



leave payments, and lump-sum payments for compensatory time from the compensation growth limitation, and exempts from the compensation growth limitation those years of compensation where, in the immediately preceding fiscal year: The member earned less than 12 months of service credit during the fiscal year; was paid worker's compensation benefits; was on leave without pay for any reason; earned increases directly attributable to overtime hours worked under a federal grant, grant pass-through, or similar program; or earned increases directly attributable to overtime performed during a state of emergency.

SB 104 SCS 1 provides that the Kentucky Retirement Systems will refund employee contributions and interest on contributions for any reductions in creditable compensation provided by this section. The bill provides that the Kentucky Retirement Systems shall determine what constitutes a bona fide promotion or salary advancement and allows the member to appeal a decision of the system to the board. **The bill removes provisions charging employers for creditable compensation growth greater than 10% during the employee's last five years of employment.**

**SB 104 SCS 1 creates a new section of KRS 61.510 to 61.705 to permit a member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System to opt out of the traditional defined benefit plan and elect to participate in the hybrid cash balance plan.** The bill provides that, on the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account and be considered part of the member's accumulated account balance. It provides that on the member's effective election date, an employer pay credit shall be applied to the member's accumulated account balance for each contributing month prior to the effective election date. SB 104 SCS 1 requires the Kentucky Retirement Systems to provide the electing member with information detailing the consequences of the member's election and provides that a member shall not be eligible to make an election until a private letter ruling by the IRS is received. Benefit election is irrevocable. SB 104 declares an emergency.

### **Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost**

**SB 104 SCS 1 makes no change to the fiscal impact of SB 104 and the fiscal impact on local governments is indeterminate and minimal.**

SB 104 SCS 1 will result in a minimal positive fiscal impact due to the elimination of “pension spiking payments” to retirement systems. That is, the bill removes KRS provisions charging employers for creditable compensation growth greater than 10% during the employee's last 5 years of employment. As identified in Part II, the bill also provides for, and clarifies, exemptions to the 10% restriction (e.g., for “bona fide promotion and career advancement” and several other exemptions).

The above cost savings may be somewhat offset by a related provision providing that the retirement systems will not refund the employer contributions paid (for non-creditable compensation) but rather utilize those funds to pay down the unfunded liability of the fund to which the employee participated. There will be some time and effort expended developing

required support documentation related to application for, an exemption from, the 10% restriction provided for in the bill.

**Data Source(s):** Kentucky Association of Counties; Kentucky League of Cities; Kentucky Retirement Systems

**Preparer:** H. Marks **Reviewer:** KHC **Date:** 2/17/17