

## CHAPTER 76

## ( HB 30 )

AN ACT relating to public employee benefits.

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

➔Section 1. KRS 61.598 is amended to read as follows:

(1) For purposes of this section, "bona fide promotion or career advancement":

(a) Means:

1. A professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; *or*
2. *An increase in creditable compensation for all employees in a specified class due to an increase in rate of pay authorized or funded by the legislative or administrative body of the employer or due to an increase in rate of pay mandated in a collective bargaining agreement approved by the legislative body of the employer; and*

(b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.

(2) (a) For employees retiring from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System on or after January 1, 2018, the systems shall, for each of the retiring employee's last five (5) fiscal years of employment, identify any fiscal year in which the creditable compensation increased at a rate of ten percent (10%) or more annually over the immediately preceding fiscal year's creditable compensation. The employee's creditable compensation in the fiscal year immediately prior to the employee's last five (5) fiscal years of employment shall be utilized to compare the initial fiscal year in the five (5) fiscal year period.

(b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for a fiscal year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the employee's creditable compensation from the immediately preceding fiscal year shall not be included in the creditable compensation used to calculate the retiring employee's monthly retirement allowance. If the creditable compensation for a specific fiscal year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring employee's monthly retirement allowance, then no reduction in creditable compensation shall occur for that fiscal year.

(c) If the creditable compensation of the retiring employee is reduced as provided by paragraph (b) of this subsection, the retirement systems:

1. Shall refund the employee contributions and interest attributable to the reduction in creditable compensation; and
2. Shall not refund the employer contributions paid but shall utilize those funds to pay down the unfunded liability of the pension fund in which the retiring employee participated.

(3) (a) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring employee on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring employee prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.

(b) If the reductions in creditable compensation during a retiring member's entire last five (5) years of employment results in a reduction in his or her monthly retirement allowance of less than twenty-five dollars (\$25) per month or an actuarially equivalent value under the various payment options, then no

reduction in creditable compensation or retirement allowances shall occur under subsection (2) of this section.

(4) Subsection (2) of this section shall not apply to:

- (a) A bona fide promotion or career advancement as defined by subsection (1) of this section;
- (b) A lump-sum payment for compensatory time paid to an employee upon termination of employment;
- (c) A lump-sum payment made pursuant to an alternate sick leave program under KRS 78.616(5) that is paid to an employee upon termination of employment;
- (d) Increases in creditable compensation in a fiscal year over the immediately preceding fiscal year, where in the immediately preceding fiscal year the employer reported the employee as being on leave without pay for any reason, including but not limited to sick leave without pay, maternity leave, leave authorized under the Family Medical Leave Act, and any period of time where the employee received workers' compensation benefit payments that were not reported to the plan as creditable compensation;
- (e) Increases in creditable compensation directly attributable to an employee's receipt of compensation for:
  - 1. Overtime hours worked while serving as a participating employee under any state or federal grant, grant pass-through, or similar program that requires overtime as a condition or necessity of the employer's receipt of the grant; or
  - 2. The first one hundred (100) hours of mandatory overtime hours that the employee is individually required to work by the employer during a fiscal year. This subparagraph shall not be construed to apply to overtime hours voluntarily worked by the employee or in situations in which the employee has the option to elect out of participation in overtime hours. Any mandatory overtime hours exempt under this subparagraph shall be in addition to any overtime hours otherwise exempt under the provisions of this subsection; and
- (f) Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime performed during and as a result of a state of emergency declared by:
  - 1. The President of the United States or the Governor of the Commonwealth of Kentucky; or
  - 2. A local government in which the Governor authorizes mobilization of the Kentucky National Guard pursuant to KRS 38.030 and 39A.950 during such time as the National Guard is mobilized.

- (5)
  - (a) For employees retiring on or after January 1, 2014, but prior to July 1, 2017, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems.
  - (b) Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from this subsection.
  - (c) The Authority shall be required to answer inquiries from participating employers regarding this subsection. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.
  - (d) For any additional actuarial costs charged to the employer under this subsection, the systems shall allow the employer to pay the costs without interest over a period of one (1) year from the date of receipt of the employer's final invoice.
- (6) The Authority shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.
- (7) Any employer who disagrees with a determination made by the system in accordance with this section regarding whether an increase in compensation constitutes a bona fide promotion or career advancement for purposes of subsection (5) of this section may request a hearing and appeal the decision in accordance with KRS 61.645(16) or 78.782(16).

- (8) For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky Retirement Systems and the County Employees Retirement System shall provide a means for employers to separately report the specific exceptions provided in subsection (4) of this section within the reporting system utilized by the employers for making employer reports under KRS 16.645, 61.675, and 78.545. The Kentucky Retirement Systems and the County Employees Retirement System shall continually provide communication, instructions, training, and educational opportunities for employers regarding how to appropriately report exemptions established by subsection (4) of this section.
- (9) This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 16.583, 61.597, 78.5512, and 78.5516.

➔Section 2. KRS 16.198 is amended to read as follows:

The appointment, salary, benefits, and number of individuals employed as a Trooper R Class and CVE R class shall be as follows:

- (1) The commissioner may appoint CVE R Class employees. CVE R Class employees shall serve on a contractual basis for a term of one (1) year, and the contract may be renewed annually, by agreement of the parties, for no more than nine (9) additional one (1) year terms. A CVE R Class employee shall be required to pass a physical fitness test every three (3) years.
- (2) The commissioner may appoint Trooper R Class employees who shall serve on a contractual basis for a term of one (1) year. The contract may be renewed on an annual basis upon the agreement of both parties. A Trooper R Class employee shall be required to pass a physical fitness test every three (3) years.
- (3) The compensation for Trooper R Class employees and CVE R Class employees shall be established by administrative regulation promulgated pursuant to KRS Chapter 13A.
- (4)
  - (a) All appointments of individuals employed as a Trooper R Class and CVE R Class shall be based upon agency need as determined by the commissioner.
  - (b) Work stations for individuals employed as a Trooper R Class and CVE R Class shall be determined by agency need with consideration given to the applicant's stated preference.
  - (c) Merit of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's work performance history.
  - (d) Fitness of individuals employed as a Trooper R Class and CVE R Class shall be determined by the applicant's ability to adhere to the agency standards set by the commissioner under this chapter.
- (5) The number of individuals employed as a Trooper R Class and CVE R Class by the department shall not:
  - (a) Exceed one hundred (100); or
  - (b) Be counted in the total employee cap for the department.
- (6) All individuals employed as a Trooper R Class and CVE R Class shall be assigned the job duties of trooper or commercial vehicle enforcement officer and shall not be placed in any supervisory positions.
- (7) Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to 18A.228, and KRS 61.510 to 61.705 to the contrary:
  - (a) Individuals employed as a Trooper R Class and CVE R Class shall continue to receive all retirement and health insurance benefits provided by the systems administered by Kentucky Retirement Systems to which they were entitled upon retiring from the department as a commissioned officer under this chapter;
  - (b) Individuals employed as a Trooper R Class and CVE R Class shall not be eligible to receive health insurance coverage or benefits through the department and shall not be eligible to participate in the State Police Retirement System or the Kentucky Employees Retirement System; and
  - (c) The department shall not pay health insurance contributions to the state health insurance plan for individuals employed as a Trooper R Class or CVE R Class.
- (8) The department shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to establish vacation, bereavement, and sick leave, *for Trooper R Class and CVE R Class employees, at the same level as*

*an officer with less than five (5) years of service*, and holiday pay for Trooper R Class and CVE R Class employees.

- (9) Individuals employed as a Trooper R Class or CVE R Class shall be employed on a contractual basis and shall be provided due process pursuant to KRS 16.140 or 16.192 for any disciplinary action imposed by the commissioner. A decision by the commissioner to not renew a contract shall not be considered a disciplinary action for purposes of this section.
- (10) The provisions of this section shall not eliminate or reduce any requirements under KRS 61.637 for the department to pay employer contributions to the retirement systems or to reimburse the retirement systems for the cost of retiree health, on any individual employed as a Trooper R Class or CVE R Class.

**Signed by Governor March 24, 2025.**