

1 AN ACT relating to retirement benefits for probationary employment.

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 the employee's membership date 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 employee's membership date in the system and the date the
16 employee 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) The employee's discharge military service was terminated in a manner other
20 than as described in 38 U.S.C. sec. 4304;

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

25 (e) For an employee whose membership date is on or after January 1, 2014, who
26 is participating in the hybrid cash balance plan under KRS 16.583, 61.597,
27 78.5512, or 78.5516, the employee pays the employee contributions on the

1 credited compensation as provided under KRS 16.543, 61.543, and 78.615.

2 For periods of active military duty that meet the requirements of this subsection, the
3 employer shall pay the employer contributions payable under KRS 61.565, 61.702,
4 78.5536, and 78.635.

5 (2) (a) 1. Omitted Service. Any person who is entitled to service credit for
6 employment which was not reported by the employer in accordance with
7 KRS 16.543, 61.543, or 78.615 may obtain credit for the service subject
8 to the provisions of paragraphs (c) to (e) of this subsection, as
9 applicable.

- 1 a. Successfully completed the entire period of probationary service
2 with the same employer;
- 3 b. Averaged one hundred (100) or more hours of work per month
4 on a calendar or fiscal year basis during the period of
5 probationary employment;
- 6 c. Is employed by the same participating employer at the time of the
7 service purchase; and
- 8 d. The employee purchases the service within six (6) months of
9 successfully completing the probationary period.
- 10 2. The cost of the probationary service to the employee shall be equal to
11 the employee and employer contributions that would have been
12 payable if the employee had been employed in a regular full-time
13 position and reported in accordance with KRS 78.615.
- 14 3. An individual employer may elect to pay employer contributions due
15 under subparagraph 2. of this paragraph on behalf of its employees,
16 and the system shall provide notification to the employer when the
17 employee has paid employee contributions.
- 18 4. Service credit shall not be credited to the member's account until both
19 the employer and employee contributions are received by the system.

20 (c)[(d)] Omitted service and probationary service purchased under this
21 subsection shall:

- 22 1. Be considered service credited under KRS 16.543(1), 61.543(1), or
23 78.615(1) for purposes of determining eligibility for retirement benefits
24 under KRS 78.510 to 78.852; and
- 25 2. Not be credited to the member's account until the employer
26 contributions due and any interest or penalties on the delinquent
27 employer contributions for the period of omitted service are received by

1 the system.

2 (d)(e) Employees who begin participating on or after January 1, 2014, in the

3 hybrid cash balance plan provided by KRS 16.583 or 61.597 or 78.5512

4 or 78.5516 shall, upon payment of the employee and employer

5 contributions due under this subsection, have their accumulated account

6 balance increased by the employee contributions, employer pay credits,

7 and interest credits that would have been credited to their member's

8 account if the contributions had been paid on time.

14 2. In the case of probationary service in which the employer has
15 elected to pay the employer contribution, three (3) months
16 following notification by the system of the employer's cost as
17 provided in paragraph (b)3. of this subsection.

18 (3) (a) Recontributed of a Refund. Any employee participating in one (1) of the
19 state-administered retirement systems who has been refunded his or her
20 accumulated account balance under the provisions of KRS 61.625, thereby
21 losing service credit in the system, may regain the credit by paying to the
22 system the amount or amounts refunded by the system with interest at a rate
23 determined by the board. Service purchased under this subsection on or after
24 January 1, 2014, shall not be used to determine the member's membership
25 date in the systems.

26 (b) Recontributed of a refund purchased under this subsection shall not be used
27 in determining a retirement allowance until the member has accrued at least

1 six (6) months of service credit in a state-administered retirement system,
2 excluding the service purchased under this subsection. If the member does not
3 accrue at least six (6) months of service credit in a state-administered
4 retirement system, excluding service purchased under this subsection, then the
5 payment plus interest as provided in KRS 16.560, 61.575, or 78.640 shall be
6 refunded upon retirement, death, or written request following termination of
7 employment. The service requirement shall be waived if the member dies or
8 becomes disabled as provided for by KRS 16.582, 61.600, 61.621, 78.5522, or
9 78.5524.

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

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

26 (c) If the employee has purchased service credit under this subsection based on
27 months reported by the employer for the fiscal year, and an audit of the

1 employee's account reduces the number of months of service credit for which
2 the employee is eligible to no fewer than nine (9) months, the employee shall
3 retain credit for the months purchased unless the employee is ineligible for
4 any service in the fiscal year. The employee shall be eligible to purchase the
5 additional months under this subsection to total one (1) year.

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

8 (5) Vested Service Purchases. Any employee who began participating in the County
9 Employees Retirement System, the Kentucky Employees Retirement System, or the
10 State Police Retirement System prior to January 1, 2014, who is vested may
11 purchase service credit for:

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

13 1. Between July 1, 1956, in the case of the Kentucky Employees
14 Retirement System, or July 1, 1958, in the case of the County
15 Employees Retirement System, and the effective date of participation by
16 the employer; or

17 2. With a public agency that did not participate in the Kentucky Employees
18 Retirement System but would have been eligible to participate under
19 KRS 61.520 or a political subdivision that did not participate in the
20 County Employees Retirement System but would have been eligible to
21 participate under KRS 78.530, provided the public agency or political
22 subdivision has merged with or been taken over by a participating
23 employer;

24 (b) State university service, provided the university does not participate in a state-
25 administered retirement system and the university service being purchased
26 was in a nonteaching position that did not participate in a defined benefit
27 retirement program;

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

18 (d) Active military duty, which means periods of active military duty in the
19 Armed Forces of the United States, provided:
20 1. The employee's military service was terminated in a manner other than
21 as described in 38 U.S.C. sec. 4304; and
22 2. The service has not been credited as free military service under
23 subsection (1) of this section;
24 (e) National Guard service. An employee may purchase one (1) month of service
25 for each six (6) months of service in the National Guard or the military
26 reserves of the United States. The service shall be treated as service earned
27 prior to participation in the system;

- 1 (f) Federal service. "Federal service" means service with the United States
2 government, that is not service in the Armed Forces;
- 3 (g) Seasonal, emergency, interim, probationary **not purchased within the time**
4 **established by subsection (2) of this section**, or temporary employment or
5 part-time employment as provided by KRS 61.510(21) or 78.510(21)
6 averaging one hundred (100) or more hours of work per month on a calendar
7 or fiscal year basis. If the average number of hours of work is less than one
8 hundred (100) per month, the member may purchase credit for only those
9 months he or she receives creditable compensation for one hundred (100)
10 hours of work;
- 11 (h) Part-time employment in a noncertified position at a school board prior to the
12 1990-91 school year which averaged eighty (80) or more hours of work per
13 month on a calendar or fiscal year basis. If the average number of hours of
14 work is less than eighty (80) per month, the noncertified employee of a school
15 board shall be allowed to purchase credit only for those months he or she
16 receives creditable compensation for eighty (80) hours of work;
- 17 (i) Any period of:
 - 18 1. Authorized maternity leave without pay or sick leave without pay;
 - 19 2. Unpaid leave authorized under the federal Family and Medical Leave
20 Act;
 - 21 3. Approved educational leave; and
 - 22 4. Agency-approved leave to work for a work-related labor organization if
23 the agency subsequently participated in the County Employees
24 Retirement System, but only if the board receives a favorable private
25 letter ruling from the United States Internal Revenue Service or a
26 favorable opinion letter from the United States Department of Labor;
- 27 (j) Non-participating employer service, which means periods of employment

1 with the following types of agencies provided the agency does not participate
2 in a state-administered retirement system:

3 1. A regional community services program for mental health organized and
4 operated under the provisions of KRS 210.370 to 210.480;

5 2. A community action agency created under KRS 273.405 to 273.453.
6 The service provided by this subparagraph shall be purchased in the
7 County Employees Retirement System;

8 3. An area development district created pursuant to KRS 147A.050; or

9 4. A business development corporation created pursuant to KRS 155.001
10 to 155.230, provided the system receives a favorable private letter ruling
11 from the United States Internal Revenue Service or a favorable opinion
12 letter from the United States Department of Labor;

13 (k) Urban-county government service, which means employment in an urban-
14 county government position that would qualify for hazardous duty coverage
15 under KRS 61.592 or 78.5520. The provisions of this paragraph shall only be
16 applicable to vested members participating in the State Police Retirement
17 System or in a hazardous position in the Kentucky Employees Retirement
18 System or the County Employees Retirement System;

19 (l) Periods of service as assistants to officers and employees of the General
20 Assembly for persons who were unable to acquire service under KRS
21 61.510(20) for service performed after January 1, 1960;

22 (m) Service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-
23 720; and

24 (n) Employment with a vocational technical school in a noncertified part-time
25 position averaging eighty (80) or more hours per month, determined by using
26 the number of months actually worked within a calendar or fiscal year. The
27 service provided by this paragraph shall be purchased in the Kentucky

1 Employees Retirement System.

2 (6) Non-qualified service. Provided the employee's membership date in the system is
3 prior to July 15, 2002, and provided the employee has total service in all state-
4 administered retirement systems of at least one hundred eighty (180) months of
5 service credit, the employee may purchase a combined maximum total of five (5)
6 years of service credit, known as non-qualified service, which is not otherwise
7 purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to
8 61.705, or 78.510 to 78.852. The service purchased under this paragraph shall not
9 be used in determining a retirement allowance until the member has accrued at least
10 two hundred forty (240) months of service, excluding service purchased under this
11 subsection. If the member does not accrue at least two hundred forty (240) months
12 of service, excluding service purchased under this subsection, upon retirement,
13 death, or written request following termination, the payment, plus interest as
14 provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.

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

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

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

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

24 (d) Except for service purchased under subsection (2) or (3) of this section,
25 service purchases made pursuant to this section may be purchased by the
26 entire amount of service available or by increments. Service purchases made
27 pursuant to subsections (2) and (3) of this section shall only be purchased by

1 78.852 for which he or she is eligible to purchase, or as otherwise required by
2 38 U.S.C. ch. 43, by:

- 3 1. Making a lump-sum payment on a before-tax basis as provided in
4 subparagraph 3. of this paragraph, or on an after-tax basis if the
5 employee is purchasing service credit under subsection (1) or (3) of this
6 section, service available pursuant to 38 U.S.C. ch. 43 not otherwise
7 provided for in this section, or grandfathered service as defined in
8 paragraph (b) of this subsection;
- 9 2. Entering into an agreement to purchase service credit through an
10 installment purchase of service agreement with the systems as provided
11 by paragraph (c) of this subsection:
 - 12 a. On a before-tax basis in which the service is purchased pursuant to
13 the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
 - 14 b. On an after-tax basis if the employee is purchasing service credit
15 under subsection (1) or (3) of this section, service available
16 pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this
17 section, or grandfathered service as defined in paragraph (b) of this
18 subsection; or
- 19 3. Transferring funds to the system through a direct trustee-to-trustee
20 transfer as permitted under the applicable sections of the Internal
21 Revenue Code and any regulations or rulings issued thereunder, through
22 a direct rollover as contemplated by and permitted under 26 U.S.C. sec.
23 401(a)(31) and any regulations or rulings issued thereunder, or through a
24 rollover of funds pursuant to and permitted under the rules specified in
25 26 U.S.C. secs. 402(c) and 408(d)(3). The system shall accept the
26 transfer or rollover to the extent permitted under the rules specified in
27 the applicable provisions of the Internal Revenue Code and any

1 regulations and rulings issued thereunder.

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

7 (c) 1. For service purchased under a before-tax or after-tax installment
8 purchase of service agreement as provided by paragraph (a)2. of this
9 subsection, the cost of the service shall be computed in the same manner
10 as for a lump-sum payment which shall be the principal, except that
11 interest compounded annually at the actuarial rate in effect at the time
12 the member elects to make the purchase shall be added for the period
13 that the installments are to be made.

14 2. Multiple service purchases may be combined under a single installment
15 agreement, except that no employee may make more than one (1)
16 installment purchase at the same time.

17 3. For after-tax installment purchase of service agreements, the employee
18 may elect to stop the installment payments by notifying the system; may
19 have the installment purchase recalculated to add one (1) or more
20 additional service purchases; or may pay by lump sum the remaining
21 principal or a portion of the remaining principal.

22 4. Before-tax installment purchase of service agreements shall be
23 irrevocable, and the employee shall not be able to stop installment
24 payments or to pay off the remaining balance of the purchase of service
25 agreement, except upon termination of employment or death.

26 5. One (1) year of installment payments shall be made for each one
27 thousand dollars (\$1,000) or any part thereof of the total cost, except

3 6. The employee shall pay the installments by payroll deduction for after-
4 tax purchase of service agreements, and the employer shall pick up
5 installments for before-tax purchase of service agreements. Upon
6 notification by the system, the employer shall report the installment
7 payments monthly continuously over each twelve (12) month period at
8 the same time as, but separate from, regular employee contributions on
9 the forms or by the computer format specified by the board.

10 7. The system shall determine how much of the total cost represents
11 payment for one (1) month of the service to be purchased and shall
12 credit one (1) month of service to the member's account each time this
13 amount has been paid. The first service credited shall represent the first
14 calendar month of the service to be purchased and each succeeding
15 month of service credit shall represent the succeeding months of that
16 service.

17 8. If the employee utilizing an installment purchase of service agreement
18 dies, retires, does not continue employment in a position required to
19 participate in the system, or elects to stop an after-tax installment
20 purchase of service agreement, the member, or in the case of death, the
21 beneficiary, shall have sixty (60) days to pay the remaining principal or
22 a portion of the remaining principal of the installment purchase of
23 service agreement by lump sum, subject to the restrictions of paragraph
24 (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of
25 this subsection, except that payment by the member shall be filed with
26 the system prior to the member's effective retirement date. If the
27 member or beneficiary does not pay the remaining cost, the system shall

1 refund to the member or the beneficiary the payment, payments, or
2 portion of a payment that does not represent a full month of service
3 purchased, except as provided by subsection (6) of this section.

4 9. If the employer does not report installment payments on an employee
5 for sixty (60) days for an after-tax installment purchase of service
6 agreement, except in the case of employees on military leave or sick
7 leave without pay, the installment purchase shall cease and the system
8 shall refund to the employee the payment, payments, or portion of a
9 payment that does not represent a full month of service purchased.

10 10. Installment payments of employees on military leave or sick leave
11 without pay shall be suspended during the period of leave and shall
12 resume without recalculation upon the employee's return from leave.

13 11. If payments have ceased under subparagraph 8. or 9. of this paragraph
14 and the member later becomes a participating employee in the County
15 Employees Retirement System, Kentucky Employees Retirement
16 System, or State Police Retirement System, the employee may complete
17 the adjusted original installment purchase by lump sum or installment
18 payments, subject to the restrictions of this subsection. If the employee
19 elects to renew the installment purchase, the cost of the remaining
20 service shall be recalculated in accordance with subsection (10) of this
21 section.

22 (d) Member payments, including interest, properly received pursuant to this
23 subsection, shall be deposited to the member's account and considered as
24 accumulated contributions of the individual member.

25 (10) (a) The cost of purchasing service credit under any provision of this section,
26 except as provided by subsections (1) to (3) of this section, shall be
27 determined by multiplying the higher of the employee's current rate of pay,

1 final rate of pay, or final compensation as of the end of the month in which
2 the purchase is made times the actuarial factor times the number of years of
3 service being purchased. The actuarial factor used to determine the cost of
4 purchasing service credit shall assume the earliest date the member may retire
5 without a reduction in benefits and the cost-of-living adjustments provided to
6 members upon retirement.

7 (b) Service purchased on or after August 1, 2004, under the provisions of KRS
8 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service
9 purchased under subsections (1) to (3) of this section or service purchased as
10 described by paragraph (d) of this subsection, shall not be used to determine
11 eligibility for or the amount of the monthly insurance contribution under KRS
12 61.702 or 78.5536.

13 (c) For a member whose membership date is on or after August 1, 2004, service
14 purchased under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
15 78.510 to 78.852, except for service purchased under subsections (1) to (3) of
16 this section or service purchased as described by paragraph (d) of this
17 subsection:

18 1. Shall not be used to determine eligibility for a retirement allowance
19 under disability retirement, early retirement, normal retirement, or upon
20 death of the member under any of the provisions of KRS 16.505 to
21 16.652, 61.510 to 61.705, or 78.510 to 78.852; and

22 2. Shall only be used to determine the amount of the retirement allowance
23 of a member who is eligible for a retirement allowance under disability,
24 early retirement, normal retirement, or upon death of the member under
25 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or
26 78.510 to 78.852, based on service earned as a participating employee.

27 (d) Paragraphs (b) and (c) of this subsection shall not apply to a member who was

1 bound by an educational contract as a conditional employee to the state of
2 Kentucky prior to December 31, 2003, regardless of membership date in the
3 system. Educational leave, seasonal service, or any other qualified service
4 purchased by a member with this classification under this section shall be
5 used to determine eligibility for benefits, membership dates, and the amount
6 of benefit for:

7 1. A retirement allowance under disability retirement, early retirement,
8 normal retirement, or death under any of the provisions of KRS 16.505
9 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
10 2. The monthly insurance contribution under KRS 61.702 or 78.5536.

11 ➔Section 2. KRS 78.510 is amended to read as follows:

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

13 (1) "System" means the County Employees Retirement System created by KRS 78.510
14 to 78.852;

15 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;

16 (3) "County" means any county, or nonprofit organization created and governed by a
17 county, counties, or elected county officers, sheriff and his or her employees,
18 county clerk and his or her employees, circuit clerk and his or her deputies, former
19 circuit clerks or former circuit clerk deputies, or political subdivision or
20 instrumentality, including school boards, cities, charter county governments, urban-
21 county governments, consolidated local governments, or unified local governments
22 participating in the system by order appropriate to its governmental structure, as
23 provided in KRS 78.530, and if the board is willing to accept the agency,
24 organization, or corporation, the board being hereby granted the authority to
25 determine the eligibility of the agency to participate;

26 (4) "School board" means:
27 (a) Any board of education participating in the system by order appropriate to its

1 governmental structure, as provided in KRS 78.530, and if the board is willing
2 to accept the agency or corporation, the board being hereby granted the
3 authority to determine the eligibility of the agency to participate; or
4 (b) A public charter school as defined in KRS 160.1590 if the public charter
5 school satisfies the criteria set by the Internal Revenue Service to participate
6 in a governmental retirement plan;

7 (5) "Examiner" means the medical examiners as provided in KRS 61.665;

8 (6) "Employee" means every regular full-time appointed or elective officer or
9 employee of a participating county and the coroner of a participating county,
10 whether or not he or she qualifies as a regular full-time officer. The term shall not
11 include persons engaged as independent contractors, seasonal, emergency,
12 temporary, and part-time workers. Solely for the purpose of benefits payable to
13 employees who become disabled as a direct result of an act in line of duty as
14 defined in this section, or who die as a direct result of an act in line of duty as
15 defined in this section, or who die as a result of a duty-related injury as defined in
16 KRS 61.621, or who become disabled as a result of a duty-related injury as
17 defined in KRS 61.621, a person employed in a probationary position as provided
18 by subsection (21)(d) of this section shall be considered an employee. In case of
19 any doubt, the board shall determine if a person is an employee within the meaning
20 of KRS 78.510 to 78.852;

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

24 (8) "Member" means:
25 (a) Any employee who is included in the membership of the system or any
26 former employee whose membership has not ceased under KRS 78.535; and
27 (b) Solely for the purpose of benefits payable to employees who become

1 *disabled as a direct result of an act in line of duty as defined in this section,*
2 *or who die as a direct result of an act in line of duty as defined in this*
3 *section, or who die as a result of a duty-related injury as defined in KRS*
4 *61.621, or who become disabled as a result of a duty-related injury as*
5 *defined in KRS 61.621, a person employed in a:*

6 *1. Regular full-time position; or*
7 *2. Probationary position as provided by subsection (21)(d) of this section;*

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

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

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

19 (12) "Accumulated contributions" means the sum of all amounts deducted from the
20 compensation of a member and credited to his or her individual account in the
21 members' account, including employee contributions picked up after August 1,
22 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts,
23 and any other amounts the member shall have contributed thereto, including interest
24 credited thereon. "Accumulated contributions" shall not include employee
25 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.
26 401(h) within the fund established in KRS 78.520, as prescribed by KRS
27 78.5536(3)(b);

1 (13) "Creditable compensation":

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

13 (b) Includes:

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

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

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

14 (c) Excludes:

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

26 (14) "Final compensation" means:

27 (a) For a member who begins participating before September 1, 2008, who is

1 employed in a nonhazardous position, the creditable compensation of the
2 member during the five (5) fiscal years he or she was paid at the highest
3 average monthly rate divided by the number of months of service credit
4 during that five (5) year period multiplied by twelve (12). The five (5) years
5 may be fractional and need not be consecutive. If the number of months of
6 service credit during the five (5) year period is less than forty-eight (48), one
7 (1) or more additional fiscal years shall be used;

8 (b) For a member who is employed in a nonhazardous position, whose effective
9 retirement date is between August 1, 2001, and January 1, 2009, and whose
10 total service credit is at least twenty-seven (27) years and whose age and years
11 of service total at least seventy-five (75), final compensation means the
12 creditable compensation of the member during the three (3) fiscal years the
13 member was paid at the highest average monthly rate divided by the number
14 of months of service credit during that three (3) year period multiplied by
15 twelve (12). The three (3) years may be fractional and need not be
16 consecutive. If the number of months of service credit during the three (3)
17 year period is less than twenty-four (24), one (1) or more additional fiscal
18 years shall be used;

19 (c) For a member who begins participating before September 1, 2008, who is
20 employed in a hazardous position, as provided in KRS 78.5520, the creditable
21 compensation of the member during the three (3) fiscal years he or she was
22 paid at the highest average monthly rate divided by the number of months of
23 service credit during that three (3) year period multiplied by twelve (12). The
24 three (3) years may be fractional and need not be consecutive. If the number
25 of months of service credit during the three (3) year period is less than twenty-
26 four (24), one (1) or more additional fiscal years, which may contain less than
27 twelve (12) months of service credit, shall be used;

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

11 (e) For a member who begins participating on or after September 1, 2008, but
12 prior to January 1, 2014, who is employed in a hazardous position as provided
13 in KRS 78.5520, the creditable compensation of the member during the three
14 (3) complete fiscal years he or she was paid at the highest average monthly
15 rate divided by three (3). Each fiscal year used to determine final
16 compensation must contain twelve (12) months of service credit. If the
17 member does not have three (3) complete fiscal years that each contain twelve
18 (12) months of service credit, then one (1) or more additional fiscal years,
19 which may contain less than twelve (12) months of service credit, shall be
20 added until the number of months in the final compensation calculation is at
21 least thirty-six (36) months;

22 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
23 calculated during the twelve (12) month period immediately preceding the
24 member's effective retirement date, and shall include employee contributions
25 picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be
26 certified to the system by the employer and the following equivalents shall be used
27 to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8)

1 hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-
2 half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks,
3 twelve (12) months, one (1) year;

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

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

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

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

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

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

24 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
25 following June 30, which shall also be the plan year. The "fiscal year" shall be the
26 limitation year used to determine contribution and benefits limits as set out in 26
27 U.S.C. sec. 415;

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

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

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

16 (b) Emergency positions which are positions utilized by the employer during:

17 1. An emergency as determined by the employer for a period not
18 exceeding thirty (30) working days and are nonrenewable; or

19 2. A state of emergency declared by the President of the United States or
20 the Governor of the Commonwealth of Kentucky that are created or
21 filled specifically for addressing the employer's needs during and as a
22 result of the declared emergency;

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

26 (d) Probationary positions which are positions of employment with a participating
27 employer that do not exceed twelve (12) months and that are used uniformly

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

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

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

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

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

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

26 (26) "Recipient" means the retired member, the person or persons designated as
27 beneficiary by the member and drawing a retirement allowance as a result of the

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

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

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

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

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

16 (31) "Participating":

17 (a) Means an employee is currently earning service credit in the system as
18 provided in KRS 78.615; and

19 (b) Solely for the purpose of benefits payable to employees who become
20 disabled as a direct result of an act in line of duty as defined in this section,
21 or who die as a direct result of an act in line of duty as defined in this
22 section, or who die as a result of a duty-related injury as defined in KRS
23 61.621, or who become disabled as a result of a duty-related injury as
24 defined in KRS 61.621, means a person is employed in a probationary
25 position as provided by subsection (21)(d) of this section;

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

27 (33) "Membership date" means the date upon which the member began participating in

1 the system as provided in KRS 78.615;

2 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
3 retired member, as defined by subsection (23) of this section;

4 (35) "Qualified domestic relations order" means any judgment, decree, or order,
5 including approval of a property settlement agreement, that:

6 (a) Is issued by a court or administrative agency; and

7 (b) Relates to the provision of child support, alimony payments, or marital
8 property rights to an alternate payee;

9 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
10 participant, who is designated to be paid retirement benefits in a qualified domestic
11 relations order;

12 (37) "Accumulated employer credit" means the employer pay credit deposited to the
13 member's account and interest credited on such amounts as provided by KRS
14 78.5512 and 78.5516;

15 (38) "Accumulated account balance" means:

16 (a) For members who began participating in the system prior to January 1, 2014,
17 the member's accumulated contributions; or

18 (b) For members who began participating in the system on or after January 1,
19 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
20 78.5516, the combined sum of the member's accumulated contributions and
21 the member's accumulated employer credit;

22 (39) "Volunteer" means an individual who:

23 (a) Freely and without pressure or coercion performs hours of service for an
24 employer participating in one (1) of the systems administered by Kentucky
25 Retirement Systems or the County Employees Retirement System without
26 receipt of compensation for services rendered, except for reimbursement of
27 actual expenses, payment of a nominal fee to offset the costs of performing

the voluntary services, or both; and

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

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

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

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

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

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

(45) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service

1 credit for the month. Last day of paid employment does not mean a date the
2 employee receives payment for accrued leave, whether by lump sum or otherwise,
3 if that date occurs twenty-four (24) or more months after previous contributions;

4 (46) "Objective medical evidence" means reports of examinations or treatments; medical
5 signs which are anatomical, physiological, or psychological abnormalities that can
6 be observed; psychiatric signs which are medically demonstrable phenomena
7 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
8 or contact with reality; or laboratory findings which are anatomical, physiological,
9 or psychological phenomena that can be shown by medically acceptable laboratory
10 diagnostic techniques, including but not limited to chemical tests,
11 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

12 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
13 results in an employee's total incapacity to continue as an employee in a hazardous
14 position, but the employee is not necessarily deemed to be totally and permanently
15 disabled to engage in other occupations for remuneration or profit;

16 (48) "Act in line of duty" means, for employees in hazardous positions under KRS
17 78.5520:

18 (a) A single act occurring which was required in the performance of the principal
19 duties of the hazardous position as defined by the job description; or

20 (b) A single act of violence committed against the employee that is found to be
21 related to his or her job duties, whether or not it occurs at his or her job site;

22 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
23 of the member who has neither attained age eighteen (18) nor married or who is an
24 unmarried full-time student who has not attained age twenty-two (22). Solely in the
25 case of a member who dies as a direct result of an act in line of duty as defined in
26 this section, dies as a result of a duty-related injury as defined in KRS 61.621,
27 becomes totally and permanently disabled as a direct result of an act in the line of

1 duty as defined in this section, or becomes disabled as a result of a duty-related
2 injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS
3 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled
4 child of the member, regardless of the child's age, if the child has been determined
5 to be eligible for federal Social Security disability benefits or is being claimed as a
6 qualifying child for tax purposes due to the child's total and permanent disability;

7 (50) "Normal retirement age" means the age at which the member meets the
8 requirements for his or her normal retirement date as provided by subsection (18) of
9 this section;

10 (51) "Disability retirement date" means the first day of the month following the last day
11 of paid employment;

12 (52) "Monthly average pay" means:

13 (a) In the case of a member who dies as a direct result of an act in line of duty as
14 defined in KRS 16.505 or who dies as a result of a duty-related injury as
15 defined in KRS 61.621, the higher of the member's monthly final rate of pay
16 or the average monthly creditable compensation earned by the deceased
17 member during his or her last twelve (12) months of employment; or

18 (b) In the case where a member becomes totally and permanently disabled as a
19 direct result of an act in line of duty as defined in KRS 16.505 or becomes
20 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
21 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
22 member's monthly final rate of pay or the average monthly creditable
23 compensation earned by the disabled member during his or her last twelve
24 (12) months of employment prior to the date the act in line of duty or duty-
25 related injury occurred;

26 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
27 61.505;

- 1 (54) "Executive director" means the executive director of the Kentucky Public Pensions
- 2 Authority; and
- 3 (55) "Gainful employment" means work in any capacity that is or may be performed
- 4 with regularity and is or may be usually done for pay, whether pay is received or
- 5 not received, including seasonal, volunteer, part-time, and on-call work.