

**161.612 Membership of individuals providing part-time and substitute services -- Service credit -- Participation in benefits -- Individuals who retire and are reemployed on or after January 1, 2019. (Effective until January 1, 2022)**

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Teachers' Retirement System, according to the conditions and only to the extent set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

- (1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.235 or 161.600, as applicable. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.235 or 161.620, as applicable, except that the provisions of KRS 161.620(3) shall not apply. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.235 or 161.600, as applicable, may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (2)
  - (a)
    1. The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663.
    2. For all disability retirement applications filed with the Teachers' Retirement System on or after July 1, 2021, disability retirement payments and any other recurring payments payable by any other state-administered retirement system to members providing part-time or substitute services shall be applied to reduce, on a dollar-for-dollar basis, the minimum monthly disability retirement allowance of five hundred dollars (\$500) provided for under KRS 161.661(6).
    3. Effective July 1, 2021, members providing part-time or substitute

services shall not be eligible to apply for a disability retirement allowance if they are eligible for a service retirement allowance that is not subject to an actuarial reduction required under KRS 161.600(1)(b) or (d).

- (b) The board of trustees may permit members providing part-time or substitute services to participate in other benefits offered by the retirement system by promulgating administrative regulations that establish eligibility conditions for participation in these benefits. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness;
- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services;
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less;
- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees;
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership;
- (7) Effective January 1, 2019, this section does not apply to any individual who retires on or after January 1, 2019, and is reemployed on or after January 1, 2019; and
- (8) The provisions of this section are not subject to KRS 161.714.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 192, sec. 17, effective June 29, 2021. -- Amended 2018 Ky. Acts ch. 107, sec. 71, effective July 14, 2018. -- Amended 2008 Ky. Acts ch. 78, sec. 15, effective July 1, 2008. -- Amended 2004 Ky. Acts

ch. 121, sec. 17, effective July 1, 2004. -- Created 2002 Ky. Acts ch. 275, sec. 1, effective July 1, 2002.

**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.