

161.235 Establishment of hybrid cash balance plan for new Teachers' Retirement System members who begin participating on or after January 1, 2019 -- TRS members with fewer than five years of service may elect participation. (Declared void -- See LRC Note Below)

- (1) An individual who becomes a member of the Teachers' Retirement System on or after January 1, 2019, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 161.600 and 161.620. The retirement benefits provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Teachers' Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 161.220 to 161.716, except for employee contributions prescribed by KRS 161.540(1)(a)2., (1)(b)2., or (1)(c);
 - (b) An employer pay credit for:
 1. Nonuniversity employees equal to eight percent (8%) of the compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 2. University employees equal to four percent (4%) of the compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Regular interest added annually to the member's accumulated account balance as provided by this section.
- (3)
 - (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 161.560.
 - (b) Regular interest, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4)
 - (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan or another state-administered retirement system during the fiscal year.
 - (b) If the member contributed to the hybrid cash balance plan or another state-administered retirement system during the fiscal year, the regular interest added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to eighty-five percent (85%) of the system's geometric average net investment return, but in no case shall be less than zero percent (0%).
 - (c) If the member did not contribute to the hybrid cash balance plan or another

state-administered retirement system during the fiscal year, the regular interest added to the member's account for that fiscal year shall be zero percent (0%).

- (d) For purposes of this subsection, "system's geometric average net investment return":
 - 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last ten (10) fiscal years as of the date the regular interest is credited to the member's account; and
 - 2. Shall be expressed as a percentage.
- (e) No employer pay credits or regular interest shall be provided to a member who has taken a refund of his or her accumulated account balance as provided by KRS 161.470 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 161.500, who elects to take a refund of his or her accumulated account balance as provided by KRS 161.470, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may qualify for service retirement by meeting one (1) of the following requirements:
 - (a) On or after age sixty-five (65), if he or she has earned five (5) or more years of service credited under KRS 161.500, or another state-administered retirement system; or
 - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 161.500, or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
 - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement system in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options established by the board pursuant to KRS 161.630; or
 - (c) Take a refund of his or her account balance as provided by KRS 161.470.

- (8) This section does not apply to members who began participating in the Teachers' Retirement System prior to January 1, 2019, except for those members who make an election as prescribed by subsection (9) of this section.
- (9) (a) Subject to the provisions of this subsection, any contributing member who began participating in the Teachers' Retirement System prior to January 1, 2019, who has less than five (5) years of service in the system may, in lieu of the benefits he or she is currently eligible to receive from the Teachers' Retirement System, elect to participate in the hybrid cash balance plan provided by this section and receive the other benefits and rights under KRS 161.220 to 161.716 provided to members who began participating in the system on or after January 1, 2019. After such election, the member shall for purposes of KRS 161.220 to 161.716 be considered a member who began participating on or after January 1, 2019.
- (b) The election provided by this subsection shall be made in writing and on a form prescribed by the Teachers' Retirement System board.
- (c) For each member who makes an election provided by this subsection:
1. Any service credit the member has accrued prior to January 1, 2019, shall be considered as service credit earned on or after January 1, 2019; and
 2. On the member's effective election date, the value of the member's accumulated contributions shall be deposited into the member's hybrid cash balance plan account.
- (d) Before accepting an election provided by this subsection, the Teachers' Retirement System board shall provide the member with information detailing the potential results of the member's election.
- (e) An election made pursuant to this subsection shall be irrevocable.
- (f) 1. A member of the Teachers' Retirement System shall not be eligible to make an election prescribed by this subsection until the board receives a favorable private letter ruling from the Internal Revenue Service regarding this subsection.
2. If the Internal Revenue Service denies the request for a private letter ruling as provided by subparagraph 1. of this paragraph, this subsection shall be void.
 3. The system may promulgate administrative regulations under KRS Chapter 13A in order to carry out this subsection.
- (g) This subsection does not apply to annuitants who retired on or after January 1, 2019, and who were reemployed on or after January 1, 2019, and who are not eligible to participate in the system during reemployment.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 107, sec. 43, effective July 14, 2018.

Legislative Research Commission Note (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section

46 and that the legislation is, therefore, constitutionally invalid and declared void.
This statute was created in Section 43 of that Act.