

CHAPTER 103

(HB 479)

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

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

➔Section 1. 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, ~~the~~~~his~~ surviving ~~spouse~~~~widow~~ shall be entitled immediately upon cessation of salary to an annuity equal to seventy-five percent (75%) of the member's last rate of salary. This annuity shall be payable until ~~the surviving spouse~~~~she~~ dies. In addition, if any minor children of the member, under age eighteen (18), survive the member, the ~~surviving spouse~~~~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 ~~surviving spouse~~~~widow~~ and minor children shall not exceed one hundred percent (100%) of ~~the~~~~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 ~~spouse~~~~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 ~~the~~~~her~~ retirement annuity increased to the amount determined under paragraph (a) of this subsection.
- (2) If the member is not survived by a ~~spouse~~~~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 ~~surviving spouse~~~~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 2. KRS 67A.450 is amended to read as follows:

- (1) ~~For~~~~Upon death of~~ a member **who on the date of death is not eligible for a voluntary service retirement under KRS 67A.410, whose death occurs**~~occurring~~ while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his or her surviving spouse shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:
 - (a) The surviving spouse had been married to the member at least six (6) months prior to his or her death;
 - (b) The surviving spouse's annuity will terminate in any event when the surviving spouse dies. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).
- (2) If, in addition to a surviving spouse, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the surviving spouse's annuity for the first child, and twenty-five percent (25%) of the amount of the surviving spouse's annuity for each additional child,

subject to a maximum combined payment for the surviving spouse and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.

- (3) If the member is not survived by a surviving spouse who qualifies under KRS 67A.450(1)(a) and there are minor children, the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.
- (4) ***Any active member who, on the date of death would otherwise be eligible for a service retirement under KRS 67A.410, shall be deemed to have service until the date of the member's death calculated with credit for accumulated sick leave under KRS 67A.404. The deceased member shall be deemed to have elected the survivorship one hundred percent (100%) allowance option under subsection (2)(b) of Section 4 of this Act.***

➔Section 3. KRS 67A.462 is amended to read as follows:

- (1) Once each year following the retirement of a member on a disability retirement allowance, the board may require the person, prior to his ***or her*** normal retirement date, to undergo a medical examination. Should he ***or she*** refuse to submit to any such medical examination, his ***or her*** retirement allowance shall be discontinued until his ***or her*** withdrawal of his ***or her*** refusal, and should his ***or her*** refusal continue for one (1) year, all his ***or her*** rights to any further disability allowance shall cease. Any member whose medical examination reveals that he ***or she*** is no longer totally and permanently disabled within the meaning of KRS 67A.360(16) shall be disqualified from further receipt of disability benefits.
- (2) (a) Once each year following the retirement of a member on a disability retirement allowance the board shall require the person, prior to his ***or her*** normal retirement date, to complete and return to the board a statement indicating whether he ***or she*** is employed, the name of his ***or her*** employer, if any, and a description of his ***or her*** job duties. The board shall discontinue the disability benefits of any member for the duration of his ***or her*** refusal to provide the board with employment information. Any member who fails to provide the information to the board within one (1) year after the initial request shall lose his ***or her*** right to any further disability benefits.
- (b) The board shall have the right to terminate the disability retirement benefits of any member who is employed in an occupation which is essentially similar to that of his ***or her*** former employment, either in job classification, similarity of duties, or which otherwise demonstrates that the member is performing activities for which he ***or she*** earlier claimed he ***or she*** was disabled from performing. For the purpose of this section, members~~[who were sworn police officers]~~ may not hold a sworn position as ***an elected, paid, or volunteer*** peace officer, ***firefighter, paramedic, or any other position generally considered to be a public safety position that otherwise qualifies for hazardous duty salary, retirement, or death benefits under the laws of the Commonwealth or the laws applicable to such employment within the state or federal jurisdiction governing the position,*** and continue to receive disability benefits.
- (3) ***The board is authorized to make reasonable investigative inquiries, conduct a hearing, and request the appearance of witnesses, including the member receiving disability benefits, to ensure compliance with this section. Any member whose disability benefits are terminated may request a rehearing before the board under KRS 67A.660. A member may seek judicial review of any final order of the board revoking disability benefits in accordance with KRS 67A.670.***

➔Section 4. 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 KRS 67A.410(3)(a) or (b), 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 KRS 67A.410(3)(a) or (b), 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 KRS 67A.410(3)(a) or (b), 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. ***No surviving minor children annuity shall be payable under subsection (3) of this section if a surviving spouse annuity is payable under this subsection.*** 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.
- (3) ***If, in addition to a surviving spouse who is entitled to an annuity under subsection (1) of this section, a minor child or children survive the member, an additional annuity shall be provided for such child or children equal to:***
- (a) ***For the first child, fifty percent (50%) of the amount of the surviving spouse's annuity; and***
- (b) ***For each additional child, twenty-five percent (25%) of the amount of the surviving spouse's annuity;***
- subject to a maximum combined annuity for the surviving spouse and minor children not to exceed seventy-five percent (75%) of the member's final annuity, final rate of pay, or service retirement annuity, calculated, as applicable, under subsection (1) of this section.***
- The annuity provided for the minor children shall be divided and paid in equal amounts for each child to the surviving parent or guardian of each child under the age of eighteen (18), and paid directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains the age of eighteen (18), or in the case of a child regularly engaged in full-time educational activities, the age of twenty-three (23). As the eligibility of children expire, the total annuity for such children shall be reduced by percentage amount in reverse order.***
- (4) ***If the member is not survived by a spouse who qualifies under subsection (1) or (2) of this section, and a minor child or children survive the member, an annuity shall be provided for such child or children equal to the following share of the member's final annuity, final rate of pay, or service retirement, whichever is greater:***
- (a) ***For the first child, fifty percent (50%); and***
- (b) ***1. For two (2) children, an additional fifteen percent (15%); or***
- 2. For three (3) or more children, an additional ten percent (10%) each;***
- subject to a maximum combined annuity for all minor children not to exceed seventy-five percent (75%) of the member's final annuity, final rate of pay, or service retirement, whichever is greater.***
- The annuity provided for the minor children shall be divided and paid in equal amounts for each child to the surviving parent or guardian of each child under the age of eighteen (18), and paid directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children shall continue until each child attains the age***

of eighteen (18), or in the case of a child regularly engaged in full-time educational activities, the age of twenty-three (23). As the eligibility of children expire, the total annuity for such children shall be reduced by percentage amount in reverse order.

➔Section 5. KRS 67A.530 is amended to read as follows:

- (1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of twelve (12) members, consisting of the mayor, the commissioner of public safety, the commissioner of finance, the director of human resources, two (2) retired members of the fund, the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing the department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.
- (2) The retired fund members shall be selected by retired fund members by ballot to serve two (2) year terms. One (1) retired fund member shall be a retired fire department member, and the other shall be a retired police department member. Retired fund members of a department shall submit the names of at least three (3) nominees from their department to the pension board not less than three (3) months before the term of office is due to expire. The retired members of *each department*~~{both departments}~~ shall have the right to vote for nominees *of the*~~{from either}~~ department *from which the member retired*. For the term beginning October 15, 2000, names of nominees from each department shall be submitted to the pension board by no later than August 15, 2000, *and August 15 of each subsequent election year*. The pension board shall cause to be prepared an official ballot *of the retired nominees for each respective department* which shall be distributed to all retired fund members *from each respective department from which the member retired* by mail to their last known address. The ballot shall contain the name~~{,}~~ and address~~{, and former department}~~ of each of the candidates. ~~{The candidates shall be grouped together by departments for voting purposes and }~~Retired fund members shall be instructed to vote for one (1) *nominee*~~{member from each department}~~. Any ballot marked with more than one (1) vote per *ballot*~~{department}~~ shall be disqualified and not counted. ~~{The retiree from either department receiving the most votes shall serve a two (2) year term. The retiree from the other department receiving the most votes shall serve an initial term of one (1) year. Subsequently, retirees elected in alternate years from each department shall serve two (2) years.}~~ In the event of vacancy of an elected retired fund member of the board, the retiree receiving the next largest number of votes from the department for which the vacancy exists shall fill the vacancy until the next election for a representative of that retiree's department. Retired fund members shall vote for one (1) candidate from *the*~~{each}~~ department *from which the member retired* by marking a square opposite the name of the candidate of his *or her* choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board.

➔Section 6. 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 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 contribution as provided by KRS 67A.520, 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 KRS 67A.520. 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 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. Based upon the results of the experience study, the actuary employed by the fund shall recommend the actuarial assumptions, actuarial tables, and actuarial funding methods to be adopted by the board.
- (e) In the event the actuarial valuation or actuarial experience study is not undertaken as provided by this subsection, any member of the fund or any annuitant may obtain an injunction or mandamus requiring the actuarial valuation or actuarial experience study be completed, or may obtain the appointment of a person or persons to complete the actuarial valuation or actuarial experience study, 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. ***Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 67A.360 to 67A.690 conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 67A.360 to 67A.690 which conflict with federal statutes or regulations or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate regulations to conform with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec 401(a).***

➔Section 7. KRS 67A.660 is amended to read as follows:

After a determination has been made on any application by the board, any interested person may, within twenty (20) days after notice of the determination or finding of the board, apply for a rehearing with respect to any of the matters determined by the board. The application shall specify the matter of which a rehearing is sought. The board shall fix the time for the rehearing ***at the board's next scheduled regular meeting held*** ~~[within twenty (20) days]~~ after the same is filed with the secretary of the board, in no event to be less than sixty (60) days from the date the application is filed unless otherwise agreed by the parties. Upon the rehearing a complete transcript shall be made of all evidence presented. The cost of such transcript shall be borne equally by the applicant for the rehearing and the board. Upon rehearing, the board may change, modify, vacate or affirm its previous order upon said application and enter such an order as it deems necessary.

Signed by Governor April 24, 2020.