

1 AN ACT relating to membership dates in the state-administered retirement systems.

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

3 ➔Section 1. KRS 78.510 is amended to read as follows:

4 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- 5 (1) "System" means the County Employees Retirement System;
- 6 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 7 (3) "County" means any county, or nonprofit organization created and governed by a
8 county, counties, or elected county officers, sheriff and his or her employees,
9 county clerk and his or her employees, circuit clerk and his or her deputies, former
10 circuit clerks or former circuit clerk deputies, or political subdivision or
11 instrumentality, including school boards, cities, charter county governments, urban-
12 county governments, consolidated local governments, or unified local governments
13 participating in the system by order appropriate to its governmental structure, as
14 provided in KRS 78.530, and if the board is willing to accept the agency,
15 organization, or corporation, the board being hereby granted the authority to
16 determine the eligibility of the agency to participate;
- 17 (4) "School board" means:
- 18 (a) Any board of education participating in the system by order appropriate to its
19 governmental structure, as provided in KRS 78.530, and if the board is willing
20 to accept the agency or corporation, the board being hereby granted the
21 authority to determine the eligibility of the agency to participate; or
- 22 (b) A public charter school as defined in KRS 160.1590 if the public charter
23 school satisfies the criteria set by the Internal Revenue Service to participate
24 in a governmental retirement plan;
- 25 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 26 (6) "Employee" means every regular full-time appointed or elective officer or
27 employee of a participating county and the coroner of a participating county,

1 whether or not he or she qualifies as a regular full-time officer. The term shall not
2 include persons engaged as independent contractors, seasonal, emergency,
3 temporary, and part-time workers. In case of any doubt, the board shall determine if
4 a person is an employee within the meaning of KRS 78.510 to 78.852;

5 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
6 officials of a county, or any authority of the county having the power to appoint or
7 elect an employee to office or employment in the county;

8 (8) "Member" means any employee who is included in the membership of the system
9 or any former employee whose membership has not ceased under KRS 78.535;

10 (9) "Service" means the total of current service and prior service as defined in this
11 section;

12 (10) "Current service" means the number of years and months of employment as an
13 employee, on and after July 1, 1958, for which creditable compensation is paid and
14 employee contributions deducted, except as otherwise provided;

15 (11) "Prior service" means the number of years and completed months, expressed as a
16 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
17 creditable compensation was paid. An employee shall be credited with one (1)
18 month of prior service only in those months he or she received compensation for at
19 least one hundred (100) hours of work. Twelve (12) months of current service in the
20 system shall be required to validate prior service;

21 (12) "Accumulated contributions" means the sum of all amounts deducted from the
22 compensation of a member and credited to his or her individual account in the
23 members' account, including employee contributions picked up after August 1,
24 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,
25 and any other amounts the member shall have contributed thereto, including interest
26 credited thereon. "Accumulated contributions" shall not include employee
27 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.

1 401(h) within the fund established in KRS 78.520, as prescribed by KRS
2 78.5536(3)(b);

3 (13) "Creditable compensation":

4 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
5 and fees, including payments for compensatory time, paid to the employee as
6 a result of services performed for the employer or for time during which the
7 member is on paid leave, which are includable on the member's federal form
8 W-2 wage and tax statement under the heading "wages, tips, other
9 compensation", including employee contributions picked up after August 1,
10 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
11 who receive salary, fees, maintenance, or other perquisites as a result of their
12 official duties is the gross amount received decreased by the cost of salary
13 paid deputies and clerks and the cost of office supplies and other official
14 expenses;

15 (b) Includes:

- 16 1. Lump-sum bonuses, severance pay, or employer-provided payments for
17 purchase of service credit, which shall be averaged over the employee's
18 service with the system in which it is recorded if it is equal to or greater
19 than one thousand dollars (\$1,000);
- 20 2. Cases where compensation includes maintenance and other perquisites,
21 but the board shall fix the value of that part of the compensation not paid
22 in money;
- 23 3. Lump-sum payments for creditable compensation paid as a result of an
24 order of a court of competent jurisdiction, the Personnel Board, or the
25 Commission on Human Rights, or for any creditable compensation paid
26 in anticipation of settlement of an action before a court of competent
27 jurisdiction, the Personnel Board, or the Commission on Human Rights,

1 including notices of violations of state or federal wage and hour statutes
2 or violations of state or federal discrimination statutes, which shall be
3 credited to the fiscal year during which the wages were earned or should
4 have been paid by the employer. This subparagraph shall also include
5 lump-sum payments for reinstated wages pursuant to KRS 61.569,
6 which shall be credited to the period during which the wages were
7 earned or should have been paid by the employer;

- 8 4. Amounts which are not includable in the member's gross income by
9 virtue of the member having taken a voluntary salary reduction provided
10 for under applicable provisions of the Internal Revenue Code; and
- 11 5. Elective amounts for qualified transportation fringes paid or made
12 available on or after January 1, 2001, for calendar years on or after
13 January 1, 2001, that are not includable in the gross income of the
14 employee by reason of 26 U.S.C. sec. 132(f)(4); and

15 (c) Excludes:

- 16 1. Living allowances, expense reimbursements, lump-sum payments for
17 accrued vacation leave, sick leave except as provided in KRS 78.616(5),
18 and other items determined by the board;
- 19 2. For employees who begin participating on or after September 1, 2008,
20 lump-sum payments for compensatory time;
- 21 3. Training incentive payments for city officers paid as set out in KRS
22 64.5277 to 64.5279;
- 23 4. For employees who begin participating on or after August 1, 2016,
24 nominal fees paid for services as a volunteer; and
- 25 5. Any salary or wages paid to an employee for services as a Kentucky
26 State Police school resource officer as defined by KRS 158.441;

27 (14) "Final compensation" means:

- 1 (a) For a member who begins participating before September 1, 2008, who is
2 employed in a nonhazardous position, the creditable compensation of the
3 member during the five (5) fiscal years he or she was paid at the highest
4 average monthly rate divided by the number of months of service credit
5 during that five (5) year period multiplied by twelve (12). The five (5) years
6 may be fractional and need not be consecutive. If the number of months of
7 service credit during the five (5) year period is less than forty-eight (48), one
8 (1) or more additional fiscal years shall be used;
- 9 (b) For a member who is employed in a nonhazardous position, whose effective
10 retirement date is between August 1, 2001, and January 1, 2009, and whose
11 total service credit is at least twenty-seven (27) years and whose age and years
12 of service total at least seventy-five (75), final compensation means the
13 creditable compensation of the member during the three (3) fiscal years the
14 member was paid at the highest average monthly rate divided by the number
15 of months of service credit during that three (3) year period multiplied by
16 twelve (12). The three (3) years may be fractional and need not be
17 consecutive. If the number of months of service credit during the three (3)
18 year period is less than twenty-four (24), one (1) or more additional fiscal
19 years shall be used;
- 20 (c) For a member who begins participating before September 1, 2008, who is
21 employed in a hazardous position, as provided in KRS 61.592, the creditable
22 compensation of the member during the three (3) fiscal years he or she was
23 paid at the highest average monthly rate divided by the number of months of
24 service credit during that three (3) year period multiplied by twelve (12). The
25 three (3) years may be fractional and need not be consecutive. If the number
26 of months of service credit during the three (3) year period is less than twenty-
27 four (24), one (1) or more additional fiscal years, which may contain less than

1 twelve (12) months of service credit, shall be used;

2 (d) For a member who begins participating on or after September 1, 2008, but
3 prior to January 1, 2014, who is employed in a nonhazardous position, the
4 creditable compensation of the member during the five (5) complete fiscal
5 years immediately preceding retirement divided by five (5). Each fiscal year
6 used to determine final compensation must contain twelve (12) months of
7 service credit. If the member does not have five (5) complete fiscal years that
8 each contain twelve (12) months of service credit, then one (1) or more
9 additional fiscal years, which may contain less than twelve (12) months of
10 service credit, shall be added until the number of months in the final
11 compensation calculation is at least sixty (60) months; or

12 (e) For a member who begins participating on or after September 1, 2008, but
13 prior to January 1, 2014, who is employed in a hazardous position as provided
14 in KRS 61.592, the creditable compensation of the member during the three
15 (3) complete fiscal years he or she was paid at the highest average monthly
16 rate divided by three (3). Each fiscal year used to determine final
17 compensation must contain twelve (12) months of service credit. If the
18 member does not have three (3) complete fiscal years that each contain twelve
19 (12) months of service credit, then one (1) or more additional fiscal years,
20 which may contain less than twelve (12) months of service credit, shall be
21 added until the number of months in the final compensation calculation is at
22 least thirty-six (36) months;

23 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
24 calculated during the twelve (12) month period immediately preceding the
25 member's effective retirement date, and shall include employee contributions
26 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be
27 certified to the system by the employer and the following equivalents shall be used

1 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)
2 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-
3 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,
4 twelve (12) months, one (1) year;

5 (16) "Retirement allowance" means the retirement payments to which a member is
6 entitled;

7 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
8 basis of the actuarial tables adopted by the board. In cases of disability retirement,
9 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
10 to the age of the member, unless the member has chosen the Social Security
11 adjustment option as provided for in KRS 61.635(8), in which case the member's
12 actual age shall be used. For members who begin participating in the system prior
13 to January 1, 2014, no disability retirement option shall be less than the same option
14 computed under early retirement;

15 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
16 means:

17 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
18 of a member;

19 (b) For a member with service in a hazardous position who begins participating
20 before September 1, 2008, the first day of the month following a member's
21 fifty-fifth birthday; or

22 (c) For a member with service in a hazardous position who begins participating
23 on or after September 1, 2008, the first day of the month following a
24 member's sixtieth birthday;

25 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
26 following June 30, which shall also be the plan year. The "fiscal year" shall be the
27 limitation year used to determine contribution and benefits limits as set out in 26

1 U.S.C. sec. 415;

2 (20) "Agency reporting official" means the person designated by the participating
3 employer who shall be responsible for forwarding all employer and employee
4 contributions and a record of the contributions to the system and for performing
5 other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

6 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
7 all positions that average one hundred (100) or more hours per month, determined
8 by using the number of hours actually worked in a calendar or fiscal year, or eighty
9 (80) or more hours per month in the case of noncertified employees of school
10 boards, determined by using the number of hours actually worked in a calendar or
11 school year, unless otherwise specified, except:

12 (a) Seasonal positions, which although temporary in duration, are positions which
13 coincide in duration with a particular season or seasons of the year and that
14 may recur regularly from year to year, in which case the period of time shall
15 not exceed nine (9) months, except for employees of school boards, in which
16 case the period of time shall not exceed six (6) months;

17 (b) Emergency positions which are positions utilized by the employer during:
18 1. An emergency as determined by the employer for a period not
19 exceeding thirty (30) working days and are nonrenewable; or
20 2. A state of emergency declared by the President of the United States or
21 the Governor of the Commonwealth of Kentucky that are created or
22 filled specifically for addressing the employer's needs during and as a
23 result of the declared emergency;

24 (c) Temporary positions that are positions of employment with a participating
25 agency for a period of time not to exceed twelve (12) months and not
26 renewable;

27 (d) Probationary positions which are positions of employment with a participating

1 employer that do not exceed twelve (12) months and that are used uniformly
2 by the participating agency on new employees who would otherwise be
3 eligible for participation in the system. Probationary positions shall not be
4 renewable by the participating employer for the same employee, unless the
5 employee has not been employed with the participating employer for a period
6 of at least twelve (12) months; or

7 (e) Part-time positions that are positions that may be permanent in duration, but
8 that require less than a calendar or fiscal year average of one hundred (100)
9 hours of work per month, determined by using the number of months actually
10 worked within a calendar or fiscal year, in the performance of duty, except in
11 case of noncertified employees of school boards, the school term average shall
12 be eighty (80) hours of work per month, determined by using the number of
13 months actually worked in a calendar or school year, in the performance of
14 duty;

15 (22) "Alternate participation plan" means a method of participation in the system as
16 provided for by KRS 78.530(3);

17 (23) "Retired member" means any former member receiving a retirement allowance or
18 any former member who has on file at the retirement office the necessary
19 documents for retirement benefits and is no longer contributing to the system;

20 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
21 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
22 pay. The rate shall be certified by the employer;

23 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
24 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
25 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
26 mean an estate, trust, or trustee;

27 (26) "Recipient" means the retired member, the person or persons designated as

1 beneficiary by the member and drawing a retirement allowance as a result of the
2 member's death, or a dependent child drawing a retirement allowance. An alternate
3 payee of a qualified domestic relations order shall not be considered a recipient,
4 except for purposes of KRS 61.623;

5 (27) "Person" means a natural person;

6 (28) "School term or year" means the twelve (12) months from July 1 through the
7 following June 30;

8 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
9 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
10 Authority;

11 (30) "Vested" for purposes of determining eligibility for purchasing service credit under
12 KRS 61.552 means the employee has at least forty-eight (48) months of service if
13 age sixty-five (65) or older or at least sixty (60) months of service if under the age
14 of sixty-five (65). For purposes of this subsection, "service" means service in the
15 systems administered by the Kentucky Retirement Systems and County Employees
16 Retirement System;

17 (31) "Participating" means an employee is currently earning service credit in the system
18 as provided in KRS 78.615;

19 (32) "Month" means a calendar month;

20 (33) "Membership date" means:

21 (a) The date upon which the member began participating in the system as
22 provided in KRS 78.615; or

23 (b) For members who entered the Kentucky Department of Criminal Justice
24 Training's Police Corps program prior to July 1, 2003, through an
25 agreement with a participating employer, and who began participating in
26 the system with the employer as a sworn police officer after successful
27 completion of the program, the date on which the member began taking

1 *classes in the Kentucky Department of Criminal Justice Training's Police*
2 *Corps program.*

- 3 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
4 retired member, as defined by subsection (23) of this section;
- 5 (35) "Qualified domestic relations order" means any judgment, decree, or order,
6 including approval of a property settlement agreement, that:
- 7 (a) Is issued by a court or administrative agency; and
- 8 (b) Relates to the provision of child support, alimony payments, or marital
9 property rights to an alternate payee;
- 10 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
11 participant, who is designated to be paid retirement benefits in a qualified domestic
12 relations order;
- 13 (37) "Accumulated employer credit" means the employer pay credit deposited to the
14 member's account and interest credited on such amounts as provided by KRS
15 78.5512 and 78.5516;
- 16 (38) "Accumulated account balance" means:
- 17 (a) For members who began participating in the system prior to January 1, 2014,
18 the member's accumulated contributions; or
- 19 (b) For members who began participating in the system on or after January 1,
20 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
21 78.5516, the combined sum of the member's accumulated contributions and
22 the member's accumulated employer credit;
- 23 (39) "Volunteer" means an individual who:
- 24 (a) Freely and without pressure or coercion performs hours of service for an
25 employer participating in one (1) of the systems administered by Kentucky
26 Retirement Systems or the County Employees Retirement System without
27 receipt of compensation for services rendered, except for reimbursement of

1 actual expenses, payment of a nominal fee to offset the costs of performing
2 the voluntary services, or both; and

3 (b) If a retired member, does not become an employee, leased employee, or
4 independent contractor of the employer for which he or she is performing
5 volunteer services for a period of at least twelve (12) months following the
6 retired member's most recent retirement date;

7 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
8 exceed five hundred dollars (\$500) per month with each participating employer.
9 Compensation earned for services as a volunteer from more than one (1)
10 participating employer during a month shall not be aggregated to determine whether
11 the compensation exceeds the five hundred dollars (\$500) per month maximum
12 provided by this subsection;

13 (41) "Nonhazardous position" means a position that does not meet the requirements of
14 KRS 78.5520 or has not been approved by the board as a hazardous position;

15 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520
16 and has been approved by the board as hazardous;

17 (43) "Level-percentage-of-payroll amortization method" means a method of determining
18 the annual amortization payment on the unfunded actuarial accrued liability as
19 expressed as a percentage of payroll over a set period of years. Under this method,
20 the percentage of payroll shall be projected to remain constant for all years
21 remaining in the set period and the unfunded actuarially accrued liability shall be
22 projected to be fully amortized at the conclusion of the set period;

23 (44) "Increment" means twelve (12) months of service credit which are purchased. The
24 twelve (12) months need not be consecutive. The final increment may be less than
25 twelve (12) months;

26 (45) "Last day of paid employment" means the last date employer and employee
27 contributions are required to be reported in accordance with KRS 16.543, 61.543, or

- 1 78.615 to the retirement office in order for the employee to receive current service
2 credit for the month. Last day of paid employment does not mean a date the
3 employee receives payment for accrued leave, whether by lump sum or otherwise,
4 if that date occurs twenty-four (24) or more months after previous contributions;
- 5 (46) "Objective medical evidence" means reports of examinations or treatments; medical
6 signs which are anatomical, physiological, or psychological abnormalities that can
7 be observed; psychiatric signs which are medically demonstrable phenomena
8 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
9 or contact with reality; or laboratory findings which are anatomical, physiological,
10 or psychological phenomena that can be shown by medically acceptable laboratory
11 diagnostic techniques, including but not limited to chemical tests,
12 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 13 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
14 results in an employee's total incapacity to continue as an employee in a hazardous
15 position, but the employee is not necessarily deemed to be totally and permanently
16 disabled to engage in other occupations for remuneration or profit;
- 17 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
18 78.5520:
- 19 (a) A single act occurring which was required in the performance of the principal
20 duties of the hazardous position as defined by the job description; or
- 21 (b) A single act of violence committed against the employee that is found to be
22 related to his or her job duties, whether or not it occurs at his or her job site;
- 23 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
24 of the member who has neither attained age eighteen (18) nor married or who is an
25 unmarried full-time student who has not attained age twenty-two (22). Solely in the
26 case of a member who dies as a direct result of an act in line of duty as defined in
27 this section, dies as a result of a duty-related injury as defined in KRS 61.621,

- 1 becomes totally and permanently disabled as a direct result of an act in the line of
2 duty as defined in this section, or becomes disabled as a result of a duty-related
3 injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS
4 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
5 child of the member, regardless of the child's age, if the child has been determined
6 to be eligible for federal Social Security disability benefits or is being claimed as a
7 qualifying child for tax purposes due to the child's total and permanent disability;
- 8 (50) "Normal retirement age" means the age at which the member meets the
9 requirements for his or her normal retirement date as provided by subsection (18) of
10 this section;
- 11 (51) "Disability retirement date" means the first day of the month following the last day
12 of paid employment;
- 13 (52) "Monthly average pay" means:
- 14 (a) In the case of a member who dies as a direct result of an act in line of duty as
15 defined in KRS 16.505 or who dies as a result of a duty-related injury as
16 defined in KRS 61.621, the higher of the member's monthly final rate of pay
17 or the average monthly creditable compensation earned by the deceased
18 member during his or her last twelve (12) months of employment; or
- 19 (b) In the case where a member becomes totally and permanently disabled as a
20 direct result of an act in line of duty as defined in KRS 16.505 or becomes
21 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
22 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
23 member's monthly final rate of pay or the average monthly creditable
24 compensation earned by the disabled member during his or her last twelve
25 (12) months of employment prior to the date the act in line of duty or duty-
26 related injury occurred;
- 27 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS

1 61.505; and
2 (54) "Executive director" means the executive director of the Kentucky Public Pensions
3 Authority.