

1 AN ACT relating to recontribution of a refund in the retirement systems.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.552 is amended to read as follows:

4 (1) Called to Active Duty Military Service. An employee of an employer participating
5 in the system who is called to active military duty in the Armed Forces of the
6 United States shall be credited in accordance with 38 U.S.C. sec. 4318 with service
7 credit, creditable compensation, and in the case of employees participating in the
8 hybrid cash balance plan, employee contributions, employer credits, and interest
9 credits, for a period of active military duty of up to six (6) years, provided:

10 (a) The employee was called to active military duty in the Armed Forces of the
11 United States:

12 1. After he or she began participating in the system and provided the
13 employee was on leave of absence from the employer and did not
14 withdraw his or her accumulated account balance; or

15 2. Prior to the date he or she began participating in the system and
16 terminated employment with his or her employer;

17 (b) The employee entered active military service within three (3) months of his or
18 her last day of paid employment;

19 (c) His or her discharge military service was terminated in a manner other than as
20 described in 38 U.S.C. sec. 4304; and

21 (d) He or she returns to work with an employer participating in the system within
22 two (2) years after completion of the period of active military duty, or upon
23 the subsequent termination of any total disability which existed at the
24 expiration of the two (2) years after discharge.

25 For periods of active military duty that meet the requirements of this subsection, the
26 employer shall pay the employer contributions payable under KRS 61.565, 61.702,
27 78.5536, and 78.635.

- 1 (2) (a) Omitted Service. Any person who is entitled to service credit for employment
2 which was not reported by the employer in accordance with KRS 16.543,
3 61.543, or 78.615 may obtain credit for the service subject to the provisions of
4 this subsection.
- 5 (b) Provided the person pays for the omitted service with within six (6) months of
6 notification by the system, the cost of the service shall be equal to the
7 employee contributions that would have been paid if the person had been
8 correctly reported in accordance with KRS 16.543, 61.543, or 78.615.
- 9 (c) Any employee participating in one (1) of the state-administered retirement
10 systems entitled to service credit under paragraph (a) of this subsection who
11 has not repaid the employee contributions due within six (6) months of
12 notification by the system may purchase the credit after the six (6) months by
13 paying to the system the employee contributions plus interest at the actuarially
14 assumed rate from the date of initial notification under paragraph (b) of this
15 subsection.
- 16 (d) Omitted service purchased under this subsection shall:
- 17 1. Be considered service credited under KRS 16.543(1), 61.543(1), or
18 78.615(1) for purposes of determining eligibility for retirement benefits
19 under KRS 78.510 to 78.852; and
- 20 2. Not be credited to the member's account until the employer contributions
21 due and any interest or penalties on the delinquent employer
22 contributions for the period of omitted service are received by the
23 system.
- 24 (e) Employees who begin participating on or after January 1, 2014, in the hybrid
25 cash balance plan provided by KRS 16.583 or 61.597 or 78.5512 or 78.5516
26 shall, upon payment of the employee and employer contributions due under
27 this subsection, have their accumulated account balance increased by the

1 employee contributions, employer pay credits, and interest credits that would
2 have been credited to their member's account if the contributions had been
3 paid on time.

4 (f) Contributions payable by the employer under this subsection for omitted
5 service shall be considered delinquent from the date the employee should have
6 been reported and received service credit in accordance with KRS 16.543,
7 61.543, and 78.615.

8 (3) (a) Recontribution of a Refund. Any employee participating in one (1) of the
9 state-administered retirement systems who has been refunded his or her
10 accumulated account balance under the provisions of KRS 61.625, thereby
11 losing service credit in the system, may regain the credit by paying to the
12 system the amount or amounts refunded by the system with interest at a rate
13 determined by the board. Service purchased under this subsection on or after
14 January 1, 2023~~[2014]~~, shall not be used to determine the member's
15 participation date in the systems.

16 (b) Recontribution of a refund purchased under this subsection shall not be used
17 in determining a retirement allowance until the member has accrued at least
18 six (6) months of service credit in a state-administered retirement system,
19 excluding the service purchased under this subsection. If the member does not
20 accrue at least six (6) months of service credit in a state-administered
21 retirement system, excluding service purchased under this subsection, then the
22 payment plus interest as provided in KRS 16.560, 61.575, or 78.640 shall be
23 refunded upon retirement, death, or written request following termination of
24 employment. The service requirement shall be waived if the member dies or
25 becomes disabled as provided for by KRS 16.582, 61.600, 61.621, 78.5522, or
26 78.5524.

27 (4) (a) Summer Months. Any employee participating in one (1) of the state-

1 administered retirement systems who is or has been employed by a school
2 board or community action agency participating in the County Employees
3 Retirement System or a state-operated school under KRS Chapter 167 or an
4 institution of higher learning participating in the Kentucky Employees
5 Retirement System, who receives service credit for less than twelve (12)
6 months each year, may purchase the additional months of service credit
7 needed to total one (1) year of service credit, except the amount purchased for
8 any specific year shall not exceed three (3) months.

9 (b) The cost of the summer months service credit shall be determined by the
10 formula established by subsection (10) of this section and may be purchased
11 by the employee, or the employer on behalf of the employee, or the cost may
12 be paid by both the employer and employee in which case the employer and
13 employee shall each pay fifty percent (50%) of the cost. Service credit shall
14 not be credited to the member's account until both the employer's and
15 employee's payment are received by the system.

16 (c) If the employee has purchased service credit under this subsection based on
17 months reported by the employer for the fiscal year, and an audit of the
18 employee's account reduces the number of months of service credit for which
19 the employee is eligible to no fewer than nine (9) months, the employee shall
20 retain credit for the months purchased unless the employee is ineligible for
21 any service in the fiscal year. The employee shall be eligible to purchase the
22 additional months under this subsection to total one (1) year.

23 (d) This subsection shall not apply to members who began participating in the
24 County Employees Retirement System on or after January 1, 2014.

25 (5) Vested Service Purchases. Any employee who began participating in the County
26 Employees Retirement System, the Kentucky Employees Retirement System, or the
27 State Police Retirement System prior to January 1, 2014, who is vested may

1 purchase service credit for:

2 (a) Past service. "Past service" means periods of employment:

3 1. Between July 1, 1956, in the case of the Kentucky Employees
4 Retirement System, or July 1, 1958, in the case of the County
5 Employees Retirement System, and the effective date of participation by
6 the employer;

7 2. Where the employee did not participate in the system due to the
8 employee not electing to participate as provided in KRS 61.525(2) or
9 78.540(1); and

10 3. With a public agency that did not participate in the Kentucky Employees
11 Retirement System but would have been eligible to participate under
12 KRS 61.520 or a political subdivision that did not participate in the
13 County Employees Retirement System but would have been eligible to
14 participate under KRS 78.530, provided the public agency or political
15 subdivision has merged with or been taken over by a participating
16 employer;

17 (b) State university service, provided the university does not participate in a state-
18 administered retirement system and the university service being purchased
19 was in a nonteaching position that did not participate in a defined benefit
20 retirement program;

21 (c) 1. Up to ten (10) years of out-of-state service. "Out-of-state" means service
22 credited to a state or local government-administered public defined
23 benefit plan in another state that is not a defined benefit plan for
24 teachers.

25 2. Up to ten (10) years of out-of-state hazardous service. "Out-of-state
26 hazardous service" means service in a regular full-time position that was
27 credited to a defined benefit retirement plan administered by a state or

1 local government in another state, if the service could be certified as
2 hazardous pursuant to KRS 61.592 or 78.5520, as applicable. The
3 employee may purchase out-of-state hazardous service under this
4 subparagraph provided the employee is vested to receive benefits from
5 the State Police Retirement System or hazardous duty benefits from the
6 Kentucky Employees Retirement System or the County Employees
7 Retirement System.

8 The employee must purchase out-of-state service or out-of-state hazardous
9 service in the system in which he or she is vested based solely upon the
10 service in that system;

11 (d) Active military duty, which means periods of active military duty in the
12 Armed Forces of the United States, provided:

- 13 1. The employee's military service was terminated in a manner other than
14 as described in 38 U.S.C. sec. 4304; and
- 15 2. The service has not been credited as free military service under
16 subsection (1) of this section;

17 (e) National Guard service. An employee may purchase one (1) month of service
18 for each six (6) months of service in the National Guard or the military
19 reserves of the United States. The service shall be treated as service earned
20 prior to participation in the system;

21 (f) Federal service. "Federal service" means service with the United States
22 government, that is not service in the Armed Forces;

23 (g) Seasonal, emergency, interim, probationary, or temporary employment or part-
24 time employment as provided by KRS 61.510(21) or 78.510(21) averaging
25 one hundred (100) or more hours of work per month on a calendar or fiscal
26 year basis. If the average number of hours of work is less than one hundred
27 (100) per month, the member may purchase credit for only those months he or

1 she receives creditable compensation for one hundred (100) hours of work;

2 (h) Part-time employment in a noncertified position at a school board prior to the
3 1990-91 school year which averaged eighty (80) or more hours of work per
4 month on a calendar or fiscal year basis. If the average number of hours of
5 work is less than eighty (80) per month, the noncertified employee of a school
6 board shall be allowed to purchase credit only for those months he or she
7 receives creditable compensation for eighty (80) hours of work;

8 (i) Any period of:

- 9 1. Authorized maternity leave without pay or sick leave without pay;
- 10 2. Unpaid leave authorized under the federal Family and Medical Leave
11 Act;
- 12 3. Approved educational leave; and
- 13 4. Agency-approved leave to work for a work-related labor organization if
14 the agency subsequently participated in the County Employees
15 Retirement System, but only if the board receives a favorable private
16 letter ruling from the United States Internal Revenue Service or a
17 favorable opinion letter from the United States Department of Labor;

18 (j) Non-participating employer service, which means periods of employment with
19 the following types of agencies provided the agency does not participate in a
20 state-administered retirement system:

- 21 1. A regional community services program for mental health organized and
22 operated under the provisions of KRS 210.370 to 210.480;
- 23 2. A community action agency created under KRS 273.405 to 273.453. The
24 service provided by this subparagraph shall be purchased in the County
25 Employees Retirement System;
- 26 3. An area development district created pursuant to KRS 147A.050; or
- 27 4. A business development corporation created pursuant to KRS 155.001

- 1 to 155.230, provided the system receives a favorable private letter ruling
2 from the United States Internal Revenue Service or a favorable opinion
3 letter from the United States Department of Labor;
- 4 (k) Urban-county government service, which means employment in an urban-
5 county government position that would qualify for hazardous duty coverage
6 under KRS 61.592 or 78.5520. The provisions of this paragraph shall only be
7 applicable to vested members participating in the State Police Retirement
8 System or in a hazardous position in the Kentucky Employees Retirement
9 System or the County Employees Retirement System;
- 10 (l) Periods of service as assistants to officers and employees of the General
11 Assembly for persons who were unable to acquire service under KRS
12 61.510(20) for service performed after January 1, 1960;
- 13 (m) Service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-
14 720; and
- 15 (n) Employment with a vocational technical school in a noncertified part-time
16 position averaging eighty (80) or more hours per month, determined by using
17 the number of months actually worked within a calendar or fiscal year. The
18 service provided by this paragraph shall be purchased in the Kentucky
19 Employees Retirement System.
- 20 (6) Non-qualified service. Provided the employee's participation date in the system is
21 prior to July 15, 2002, and provided the employee has total service in all state-
22 administered retirement systems of at least one hundred eighty (180) months of
23 service credit, the employee may purchase a combined maximum total of five (5)
24 years of service credit, known as non-qualified service, which is not otherwise
25 purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to
26 61.705, or 78.510 to 78.852. The service purchased under this paragraph shall not
27 be used in determining a retirement allowance until the member has accrued at least

1 two hundred forty (240) months of service, excluding service purchased under this
2 subsection. If the member does not accrue at least two hundred forty (240) months
3 of service, excluding service purchased under this subsection, upon retirement,
4 death, or written request following termination, the payment, plus interest as
5 provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.

6 (7) For purposes of service purchased under subsections (2) to (6) of this section:

7 (a) Except for subsection (6) of this section, the service must qualify as regular
8 full-time as provided by KRS 61.510 and 78.510;

9 (b) No service credit may be purchased for periods already credited to the system
10 or another public defined benefit retirement fund, including non-qualified
11 service purchased in another state-administered retirement system;

12 (c) Except as provided by paragraph (a)2.a. of subsection (9) of this section, the
13 employee payment for service purchases shall not be picked up, as described
14 in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer;

15 (d) Except for service purchased under subsection (2) or (3) of this section,
16 service purchases made pursuant to this section may be purchased by the
17 entire amount of service available or by increments. Service purchases made
18 pursuant to subsections (2) and (3) of this section shall only be purchased by
19 the entire amount of service available; and

20 (e) Service purchases as provided by subsections (5)(b), (5)(d) to (f), (5)(j)1., and
21 (6) of this section may be purchased in any system in which the member has
22 service credit.

23 (8) (a) Employer purchase of past service. Any employer participating in the system
24 may purchase service credit, between July 1, 1956, in the case of the Kentucky
25 Employees Retirement System, or July 1, 1958, in the case of the County
26 Employees Retirement System, and the participation date of the employer, for
27 present employees of the county or department who have elected coverage

1 under KRS 61.525(2) or 78.540(1), provided the employee began participating
2 in the system prior to January 1, 2014.

3 (b) A Kentucky Employees Retirement System employer shall pay the cost of the
4 service credit within the fiscal year the election is made to purchase the
5 service credit. A County Employees Retirement System employer may
6 purchase the service, with interest at the rate actuarially assumed by the board,
7 over a period not to exceed ten (10) years.

8 (c) If an employer elects to purchase service under the provisions of this
9 subsection, any present employee who would be eligible to receive service
10 credit under the provisions of this subsection and has purchased service credit
11 under subsection (5)(a) of this section shall have his or her payment for the
12 service credit refunded with interest at the rate paid under KRS 61.575 or
13 78.640; and

14 (d) Any payments made by an employer under this subsection shall be deposited
15 to the retirement allowance account of the system and these funds shall not be
16 considered accumulated contributions of the individual members.

17 (9) (a) An employee participating in the system may purchase service credit under
18 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to
19 78.852 for which he or she is eligible to purchase, or as otherwise required by
20 38 U.S.C. ch. 43, by:

21 1. Making a lump-sum payment on a before-tax basis as provided in
22 subparagraph 3. of this paragraph, or on an after-tax basis if the
23 employee is purchasing service credit under subsection (1) or (3) of this
24 section, service available pursuant to 38 U.S.C. ch. 43 not otherwise
25 provided for in this section, or grandfathered service as defined in
26 paragraph (b) of this subsection;

27 2. Entering into an agreement to purchase service credit through an

1 installment purchase of service agreement with the systems as provided
2 by paragraph (c) of this subsection:

3 a. On a before-tax basis in which the service is purchased pursuant to
4 the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or

5 b. On an after-tax basis if the employee is purchasing service credit
6 under subsection (1) or (3) of this section, service available
7 pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this
8 section, or grandfathered service as defined in paragraph (b) of this
9 subsection; or

10 3. Transferring funds to the system through a direct trustee-to-trustee
11 transfer as permitted under the applicable sections of the Internal
12 Revenue Code and any regulations or rulings issued thereunder, through
13 a direct rollover as contemplated by and permitted under 26 U.S.C. sec.
14 401(a)(31) and any regulations or rulings issued thereunder, or through a
15 rollover of funds pursuant to and permitted under the rules specified in
16 26 U.S.C. secs. 402(c) and 408(d)(3). The system shall accept the
17 transfer or rollover to the extent permitted under the rules specified in
18 the applicable provisions of the Internal Revenue Code and any
19 regulations and rulings issued thereunder.

20 (b) For purposes of this subsection, "grandfathered service" means service
21 purchases for which a member, whose membership date in the system is prior
22 to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to
23 61.705, or 78.510 to 78.852, that were available for all members of the system
24 to purchase on August 5, 1997.

25 (c) 1. For service purchased under a before-tax or after-tax installment
26 purchase of service agreement as provided by paragraph (a)2. of this
27 subsection, the cost of the service shall be computed in the same manner

- 1 as for a lump-sum payment which shall be the principal, except that
2 interest compounded annually at the actuarial rate in effect at the time
3 the member elects to make the purchase shall be added for the period
4 that the installments are to be made.
- 5 2. Multiple service purchases may be combined under a single installment
6 agreement, except that no employee may make more than one (1)
7 installment purchase at the same time.
- 8 3. For after-tax installment purchase of service agreements, the employee
9 may elect to stop the installment payments by notifying the system; may
10 have the installment purchase recalculated to add one (1) or more
11 additional service purchases; or may pay by lump sum the remaining
12 principal or a portion of the remaining principal.
- 13 4. Before-tax installment purchase of service agreements shall be
14 irrevocable, and the employee shall not be able to stop installment
15 payments or to pay off the remaining balance of the purchase of service
16 agreement, except upon termination of employment or death.
- 17 5. One (1) year of installment payments shall be made for each one
18 thousand dollars (\$1,000) or any part thereof of the total cost, except that
19 the total period allowed for installments shall not be less than one (1)
20 year and shall not exceed five (5) years.
- 21 6. The employee shall pay the installments by payroll deduction for after-
22 tax purchase of service agreements, and the employer shall pick up
23 installments for before-tax purchase of service agreements. Upon
24 notification by the system, the employer shall report the installment
25 payments monthly continuously over each twelve (12) month period at
26 the same time as, but separate from, regular employee contributions on
27 the forms or by the computer format specified by the board.

- 1 7. The system shall determine how much of the total cost represents
2 payment for one (1) month of the service to be purchased and shall
3 credit one (1) month of service to the member's account each time this
4 amount has been paid. The first service credited shall represent the first
5 calendar month of the service to be purchased and each succeeding
6 month of service credit shall represent the succeeding months of that
7 service.
- 8 8. If the employee utilizing an installment purchase of service agreement
9 dies, retires, does not continue employment in a position required to
10 participate in the system, or elects to stop an after-tax installment
11 purchase of service agreement, the member, or in the case of death, the
12 beneficiary, shall have sixty (60) days to pay the remaining principal or a
13 portion of the remaining principal of the installment purchase of service
14 agreement by lump sum, subject to the restrictions of paragraph (a)1. of
15 this subsection, or by transfer of funds under paragraph (a)3. of this
16 subsection, except that payment by the member shall be filed with the
17 system prior to the member's effective retirement date. If the member or
18 beneficiary does not pay the remaining cost, the system shall refund to
19 the member or the beneficiary the payment, payments, or portion of a
20 payment that does not represent a full month of service purchased,
21 except as provided by subsection (6) of this section.
- 22 9. If the employer does not report installment payments on an employee for
23 sixty (60) days for an after-tax installment purchase of service
24 agreement, except in the case of employees on military leave or sick
25 leave without pay, the installment purchase shall cease and the system
26 shall refund to the employee the payment, payments, or portion of a
27 payment that does not represent a full month of service purchased.

- 1 10. Installment payments of employees on military leave or sick leave
2 without pay shall be suspended during the period of leave and shall
3 resume without recalculation upon the employee's return from leave.
- 4 11. If payments have ceased under subparagraph 8. or 9. of this paragraph
5 and the member later becomes a participating employee in the County
6 Employees Retirement System, Kentucky Employees Retirement
7 System, or State Police Retirement System, the employee may complete
8 the adjusted original installment purchase by lump sum or installment
9 payments, subject to the restrictions of this subsection. If the employee
10 elects to renew the installment purchase, the cost of the remaining
11 service shall be recalculated in accordance with subsection (10) of this
12 section.
- 13 (d) Member payments, including interest, properly received pursuant to this
14 subsection, shall be deposited to the member's account and considered as
15 accumulated contributions of the individual member.
- 16 (10) (a) The cost of purchasing service credit under any provision of this section,
17 except as provided by subsections (1) to (3) of this section, shall be
18 determined by multiplying the higher of the employee's current rate of pay,
19 final rate of pay, or final compensation as of the end of the month in which the
20 purchase is made times the actuarial factor times the number of years of
21 service being purchased. The actuarial factor used to determine the cost of
22 purchasing service credit shall assume the earliest date the member may retire
23 without a reduction in benefits and the cost-of-living adjustments provided to
24 members upon retirement.
- 25 (b) Service purchased on or after August 1, 2004, under the provisions of KRS
26 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service
27 purchased under subsections (1) to (3) of this section, shall not be used to

1 determine eligibility for or the amount of the monthly insurance contribution
2 under KRS 61.702 or 78.5536.

3 (c) For a member whose participation begins on or after August 1, 2004, service
4 purchased under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
5 78.510 to 78.852, except for service purchased under subsections (1) to (3) of
6 this section:

7 1. Shall not be used to determine eligibility for a retirement allowance
8 under disability retirement, early retirement, normal retirement, or upon
9 death of the member under any of the provisions of KRS 16.505 to
10 16.652, 61.510 to 61.705, or 78.510 to 78.852; and

11 2. Shall only be used to determine the amount of the retirement allowance
12 of a member who is eligible for a retirement allowance under disability,
13 early retirement, normal retirement, or upon death of the member under
14 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
15 78.510 to 78.852, based on service earned as a participating employee.

16 ➔Section 2. Notwithstanding any other statute to the contrary, the amendments to
17 Section 1 of this Act shall be retroactive to January 1, 2014, and any recontribution of a
18 refund purchased by a current or former member on or after January 1, 2014, but prior to
19 the effective date of this Act, shall be used to determine the member's participation date
20 in the systems, unless the member notifies the systems in writing on or before January 1,
21 2023, of his or her desire to not have the recontribution of refunded service used to
22 determine his or her participation date in the system.