

**61.565 Employer's contributions -- Computation of normal cost contribution and accrued liability -- Contribution -- Notification of change in employer contribution rate -- Costs for employer pay credits -- Employers to pay full contribution.**

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652 and the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute annually to the respective retirement system an amount determined by the actuarial valuation completed in accordance with KRS 61.670 and as specified by this section. Employer contributions for each respective retirement system shall be equal to the sum of the "normal cost contribution" and the "actuarially accrued liability contribution."
- (b) For purposes of this section, the normal cost contribution shall be computed as a percentage of pay and shall be an annual amount that is sufficient when combined with employee contributions to fund benefits earned during the year in the respective system. The amount shall be:
  1. Paid as a percentage of creditable compensation reported for each employee participating in the system and accruing benefits; and
  2. The same percentage of pay for all employees who are participating in the same retirement system, except that separate percentage rates shall be developed in each system for those employers whose employees are participating in hazardous duty retirement coverage as provided by KRS 61.592.
- (c) For purposes of this section, the actuarially accrued liability contribution for all employers, except for contributions paid by nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021, shall be:
  1. Computed by amortizing the total unfunded actuarially accrued liability of each system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 actuarial valuation shall be amortized over a closed period of twenty (20) years beginning with the actuarial valuation in which the increase or decrease in the unfunded actuarially accrued liability is recognized. An increase or decrease in the unfunded actuarially accrued liability may result from, but not be limited to, legislative changes to benefits, changes in actuarial methods or assumptions, or actuarial gains or losses;
  2. Paid as a percentage of payroll on the creditable compensation reported for each employee participating in the system and accruing benefits; and
  3. The same percentage of pay for all employees who are participating in the same retirement system, except that separate percentage rates shall be developed in each system for those employers whose employees are participating in hazardous duty retirement coverage as provided by KRS 61.592.

- (d) 1. For purposes of this section, the actuarially accrued liability contribution for nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021:
- a. Shall be an annual dollar amount that is sufficient to amortize the total unfunded actuarially accrued liability of the system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 actuarial valuation shall be amortized over a closed period of twenty (20) years beginning with the actuarial valuation in which the increase or decrease in the unfunded actuarially accrued liability is recognized. An increase or decrease in the unfunded actuarially accrued liability may result from but not be limited to legislative changes to benefits, changes in actuarial methods or assumptions, or actuarial gains or losses;
  - b. Shall be prorated to each individual nonhazardous employer in the Kentucky Employees Retirement System by multiplying the annual dollar amount of the actuarially accrued liability contribution for the system as determined by subdivision a. of this subparagraph by the individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation which shall be determined solely by the system's consulting actuary and assigned to each employer based upon the last participating employer of the member or retiree as of June 30, 2019. The individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation shall be used to determine the individual employer's prorated dollar amount of the system's actuarially accrued liability contribution in all future fiscal years of the amortization period or periods, except that the employer's percentage shall be adjusted to reflect any employer who voluntarily or involuntarily ceases participation as provided by KRS 61.522 and except as provided by subparagraphs 4. and 5. of this paragraph. For purposes of this subdivision, all executive branch departments, program cabinets and their respective departments, and administrative bodies enumerated in KRS 12.020, and any other executive branch agencies administratively attached to a department, program cabinet, or administrative body enumerated in KRS 12.020, shall be considered a single individual employer and only one (1) value shall be computed for these executive branch employers. For purposes of this subdivision, all employers of the legislative branch, including the Legislative Research Commission and the General Assembly that covers legislators and staff who participate in the Kentucky Employees Retirement System, shall be considered a single individual

employer and only one (1) value shall be computed for these employers. For purposes of this subdivision, all employers of the judicial branch, including the Administrative Office of the Courts, the Judicial Form Retirement System, and all master commissioners, shall be considered a single individual employer and only one (1) value shall be computed for these employers. Upon request by any nonhazardous employer covered by this paragraph, the system shall, within ninety (90) days of the employer's request, provide the requesting employer with any:

- i. Identifying, demographic, financial, or any other information that was provided to the system's actuary to determine the employer's share of the system's total actuarially accrued liability, including individual data provided to the actuary on each member, retiree, or recipient whose cost was assigned to the employer. The data shall also include identifying information that will allow the employer to match its records to the members, retirees, and recipients that resulted in the cost that has been assigned to the employer; and
  - ii. Calculations produced by the actuary on each member, retiree, or recipient during the completion of the valuation that resulted in the cost assigned to the employer under this paragraph. The data shall include identifying information that will allow the employer to match its records to the members, retirees, and recipients that resulted in the cost that has been assigned to the employer;
- c. Shall be payable by an individual employer in equal monthly dollar installments during the fiscal year in accordance with the reporting requirements specified by KRS 61.675 so that the individual employer pays its full prorated dollar amount of the actuarially accrued liability contribution as determined by subdivision b. of this subparagraph; and
  - d. Notwithstanding subdivision b. of this subparagraph for those individual participating employers who are local and district health departments governed by KRS Chapter 212, community mental health centers, and employers whose employees are not subject to KRS 18A.005 to 18A.200, who received or were eligible to receive a distribution of general fund appropriations in the 2018-2020 biennial executive branch budget to assist in paying retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5); 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169, Part I, G., 9., (2), shall not, once the initial dollar amounts are established in accordance with this paragraph, be adjusted in terms of dollars paid by the individual employer, except that adjustments shall be made by the system upon completion of an actuarial investigation as provided by KRS 61.670, so long as at least four (4) years have passed since the last adjustment to the actuarially

accrued liability contribution for these employers. The provisions of this subdivision shall not be interpreted to mean that employers described by this subdivision may continue paying the dollar value of contributions or employer contribution rates established or paid by the employer in budget periods occurring prior to July 1, 2021.

2. Individual employers, solely for purposes of collecting employer contributions from various fund sources during the fiscal year, may convert the actuarially accrued liability contribution established by this paragraph to a percentage of pay and may adjust the percent of pay during the fiscal year in order to pay the required dollar value of actuarially accrued liability contribution required by this paragraph. No provision of this subparagraph shall be construed to reduce an individual employer's actuarially accrued liability contribution as otherwise provided by this paragraph.
3. The provisions of this paragraph shall not apply to those employers who cease participation as provided by KRS 61.522.
4. In the event an individual Kentucky Employees Retirement System nonhazardous employer who is required to pay an actuarially accrued liability contribution as provided by this paragraph and as calculated from the 2019 actuarial valuation or subsequent valuations, merges with another employer or entity, forms a new or separate employer or entity, or splits or separates operations into multiple employers or entities, the system shall, except for those employers or entities who pay the costs to cease participation as provided by KRS 61.522, have full authority to assign a portion or all of the total actuarially accrued liability contribution to the merged, new, split, or separate employers or entities, regardless of whether or not the merged, new, split, or separate employers or entities participate in the system. In the case of a district health department established pursuant to KRS Chapter 212, which ceases to operate or which has a county or counties that withdraw from the district health department, the systems shall assign the total actuarially accrued liability contribution based upon the proportion of taxable property of each county as certified by the Department for Public Health in the Cabinet for Health and Family Services in accordance with KRS 212.132. The system shall establish by administrative regulations the process of assigning actuarially accrued liability contributions as authorized by this subparagraph.
5. a. An employer who is not in the executive, legislative, or judicial branch of Kentucky state government as enumerated in subparagraph 1.b. of this paragraph may on or before July 1, 2021, appeal to the board regarding any current or former employees or retirees the employer believes should not be used to determine the employer's percentage of the system's total actuarially accrued liability. The only appeals that shall be submitted by the employer or considered by the board shall be potential errors where the last participating employer is in dispute, situations where employees of

the employer were hired through a contract between the executive branch and the employer for the employee to provide services to the executive branch, or situations where a community mental health center was contracted to provide services at a facility previously operated by the executive branch. The employer shall submit the information required by the board to verify potential errors or contract employees with employers.

- b. The board shall review and issue a final determination regarding any appeals by December 31, 2021. In situations where the board determines the last participating employer was incorrect and should be assigned to another employer, the system shall, effective for employer contributions payable on or after July 1, 2022, assign the cost to the executive branch until such time ownership of the liability can be determined and assigned to the correct employer. In situations where the board determines certain employees of employers were hired through a contract between the executive branch and the employer for an employee or employees to provide services to the executive branch, those liabilities shall, effective for employer contributions payable on or after July 1, 2022, be assigned to the executive branch. In situations where the board determines the community mental health center was contracted to provide services at a facility previously operated by the executive branch, the liabilities for employees providing services at that facility shall, effective for employer contributions payable on or after July 1, 2022, be assigned to the executive branch.
  - c. No appeal shall be submitted by the employer or considered by the board regarding the assumptions or methodology used by the actuary to determine a particular employer's percentage of the system's total actuarially accrued liability or the use of the last participating employer to assign liabilities to an employer, except as otherwise provided by this subparagraph.
  - d. The board shall within thirty (30) days following the final determinations submit to the Public Pension Oversight Board the list of appeals that were approved, the number of employees involved, and any costs that will be transferred to the executive branch effective July 1, 2022.
- (e) The employer contributions computed under this section shall be determined using:
- 1. The entry age normal cost funding method;
  - 2. An asset smoothing method that smooths investment gains and losses over a five (5) year period; and
  - 3. Other funding methods and assumptions established by the board in accordance with KRS 61.670.
- (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the Kentucky Employees Retirement System, normal cost contribution rates and

the actuarially accrued liability contribution shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.

- (b) The board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.
- (3) (a) The system shall advise each employer prior to July 1 of any change in the employer contribution rate.
- (b) Costs for the benefits provided under KRS 16.583(2)(b)2. and 16.584 shall be included in the employer contribution rate payable to the State Police Retirement System but shall be reported as a separate line item in the actuarial valuation for purposes of KRS 16.584 and in any correspondence to the Department of Kentucky State Police, the state budget director, and the Legislative Research Commission regarding employer costs for the State Police Retirement System.
  - (c) Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under this section.
- (4) All employers, including the General Assembly, shall pay the full actuarially required contributions, as prescribed by this section, to the Kentucky Employees Retirement System and the State Police Retirement System in fiscal years occurring on or after July 1, 2020, except as authorized for the program established by KRS 16.583(2)(b)2. and 16.584.

**Effective:** April 1, 2023

**History:** Amended 2022 Ky. Acts ch. 181, sec. 8, effective April 1, 2023; ch. 192, sec. 2, effective April 12, 2022; and ch. 216, sec. 6, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 83, sec. 1, effective March 23, 2021; and ch. 102, sec. 54, effective April 1, 2021. -- Repealed, reenacted, and amended 2020 Ky. Acts ch. 79, sec. 22, effective April 1, 2021; and amended ch. 82, sec. 1, effective April 8, 2020. - - Amended 2018 Ky. Acts ch. 107, sec. 18, effective July 14, 2018; and ch. 170, sec. 2, effective April 14, 2018. -- Amended 2013 Ky. Acts ch. 120, sec. 53, effective July 1, 2013. -- Amended 2009 Ky. Acts ch. 65, sec. 1, effective June 25, 2009; and ch. 77, sec. 11, effective June 25, 2009. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 15, effective June 27, 2008. -- Amended 1992 Ky. Acts ch. 240, sec. 24, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 489, sec. 2, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 176, sec. 4, effective July 15, 1986. -- Amended 1980 Ky. Acts ch. 186, sec. 25, effective July 15, 1980; and ch. 246, sec. 4, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1974 Ky. Acts ch. 128, sec. 17. -- Amended 1972 Ky. Acts ch. 116, sec. 34. -- Amended 1962 Ky. Acts ch. 58, sec. 7. -- Created 1956 Ky. Acts ch. 110, sec. 12.

**Legislative Research Commission Note** (4/1/2023). This statute was amended by 2022 Ky. Acts chs. 181, 192, and 216, which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note** (4/12/2022). 2022 Ky. Acts ch. 192, sec. 4, provides that the amendments made to this statute in that Act are retroactive to July 1, 2021.

**Legislative Research Commission Note** (4/1/2021). This statute was amended by 2020 Ky. Acts chs. 79 and 82. Where these Acts are not in conflict, they have been

codified together. Where a conflict exists, Acts ch. 82, which was last enacted by the General Assembly, prevails under KRS 446.250.

**Legislative Research Commission Note (4/8/2020).** This KRS section was repealed, reenacted, and amended by Section 1 of 2020 Ky. Acts ch. 82. Section 4 of that Act states, "The Kentucky Retirement Systems board of trustees shall amend the 2019 actuarial valuation for the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System in accordance with the provisions of Section 1 of this Act [this statute] and shall provide the information to the Governor and the General Assembly for purposes of the 2020-2022 biennial budgeting process."

**Legislative Research Commission Note (4/8/2020).** This KRS section was repealed, reenacted, and amended by Section 1 of 2020 Ky. Acts ch. 82. Section 6 of that Act states, "Notwithstanding Section 1 of this Act [this statute] and KRS 61.702, the employer contribution rates for the County Employees Retirement System from July 1, 2020, through June 30, 2021, shall remain 24.06 percent, consisting of 19.30 percent for pension and 4.76 percent for health insurance, for nonhazardous duty employees and 39.58 percent, consisting of 30.06 percent for pension and 9.52 percent for health insurance, for hazardous duty employees. Any future increases in the County Employees Retirement System after June 30, 2021, as provided by subsection (5) of Section 1 of this Act [this statute], shall use the employer contribution rate established by this section for County Employees Retirement System employers as the base rate to calculate future increases in County Employees Retirement System employer contribution rates."

**Legislative Research Commission Note (6/25/2009).** 2009 Ky. Acts ch. 65, sec. 2, provides, "The provisions of subsection (6) of Section 1 of this Act [KRS 61.565(6)] shall become effective for the contribution rates paid by employers participating in the County Employees Retirement System on or after July 1, 2009."

**Legislative Research Commission Note (6/27/2008).** A manifest clerical or typographical error in 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 15 (this statute), has been corrected in codification by the Reviser of Statutes under the authority of KRS 7.136(1)(h).

**Legislative Research Commission Note (6/27/2008).** 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 43, provides "Notwithstanding any provision of KRS 61.565 or 61.702 to the contrary, the employer contribution rates for the County Employees Retirement Systems (sic) from July 1, 2008, through June 30, 2009, shall be 13.5 percent, consisting of 7.76 percent for pension and 5.74 percent for insurance, for nonhazardous duty employees; and 29.5 percent, consisting of 15.04 percent for pension and 14.46 percent for insurance, for hazardous duty employees."

**Legislative Research Commission Note (10/19/2004).** 2004 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 9, provides, "Notwithstanding KRS 61.565, the employer contribution rate for an entity participating in the Kentucky Employees Retirement System or State Police Retirement System shall be as follows:

- (1) From July 1, 2004, through June 30, 2005, the contribution rates shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System. This provision shall be retroactive to July 1, 2004; and
- (2) From July 1, 2005, through June 30, 2006, the employer contribution rate shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System."

**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.