

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2020 Regular Session**

Part I: Measure Information

Bill Request #: 298

Bill #: HB 484 HCS 1

Document ID #: 6973

Bill Subject/Title: AN ACT relating to retirement.

Sponsor: Representative Russell Webber

Unit of Government: City County Urban-County
 Charter County Consolidated Local Unified Local
 Government

Office(s) Impacted: Member employers of the County Employee Retirement System

Requirement: Mandatory Optional

Effect on
Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

This Local Government Mandate Statement will refer only to the County Employees Retirement System (CERS):

Sections 1-3:

Establishes the CERS board of trustees to administer the CERS effectively removing CERS representation from the Kentucky Retirement Systems (KRS) board and establishes the Kentucky Public Pensions Authority (KPPA) to provide for the personnel needs, operate the accounting system, and handle the day-to-day administrative needs for both the KRS and the CERS. The KPPA will also hire a single actuarial consulting firm who shall serve both the KRS and the CERS. The current staff of the Kentucky Retirement Systems will become the staff of the KPPA.

The legislation states that it is the intent of the General Assembly to enact legislation in the 2021 Regular Session to create separate statutory structures for the KRS and the CERS.

Four members of the 8-member KPPA will represent the CERS. These are:

- the chair of the CERS,
- the investment chair of the CERS, unless this individual is also the chair of the CERS board of trustees in which case the chair shall appoint an individual to serve on the investment committee,
- one trustee elected by the membership of the CERS, and
- one trustee of the CERS who was appointed by the Governor.

Prohibits the Governor from reorganizing, replacing, amending, or abolishing the membership of the KPPA or the CERS by executive order or action.

Creates a new section of KRS 78.510 to 78.852 by which the CERS will be governed. The CERS board of trustees will be composed of three elected trustees who are members or retired from the CERS and six members appointed by the Governor. Guidance is provided regarding nominating trustees, trustee elections and trustee removal, appointments, per diem expenses, filling the position of chief executive officer, financial reporting, board decisions and appeals process, and audits and investments.

All expenses related to establishing a separate CERS board and the KPPA including any ongoing administrative and investment expense that are a direct result of establishing a separate CERS board and the KPPA shall be paid by the CERS for three fiscal years after the effective date of this act.

A KPPA member shall administer the CERS (and the KRS) in an efficient and cost-effective manner shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees. Likewise, CERS trustees shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.

Section 4:

Removes CERS representation from the KRS board.

Section 5:

HB 484 HCS 1 establishes the CERS Investment Committee to implement investment policies and oversee investments of the CERS insurance trust fund for retiree health benefits, also created by this legislation (**Section 27**). Guidance is provided regarding investments, management contracts, acquisition of property and appraisals, and ethics and professional standards. CERS funds currently in the KRS insurance trust fund will be moved to the CERS insurance trust fund.

Sections 7:

Provides guidance regarding annual actuarial valuations, actuarial investigations that shall occur once every five years inclusive of actuarial assumptions and funding methods, projected impact of changes in funding levels, recommended contribution rates over a twenty year period, and revisions in actuarial tables. Results of the investigation shall be

forwarded to the Legislative Research Commission, and subsequently to pertinent committee staff and chairs.

Section 8:

Each participating employer shall contribute annually an amount equal to the percent of the creditable compensation of its employees known as the “normal contribution” and an additional amount known as the “actuarially accrued liability contribution” based on a thirty year amortization using the level-percentage of-payroll amortization method beginning with the 2013 actuarial valuation. Any significant increase in the actuarially accrued liability shall be amortized over a separate thirty year period beginning in the year in which the improvements are first reflected. The employer contribution rate shall not increase by more than a factor of 1.12 over the prior fiscal year’s employer contribution rate.

Section 10:

The Public Pension Oversight Board will review the administrative expenses of the CERS (and the KRS). The review will include of current and projected levels, and the effect that legislative and administrative changes might have on costs and staffing needs.

Section 11:

The CERS board of trustees is added to the Executive Branch Code of Ethics requirements.

Section 18:

Provides that no municipality may file for bankruptcy protection if it is in default or is delinquent in the payment of contributions due the CERS.

Section 27:

Establishes the county employees Retirement System insurance trust fund. All assets received in the County Employees Retirement System insurance trust fund shall be deemed trust funds to be held and applied solely as provided in this section. Assets of the trust fund shall not be used for any other purpose and shall not be used to pay the claims of creditors or any individual, person, or employer participating in the County Employees Retirement System. Effective April 1, 2021, the assets held in the Kentucky Retirement Systems insurance trust fund as of March 31, 2021, that were attributable to contributions made by County Employees Retirement System members, employers, or recipients and the resulting investment returns shall be transferred to the County Employees Retirement System insurance trust fund.

Section 34:

Provides for employers to stop participating in the CERS. The CERS board will determine the cost of ceasing participation. Guidelines are provided regarding employer cessation.

Section 35:

Provides guidance when an employee ceases his membership in CERS due to withdrawal of his or her account balance, retirement, death, or termination of employment with prejudice.

Section 38:

The CERS may audit an employer to determine if the employer is in compliance. The CERS shall have access to any and all records of the employer.

Section 39:

The responsibility for funding the CERS shall be the responsibility of the employers participating in the CERS. If the employer fails to make the required contribution, the CERS may require the employer to involuntarily cease participating and pay all costs for ceasing participation, suspend benefit payments and refunds, or seek legal action.

Section 46:

The three Governor-appointed trustees with retirement experience serving on the KRS board prior to April 1, 2021 and who were appointed from lists submitted by the Kentucky Association of Counties, the Kentucky League of Cities, and the Kentucky School Boards Association shall serve on the CERS board of trustees for the duration of their terms. Likewise the six trustees with investment experience appointed by the Governor to the KRS board prior to April 1, 2021 shall serve on the newly-created KRS board.

The Governor shall appoint on or before March 1, 2021 three trustees with investment experience for the CERS board for staggered terms starting on April 1, 2021 of one, three and four years.

The fiscal impact of HB 484 HCS 1 on local governments is minimal except where a municipality is facing a serious financial crises. HB 484 HCS 1 forbids a municipality to file for bankruptcy if it is in default or is delinquent in contributions to the CERS (Section 18). However, in the routine course of business, the impact of HB 484 HCS 1 will be minimal. HB 484 HCS 1 provides structural and organizational changes to the retirement systems. Reporting and participation requirements for CERS mirror KRS reporting and participation requirements. Participants will report to the CERS instead of the KRS.

As stated above, the impact on local governments is expected to be minimal. This is based on reporting and participation requirements the local government must adhere to which will essentially remain the same for the CERS as a separate entity. This Statement does not take into consideration the impact on the CERS, or any impact realized by the subsequent KRS or the new-created KPPA.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 484 HCS 1 keeps the provisions of HB 484 as introduced with the following additions:

- The KPPA will also hire a single actuarial consulting firm who shall serve both the KRS and the CERS;
- All expenses related to establishing a separate CERS board and the KPPA including any ongoing administrative and investment expense that are a direct result of

establishing a separate CERS board and the KPPA shall be paid by the CERS for three fiscal years after the effective date of this act.

- A KPPA authority member shall administer the CERS and the KRS in an efficient and cost-effective manner shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees. Likewise, CERS trustees shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.
- The Public Pension Oversight Board will review the administrative expenses of the CERS (and the KRS).
- The three Governor-appointed trustees with retirement experience serving on the KRS board prior to April 1, 2021 and who were appointed from lists submitted by the Kentucky Association of Counties, the Kentucky League of Cities, and the Kentucky School Boards Association shall serve on the CERS board of trustees for the duration of their terms. Likewise the six trustees with investment experience appointed by the Governor to the KRS board prior to April 1, 20121 shall serve on the newly-created KRS board.
- The Governor shall appoint on or before March 1, 2021 three trustees with investment experience for the CERS board for staggered terms starting on April 1, 2021 of one, three and four years.

Data Source(s): LRC Staff

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 3/10/20