

**90.400 Pension fund in cities -- Coverage provided in County Employees Retirement System after August 1, 1988 -- Option to convert pension benefits to annuity benefits -- Repeal of ordinances established for creation or maintenance of pension fund -- Liquidation and distribution of residual assets -- Report.**

- (1) Any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, shall continue to operate the existing pension fund in accordance with this section. The city may assess monthly such amount or percent of the salary of the employees as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employees' salaries and paid in cash into the pension fund.
- (2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:
  - (a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the city legislative body at least once every three (3) to five (5) years after completion of the actuarial valuation required by KRS 65.156, and shall be in effect until the next actuarial valuation is completed by the fund.
  - (b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.
- (3) The city may create or continue to operate a board for the pension fund and designate trustees of that board to serve as the governing body of the fund, and may fix the powers of the trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension.
- (4) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.
- (5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.
- (6) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employees frequent and report.
- (7) When any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015,

picks up employee contributions pursuant to KRS 65.155, or accepts from its employees a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, except that employees, pursuant to subsection (8) of this section, may choose to participate in the County Employees Retirement System. A repeal of that ordinance by the city shall in no wise affect such employees unless by the mutual consent of the city and an employee or employees.

- (8) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city which provided a pension plan for its employees on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The board shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.
- (9) If there are fewer than twelve (12) active and retired members or beneficiaries of the pension fund, the governing body of the fund may elect to offer to individuals entitled to benefits from the fund a one (1) time irrevocable option to convert monthly pension benefits from the fund to monthly annuity benefits from an insurance company for the same amount. An insurance company accepting a benefit transfer shall honor any features and options available under the existing plan. If the governing body of the fund elects to offer the option to convert monthly pension benefits to monthly annuity benefits, it shall provide to individuals entitled to benefits from the fund sufficiently complete and appropriate disclosures to assist in making an informed decision.
- (10) If all liabilities to all individuals entitled to benefits have been satisfied for a pension fund covered by this section, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the city. If repealed, the governing body of the fund shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the fund's governing body to the city government's general fund so long as the return of assets complies with federal and state law governing the distribution of assets. Within thirty (30) days following the distribution of residual assets, the governing body of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to dissolve the fund and liquidate residual assets of the fund for retention by the city clerk the same as for other city records.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 121, sec. 1, effective July 15, 2020. -- Amended 2016 Ky. Acts ch. 31, sec. 5, effective July 15, 2016. -- Amended 2014 Ky. Acts ch. 92, sec. 85, effective January 1, 2015. -- Amended 1988 Ky. Acts ch. 11, sec. 8, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 177, sec. 8, effective July 13,

1984; and ch. 192, sec. 5, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 166, sec. 46, effective July 15, 1982; and ch. 297, sec. 5, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 386, sec. 13. -- Amended 1972 Ky. Acts ch. 315, sec. 1. -- Amended 1960 Ky. Acts ch. 26, sec. 1, effective June 16, 1960. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3235h-2, 3235h-10.