

**78.530 Participation by political subdivisions -- Payment -- Closing of participation in local government systems -- Hazardous duty coverage option.**

- (1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his or her employees or the county clerk and his or her employees do, the sheriff or the clerk shall retain the order in his or her office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.
- (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:
  1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement;
  2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if any agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002; and
  3. Any consolidated emergency services district.
- (2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.
- (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(1)(b) and (c), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which

would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.

- (b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage.
- (c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535.
- (d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the

date he or she elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection.

- (e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the date he or she elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection.
- (f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the date he or she elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.
- (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no county that elects to participate in the system on or after January 1, 2014, shall be eligible to

participate under the alternate participation plan.

- (4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.
- (5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.
- (6)
  - (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.
  - (b) Notwithstanding any statute to the contrary, after April 9, 2002, the system shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.
- (7) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in

hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 116, sec. 17, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 33, effective April 1, 2021. -- Amended 2015 Ky. Acts ch. 28, sec. 7, effective June 24, 2015. -- Amended 2013 Ky. Acts ch. 120, sec. 73, effective July 1, 2013. -- Amended 2011 Ky. Acts ch. 52, sec. 5, effective June 8, 2011. -- Amended 2002 Ky. Acts ch. 270, sec. 1, effective April 9, 2002. -- Amended 1990 Ky. Acts ch. 157, sec. 1, effective July 13, 1990; ch. 279, sec. 1, effective July 13, 1990; and ch. 392, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 11, sec. 1, effective July 15, 1988; ch. 349, sec. 32, effective July 15, 1988; Ky. Acts ch. 364, sec. 4, effective July 15, 1988; and ch. 366, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 90, sec. 23, effective July 15, 1986; and ch. 331, sec. 21, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 177, sec. 3, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 311, sec. 21, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 87, sec. 2; and ch. 128, sec. 33, effective March 26, 1974. -- Amended 1972 Ky. Acts ch. 116, sec. 62. -- Amended 1966 Ky. Acts ch. 34, sec. 2. -- Amended 1964 Ky. Acts ch. 49, sec. 2. -- Amended 1962 Ky. Acts ch. 31, sec. 2. -- Created 1958 Ky. Acts ch. 167, sec. 3.

**Legislative Research Commission Note (6/8/2011).** 2011 Ky. Acts ch. 52, sec. 6, provided that "if an agency meets the requirements of the exception provided in subsection (1)(b)2. of Section 5 of this Act (this statute), but was required under KRS 78.530 prior to the effective date of this Act (June 8, 2011) to sign a contract with the Personnel Cabinet to provide its employees with health insurance coverage through the Public Employees Health Insurance Plan as a condition of its participation in the County Employees Retirement System, then the agency shall be eligible to opt out of the health insurance contract by notifying the secretary of the Personnel Cabinet."