabinet shall provide such additional assistance to each branch of government as may be required.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established within the Finance and Administration Cabinet the Kentucky permanent pension fund for the purpose of addressing the Commonwealth's unfunded pension liabilities. The proceeds contained in this fund shall be used only for contributions to the Commonwealth's pension funds.*
- (2) *The fund may receive:*
 - (a) *State appropriations;*
 - (b) *The net proceeds from the sale of real property owned by the Commonwealth or any agency thereof; and*
 - (c) *Any settlements or judgments resulting from litigation in which the Commonwealth or any of its agencies is a party, after costs of litigation and mandatory deductions or restitution to consumers have been deducted.*
- (3) *Any unallotted or unencumbered balances in the fund shall be invested pursuant to KRS 42.500.*
- (4) *Income earned from the investments shall be credited to and become part of the fund.*
- (5) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. All amounts in the fund shall remain in the fund and shall not be expended or appropriated without the express authority in an enacted biennial budget bill.*

Signed by Governor April 18, 2016.