

**161.620 Allowances for university and nonuniversity retirees who became members before January 1, 2019 -- Amount -- Applicability to persons becoming members on or after July 1, 2008. (Declared void -- See LRC Note Below)**

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
  - (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all nonuniversity members. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are university members shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;
  - (b) For individuals who become nonuniversity members of the Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become nonuniversity members of the Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary;
  - (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, and who become nonuniversity members before July 1, 2008, a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years.

This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714;
  - (d) For individuals who become nonuniversity members of the Teachers' Retirement System on or after July 1, 2008, the retirement allowance shall be:
    1. a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
    - b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;

- c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
      - d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
    - 2. Three percent (3%) of the member's final average salary for each year of service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c)2. of this subsection;
  - (e) For individuals who become university members of the Teachers' Retirement System on or after July 1, 2008, the retirement allowance shall be:
    - 1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
    - 2. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
    - 3. One and eighty-five hundredths percent (1.85%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but less than twenty-seven (27) years of service at retirement; or
    - 4. Two percent (2%) of the member's final average salary for each year of service if the member has earned twenty-seven (27) or more years of service at retirement; and
  - (f) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.

- (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection, except the following:
  - (a) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008; or
  - (b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic relations order or any other provision permitted under KRS 161.700.
- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
- (5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the

member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.
- (10) Effective January 1, 2019, subsections (1) to (7) of this section do not apply to individuals who become members of the Teachers' Retirement System on or after January 1, 2019.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 107, sec. 73, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 148, sec. 10, effective July 15, 2010; and ch. 164, sec. 10, effective July 1, 2010. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 39, effective June 27, 2008. -- Amended 2008 Ky. Acts ch. 78, sec. 17, effective July 1, 2008. -- Amended 2006 Ky. Acts ch. 189, sec. 2, effective July 1, 2006. -- Amended 2004 Ky. Acts ch. 121, sec. 19, effective July 1, 2004. -- Amended 2002 Ky. Acts ch. 275, sec. 28, effective July 1, 2002. -- Amended 2000 Ky. Acts ch. 498, sec. 18, effective July 1, 2000. -- Amended 1998 Ky. Acts ch. 515, sec. 12, effective July 1, 1998. -- Amended 1996 Ky. Acts ch. 359, sec. 15, effective July 1, 1996. -- Amended 1994 Ky. Acts ch. 369, sec. 18, effective July 1, 1994. -- Amended 1992 Ky. Acts ch. 192, sec. 12. -- Amended 1990 Ky. Acts ch. 131, sec. 1, effective July 13, 1990; ch. 442, sec. 16, effective July 1, 1990; and ch. 476, Pt. V, sec. 529, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 240, sec. 2, effective July 15, 1988; ch. 260, sec. 2, effective July 15, 1988; and ch. 363, sec. 15, effective July 1, 1988. -- Amended 1986 Ky. Acts ch. 440, sec. 12, effective July 1, 1986. -- Amended 1984 Ky. Acts ch. 104, sec. 1, effective July 13, 1984; and ch. 253, sec. 21, effective July 1, 1984. -- Amended 1982 Ky. Acts ch. 326, sec. 9, effective July 1, 1982; and ch. 414, sec. 4, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 206, sec. 9, effective July 1, 1980. -- Amended 1978 Ky. Acts ch. 43, sec. 2, effective July 17, 1978; and ch. 152, sec. 14, effective March 28, 1978. -- Amended 1976 Ky. Acts ch. 351, sec. 18, effective July 1, 1976. -- Amended 1974 Ky. Acts ch. 395, sec. 16. -- Amended 1972 Ky. Acts ch. 82, sec. 20. -- Amended 1970 Ky. Acts ch. 54, sec. 2; and ch. 168, sec. 1. -- Amended 1968 Ky. Acts ch. 136, sec. 11. -- Amended 1966 Ky. Acts ch. 16, sec. 6. -- Amended 1964 Ky. Acts ch. 43, sec. 15. -- Amended 1962 Ky. Acts ch. 64, sec. 14. -- Amended 1960 Ky. Acts ch. 44, sec. 13. -- Amended 1956 Ky. Acts ch. 146, sec. 1. -- Amended 1954 Ky. Acts ch. 194, sec. 1; and ch. 196, sec. 4. -- Amended 1950 Ky. Acts ch. 78, sec. 1. -- Amended 1946 Ky. Acts ch. 111, sec. 4. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4506b-43.

**Legislative Research Commission Note (7/13/90).** The two Acts amending this section prevail over the repeal and reenactment in House Bill 940, Acts ch. 476, pursuant to Section 653(1) of Acts ch. 476. The two amending Acts have been compiled together where they are not in conflict. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.

**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. That ruling applies to changes made to this statute in that Act.