

## **105 KAR 1:330. Purchase of service credit.**

RELATES TO: KRS 16.645(20), (26), (29), (31), 61.543, 61.552, 61.5525, 61.555, 61.592, 78.545(6), (31), (35), (43), 26 U.S.C. 415

STATUTORY AUTHORITY: KRS 61.645(9)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) requires the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper to carry out the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852. KRS 16.645(20), (26), (29), (31), 61.543, 61.552, 61.555, 61.592, and 78.545(6), (31), (35), and (43) provide for purchasing service credit. This administrative regulation establishes the documentation required from the employee as proof of eligibility for purchasing service credit, the filing deadlines on which the cost calculation will be made, and the procedures for purchase of service credit.

### **Section 1.**

(1) The cost calculation date for determining the cost of the service to be purchased shall be the later of:

- (a) The last day of the month in which the request for the cost of the service is received at the retirement office;
- (b) The last day of the month the employee designates as the intended purchase date;
- (c) The last day of the month in which documentation of the service is filed at the retirement office;
- (d) The last day of the month in which the member attains sufficient service credit to be eligible to make the purchase; or
- (e) The last day of the month in which the member terminates employment if the member files a completed Form 4172, Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan, at the retirement office indicating that the member intends to defer the member's lump sum payment for accrued compensatory and annual leave to be paid to the member at termination to the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan. The member shall then rollover the funds from the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan to Kentucky Retirement Systems as payment, in whole or in part, for the member's service purchase.

(2) The purchase deadline date shall be the later of the cost calculation date or thirty (30) days from the date the purchase cost is mailed to the employee, unless day thirty (30) is a weekend or federal or state holiday, then the purchase deadline date shall be the next business day.

(3) An employee may not make a new request for cost calculation for purchase of service previously requested until the purchase deadline date has passed.

(4) Except as provided in KRS 61.552(16), payment for purchase of service credit shall be filed at the retirement office while the employee is participating in an eligible retirement system and prior to the employee's termination date.

(5) If the member elects to purchase only a portion of the service for which he has requested a cost calculation, the member shall be required to obtain a new cost calculation for the remaining service unless the remaining service is service under KRS 61.552(1) or (23).

### **Section 2.**

(1) The employee shall provide documentation necessary for the retirement system to determine that the service meets the eligibility requirements for purchase of service. The documentation may be in the form of:

- (a) A statement or letter signed by the reporting official, personnel director or agency head, or if the service is with the university, federal government or military, a statement or letter signed by an authorized employee of the university, federal government or military, except that no employee shall certify his own service. The retirement system may require that the statement be made under oath; or
- (b) Copies of personnel and wage records supplied by the agency.
- (2) If the retirement system determines that the agency records are not sufficient, the retirement system may require the employee to supplement the agency records with copies of check stubs, W-2 forms, personnel action forms or payroll records in the employee's possession.
- (3) If the employee does not have additional documentation of the service, the employee may submit a report of detailed earnings from the Social Security Administration for the period of service, along with two (2) affidavits completed by individuals who earned, or were eligible for, service for the same period in a state administered retirement system with the same employer. Each affiant shall detail the employee's employment status and length of service.
- (4) The retirement office shall determine if all or part of the service is eligible for purchase and shall notify the employee in writing of its determination.

### Section 3.

- (1) For service with a public agency, other than a school board, participating in one (1) of the systems administered by the Kentucky Retirement Systems or with a nonparticipating agency whose service is authorized by statute, the employee shall submit the following documentation and may be required by the system to provide additional information, if necessary for determination:
  - (a) The beginning and ending dates of the service and any breaks which may have occurred during the service, listed by fiscal year;
  - (b) The number of calendar months worked;
  - (c) The position title and status, including full time, part time, probationary, emergency, seasonal, temporary or interim; and
  - (d) If the employee participated in a retirement plan, and if so, if the plan was a defined contribution or defined benefit plan, and if the employee has taken a refund of contributions to the plan.
- (2) For service with a school board, the employee shall provide the following documentation and may be required by the system to provide additional information, if necessary for determination:
  - (a) The beginning and ending dates of the service and any breaks which may have occurred during the service, listed by fiscal year;
  - (b) The number of calendar months worked;
  - (c) The number of days in the employee's employment contract and the actual number of days worked;
  - (d) The hours worked per day;
  - (e) The position title and status, including full time, part time, probationary, emergency, seasonal, temporary or interim; and
  - (f) If the employee participated in a retirement plan, and if so, if the plan was a defined contribution or defined benefit plan, and if the employee has taken a refund of contributions to the plan.
- (3) For active duty service in the Armed Forces of the United States, the employee shall provide a copy of the federal form DD-214 or other official military documents clearly indicating:
  - (a) The date of entry into active duty service;
  - (b) The date of discharge from active duty service; and

- (c) The type of discharge.
- (4) For service in the reserve forces, including periods of active duty training, or for service in the National Guard, the employee shall provide copies of official military documents clearly indicating the date of entry and current participation or date of discharge.
- (5) For service with the federal government, the employee shall provide the following documentation:
  - (a) The name of the federal agency where the employee worked;
  - (b) The beginning and ending dates of the service and any breaks which may have occurred during the service;
  - (c) The job title;
  - (d) If the individual worked an average of 100 or more hours per month and if the position was temporary, seasonal or regular full time; and
  - (e) If the employee participated in a retirement plan and if the employee has taken a refund of contributions to the plan.
- (6) For a period when the member was on leave, including educational, maternity and sick leave without pay, the member shall submit documentation of the beginning and ending dates of the period of leave and the type of leave designated by the employer.
- (7) For service with one (1) of the state universities in Kentucky, the employee shall provide the following documentation:
  - (a) The name of the university where the employee worked;
  - (b) The beginning and ending dates of the service and any breaks which may have occurred during the service;
  - (c) The job title;
  - (d) If the individual worked an average of 100 or more hours per month and if the position was temporary, seasonal or regular full time; and
  - (e) If the employee participated in a benefit plan during the period of employment.
- (8) An employee wishing to purchase service credit for out-of-state public service under KRS 61.552(17) and (18) shall request a copy of the "Form 4140, Certification of Out-of-State Service".
  - (a) The employee shall mail the "Form 4140, Certification of Out-of-State Service", to his former employer and retirement plan for completion, and if the employee wishes to purchase hazardous service in KERS, CERS, or SPRS, he shall also obtain a copy of the description of his duties in the out-of-state position from his former employer. Service credit shall be eligible for purchase as hazardous duty if the position is the same as or substantially similar to positions for which hazardous duty credit has been approved under KRS 61.592;
  - (b) The employee shall be responsible for obtaining the information requested regarding the period of out-of-state service, and the completed "Form 4140, Certification of Out-of-State Service", and job description shall be submitted to the retirement office;
  - (c) The retirement system shall determine how much service is eligible for purchase under the statute and shall notify the employee of the full actuarial cost of the service which qualifies for purchase; and
  - (d) If the retirement system determines that the service is not eligible for purchase, the retirement system shall notify the employee of the reasons.

Section 4. For a purchase based on the actuarial cost, in accordance with KRS 61.5525, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be determined as follows, except that for an employee of a local school board paid under an employment contract, the current rate of pay shall be equal to the final compensation as of the cost calculation date:

(1) Except for a classified employee of a local school board, current rate of pay shall be determined as follows:

- (a) For an hourly employee paid on a seven and one-half (7 1/2) hour day, the hourly rate times 1,950;
- (b) For an hourly employee paid on an eight (8) hour day, the hourly rate times 2,080;
- (c) For an employee paid by the day, the daily rate times 260;
- (d) For an employee paid by the week, the weekly rate times fifty-two (52);
- (e) For an employee paid by the month, the monthly rate times twelve (12);
- (f) For a part-time employee who averages 100 or more hours per month, the hourly rate times hours per day times 260. If the number of hours worked per day is not fixed by the employer, seven and one-half (7 1/2) hours shall be used;
- (g) For an employee who receives a fixed amount in addition to an hourly, daily, weekly, monthly, or annual rate, the current rate shall include all fixed amounts, averaged into the same period;
- (h) For an employee simultaneously employed in more than one (1) retirement system administered by the Kentucky Retirement Systems, the higher of the combined current rate of pay, combined final rate of pay, or combined final compensation shall be used as of the cost calculation date.

(2) Final compensation shall be determined as of the cost calculation date, except that the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to his age would equal at least seventy-five (75), assuming the employee's service includes:

- (a) All service remaining on an active installment purchase agreement;
- (b) All service which the employee is eligible to purchase under KRS 61.552(1) and (23)(a) and (b); and
- (c) All service the employee would accrue if employment continued through December 31, 2008.

(3) The employee's age rounded to the nearest year as of the cost calculation date shall be used.

(4) The benefit factor used to determine the actuarial cost, in accordance with KRS 61.5525, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System shall be the highest benefit factor to which the employee would be entitled, assuming:

- (a) An effective retirement date no later than January 1, 2009; and
- (b) Total service as determined in subsection (2) of this section.

#### Section 5.

(1) After the employee has purchased service, the retirement system may recalculate the cost of the service if, upon audit, the retirement system determines that any of the information utilized to calculate the cost of the service was incorrect.

(2) If the recalculation results in an increase in the cost of \$100 or more, the employee shall have thirty (30) days to pay the additional amount.

(3) If the employee fails to pay the additional amount, the employee's service shall be reduced to the next lower increment or number of months for which the employee is eligible based on the original payment, and the difference shall be refunded to the employee.

#### Section 6.

(1) The wages associated with service purchased under the provisions of KRS 61.552(1) to (5)(a) and (24), which would have qualified as creditable compensation, shall be added to the employee's account and shall be used in determining the employee's final compensation.

(2) An employee purchasing service under the preceding paragraph by increments or by installment purchase agreement shall have the service credited in chronological order beginning with the earliest service.

#### Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 4140, "Verification of Out-of-State Service", July 2000;

(b) Form 4172, "Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan", May 2008; and

(c) Form 4170, "Direct Transfer/Rollover Authorization Form", April 2002.

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

(28 Ky.R. 1005; Am. 1354; eff. 12-19-2001; 29 Ky.R. 780; 1256; eff. 11-12-02.; 31 Ky.R. 395; eff. 11-5-04; 33 Ky.R. 1878; 2932; eff. 4-6-07; 35 Ky.R. 124; eff. 10-3-08; Certified to be amended, filing deadline 7-29-2021.)