

**21.402 Hybrid cash balance plan for certain members of Legislators' Retirement Plan and Judicial Retirement Plan -- Member contributions and employer pay credits -- Interest credits -- Termination of employment -- Options upon retirement -- Individual members' accounts established by board of Judicial Form Retirement System.**

- (1) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement Plan begins on or after January 1, 2014, or a member making an election pursuant to KRS 21.374, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 6.520 and 21.400. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.
- (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 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by KRS 6.505(1)(d)2.b. and 21.360(1)(a)3.b.;
  - (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
  - (c) Interest credits 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 plan.
  - (b) Interest credits, 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 plan shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
  - (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit 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:
    1. Four percent (4%); plus
    2. Seventy-five percent (75%) of the plan's geometric average net investment return in excess of a four percent (4%) rate of return.
  - (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit 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 four percent (4%).

- (d) For purposes of this subsection, "plan'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 five (5) fiscal years as of the date the interest is credited to the member's account; and
  - 2. Shall be expressed as a percentage and based upon the plan in which the member has an account.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, 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 the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, 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 retire:
  - (a) Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, 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 the Legislators' Retirement Plan or the Judicial Retirement Plan, 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 plan 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 set forth in KRS 21.420(8)(b); or
  - (c) Take a refund of his or her accumulated account balance as provided by KRS 21.460.
- (8) The board of the Judicial Form Retirement System shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The Judicial Form Retirement System may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.

- (9) The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, except for those members who make an election pursuant to KRS 21.374.

**Effective:** July 14, 2022

**History:** Repealed, reenacted, and amended 2022 Ky. Acts ch. 55, sec. 9, effective July 14, 2022. -- Amended 2018 Ky. Acts ch. 107, sec. 9, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 125, sec. 5, effective March 27, 2017. -- Amended 2016 Ky. Acts ch. 12, sec. 5, effective July 15, 2016. -- Created 2013 Ky. Acts ch. 120, sec. 12, effective July 1, 2013.

**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.