

Technical Amendment
June 28, 2019

105 KAR 1:160. Sick leave plans.

RELATES TO: KRS 61.546, 61.5525, 78.616, 161.155

STATUTORY AUTHORITY: KRS 61.645(9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) authorizes the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.546 provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System. KRS 78.616 provides for retirement service credit for unused sick leave for members of the County Employees Retirement System. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage.

Section 1. Definitions.

- (1) "Alternate plan" means the sick leave program described in KRS 78.616(5).
- (2) "Standard plan" means the sick leave program described in KRS 61.546 or 78.616(1), (3) and (4).

Section 2. An agency participating in the County Employees Retirement System may provide a sick leave program under KRS 78.616 by adopting an order appropriate to the agency.

- (1) Only one (1) sick leave program under KRS 78.616 shall be offered to the employees of an agency.
- (2) The agency shall certify to the retirement system that the program shall be universally administered.
- (3) The agency shall pay all costs of the program.
- (4) The agency shall certify to the retirement system the number of hours that constitutes a regular working day for employees of the agency.
- (5)
 - (a) If an agency participating in the County Employees Retirement System has no retirement sick leave program, it may choose the standard plan or it may choose the alternate plan.
 1. An agency adopting the standard plan may elect:
 - a. To purchase credit only for the first six (6) months of accrued sick leave;
 - b. To purchase credit for the first six (6) months and to pay fifty (50) percent of the cost for service above six (6) months; or
 - c. To purchase credit for all accumulated sick leave.
 2. An agency which elects to pay only for the first six (6) months of accumulated sick leave may at a later date elect to pay fifty (50) percent or all of the cost of service above six (6) months. An agency which elects to pay for the first six (6) months and fifty (50) percent of the cost for service above six (6) months, may at a later date elect to pay for all accrued sick leave.
 3. If the agency adopted the standard plan prior to July 1988, it may choose to adopt the alternate plan.

4. Within thirty (30) days of adoption of a sick leave plan, the agency shall file at the retirement office a description of the agency's sick leave policy which shall specify:
 - a. The maximum sick leave that may be accrued;
 - b. Whether the policy applies to sick leave accrued prior to the adoption of the sick leave plan; and
 - c. Whether the policy applies to current and former employees or only to employees who retire from the agency.
- (b) Agencies participating in the Kentucky Employees Retirement System or the State Police Retirement System shall provide sick leave credit for all accrued sick leave.
- (c) Once a sick leave program is adopted, the agency shall continue to offer a sick leave program to its employees.

Section 3. If the agency adopts the standard plan, upon a member's retirement:

(1) Each agency participating in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System with which the member has accrued sick leave credit or to which his accrued sick leave transferred, shall certify the unused sick leave credit which the member has accrued on Sick Leave Authorization, Form 6500.

(2)

(a) The retirement system shall determine the number of days of credit and divide the number of days by twenty-one (21), the average number of working days in a month, unless the agency verifies an alternate number of average working days per month. If the remainder is equal to or greater than eleven (11), the member shall receive credit for an additional month. If an employee has an alternate work schedule, the agency shall verify an alternate number of average working days per month.

(b) For each agency participating in the Kentucky Employees Retirement System or County Employees Retirement System with which the member accrued sick leave credit, the cost of the credit, determined by utilizing the member's final compensation with the formula described in KRS 61.5525, shall be paid by the agency within thirty (30) days of notification by the retirement system.

(c) If the member accrued sick leave credit in the Kentucky Employees Retirement System, the last agency with which the member was employed shall pay the cost of sick leave credit in excess of six (6) months, if any.

(3)

(a) If the total sick leave accrued at a County Employees Retirement System agency is greater than six (6) months and the agency does not pay for service greater than six (6) months, the employee may purchase some or all of the additional months by paying the cost, determined by utilizing the member's final compensation with the formula described in KRS 61.5525, to the retirement system before his termination, but no earlier than three (3) months from his effective retirement date.

(b) If the total sick leave accrued at a County Employees Retirement System agency is greater than six (6) months and the agency pays fifty (50) percent of the cost of additional months, the employee shall receive credit for all or some of the additional months if the employee pays fifty (50) percent of the cost determined by utilizing the member's final compensation with the formula described in KRS 61.5525, to the retirement system before his termination, but no earlier than three (3) months from his effective retirement date, and the employer pays the remaining fifty (50) percent.

Section 4. An agency adopting the alternate plan shall also certify the maximum number of sick leave days that an employee may accumulate prior to termination.

(1) The agency shall compensate the member for all accrued sick leave up to the maximum allowed, upon termination. If the employee is a classified employee of a school board, the agency shall compensate the employee for accrued sick leave, upon the

employee's retirement or death, pursuant to KRS 161.155. The rate of compensation for each day shall be based on the employee's current rate of pay.

(2) Each month, the agency shall withhold employer and employee contributions from the sick leave compensation of employees who terminate, and shall remit the contributions along with the Form 6501 for each employee. The forms and contributions deducted during the month shall be sent to the retirement office within ten (10) days following the end of the month. The contributions and compensation shall not be reported with the regular payroll.

(3) If the member has one (1) or more months of service credit as determined in Section 3 of this administrative regulation, the service shall be added to the member's total service credit.

(4) Compensation and service shall be included in the member's final compensation as follows:

(a) The member's sick leave credit expressed in months and the compensation for those months shall be included in the fiscal year with the highest average monthly salary used in his final compensation until the service credit in the fiscal year has reached twelve (12) months.

(b) When service credit in the fiscal year with the highest average monthly salary has reached twelve (12) months, the remaining months of service and compensation shall be included in the fiscal year with the lowest average monthly salary used in his final compensation until service credit in the fiscal year has reached twelve (12) months.

(c) When service credit in the two (2) fiscal years with the highest and lowest average monthly salary used in his final compensation have reached twelve (12) months, the remaining months and compensation shall be used in lieu of the member's service and salary in the fiscal year with the lowest average monthly salary of the member's final compensation. The salary replaced shall be the monthly average of the member's actual salary in the fiscal year.

Section 5. An employee who has service credit in the Kentucky Employees Retirement System as hazardous and nonhazardous, or who has service credit in both the Kentucky Employees Retirement System and the State Police Retirement System, shall have accrued sick leave prorated between the systems and between the hazardous and nonhazardous accounts based on the ratio of service in each account, including purchased service, and to the total service credit.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6500, "Sick Leave Authorization", 11/00; and

(b) Form 6501, "Alternate Sick Leave Authorization", 11/00.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(18 Ky.R. 925; 1322; eff. 11-8-1991; 19 Ky.R. 966; eff. 12-9-1992; 27 Ky.R. 1861; 2425; eff. 3-19-2001; 28 Ky.R. 910; 1349; eff. 12-19-2001; 29 Ky.R. 760; 1246; eff. 11-12-2002; 35 Ky.R. 101; eff. 10-3-2008; TAm eff. 6-28-2019; Crt eff. 6-28-2019.)