

## CHAPTER 78 INDEX

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### **78.510 Definitions for KRS 78.510 to 78.852.**

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

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;
- (14) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
  - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year

period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
  - (d) For a member who begins participating on or after September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit; or
  - (e) For a member who begins participating on or after September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
  - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;
  - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
  - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
  - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and
- (32) "Month" means a calendar month.

**Effective:** June 27, 2008

**History:** Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 25, effective June 27, 2008. -- Amended 2004 Ky. Acts ch. 36, sec. 31, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 169, sec. 13, effective March 31, 2003. -- Amended 2002 Ky. Acts ch. 52, sec. 18, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 7, sec. 8, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 210, sec. 4, effective July 14, 2000; and ch. 385, sec. 33, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 21, effective July 15, 1998; and ch. 300, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 31, sec. 2, effective July 15, 1996; and ch. 167, sec. 24, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 25, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 51, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 117, sec. 1, effective July 13, 1990; and ch. 401, sec. 13, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 349, sec. 31, effective July 15, 1988; and ch. 364, sec. 3, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 90, sec. 22, effective July 15, 1986; and ch. 176, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 111, sec. 49, effective July 13, 1984; and ch. 198, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 166, sec. 28, effective July 15, 1982; and ch. 423, sec. 15, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 311, sec. 20, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, secs. 32 and 40. -- Amended 1974 Ky. Acts ch. 87, sec. 1; and ch. 128, sec. 32. -- Amended 1972 Ky. Acts ch. 116, sec. 61. -- Amended 1966 Ky. Acts ch. 34, sec. 1. -- Amended 1964 Ky. Acts ch. 49, sec. 1. -- Amended 1962 Ky. Acts ch. 31, sec. 1. -- Amended 1960 Ky. Acts ch. 165, Part III, sec. 1. -- Created 1958 Ky. Acts ch. 167, sec. 1.

**78.520 Retirement system established -- Fund created.**

There is hereby created and established:

- (1) A retirement system for employees to be known as the "County Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 78.510 to 78.852, transact all of its business and shall have the powers and privileges of a corporation; and
- (2) A fund, called the "County Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 78.510 to 78.852. All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 78.510 to KRS 78.852.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 36, sec. 32, effective July 13, 2004. -- Created 1958 Ky. Acts ch. 167, sec. 2.

**78.530 Participation by political subdivisions -- Payment -- Closing of participation in local government systems -- Hazardous duty coverage option.**

- (1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.
- (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 for its active employees, except that county governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement.
- (2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.
- (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;
- (b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years,

with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

- (c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535;
- (d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The

county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

- (e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and
  - (f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.
- (4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.
  - (5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.
  - (6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a

later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.

- (7) (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.
- (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 for its active employees.
- (8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

**Effective:** April 9, 2002

**History:** Amended 2002 Ky. Acts ch. 270, sec. 1, effective April 9, 2002. -- Amended 1990 Ky. Acts ch. 157, sec. 1, effective July 13, 1990; ch. 279, sec. 1, effective July 13, 1990; and ch. 392, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 11, sec. 1, effective July 15, 1988; ch. 349, sec. 32, effective July 15, 1988; Ky. Acts ch. 364, sec. 4, effective July 15, 1988; and ch. 366, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 90, sec. 23, effective July 15, 1986; and ch. 331, sec. 21, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 177, sec. 3, effective July 13, 1984. --Amended 1978 Ky. Acts ch. 311, sec. 21, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 87, sec. 2; and ch. 128, sec. 33, effective March 26, 1974. -- Amended 1972 Ky. Acts ch. 116, sec. 62. -- Amended 1966 Ky. Acts ch. 34, sec. 2. -- Amended 1964 Ky. Acts ch. 49, sec. 2. -- Amended 1962 Ky. Acts ch. 31, sec. 2. -- Created 1958 Ky. Acts ch. 167, sec. 3.

**78.5302 Duties of county attorney as employer.**

- (1) Any county attorney who employs persons paid from the county attorney's delinquent tax fees, from federal or state grant funds received for the county attorney's delinquent child support collection responsibilities, or from any other funding source not subject to the control of the fiscal court, urban-county government, or Prosecutors Advisory Council, or any county attorney who supplements the wages of a County Employees Retirement System or Kentucky Employees Retirement System member from these sources, shall participate as an employer in the County Employees Retirement System or the Kentucky Employees Retirement System in the manner prescribed in this section.
- (2) It shall be the responsibility of each county attorney, participating as an employer in the County Employees Retirement System or the Kentucky Employees Retirement System, to determine membership in the appropriate retirement system for each employee being paid in the manner described in subsection (1) of this section. In making this determination, the participating county attorney shall consider whether the job function of each affected employee is related to the prosecutorial duties of the county attorney's office and is therefore subject to Kentucky Employees Retirement System membership, or the legal representation of the fiscal court and other county officers and is therefore subject to County Employees Retirement System membership, and the county attorney shall certify the same to the board on forms provided by the board. For persons already participating in the County Employees Retirement System or the Kentucky Employees Retirement System, whose wages are supplemented by the participating county attorney, the county attorney shall make the required contributions for the supplementary wages to the person's current retirement system.

**Effective:** July 14, 1992

**History:** Created 1992 Ky. Acts ch. 237, sec. 1, effective July 14, 1992.

**78.531 Optional participation by members of retirement system in cities, counties, or urban-county governments.**

- (1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.310 to 90.420, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884, and KRS Chapter 96, notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the County Employees Retirement System pursuant to KRS 78.520 to 78.852.
- (2)
  - (a) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employee contributions made to the fund under authority of KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 shall be paid to the County Employees Retirement System and credited to the individual member's account in the system for any employee electing to terminate coverage under the provisions of this section. Any person who is an active member of the County Employees Retirement System on July 15, 1990, who withdrew from service prior to August 1, 1988, under any of the plans enumerated in this section and who was not granted a refund of his employee contributions, shall be refunded employee contributions with any interest specified in the applicable statute or plan, unless the employee has a vested account in the former plan, in which case he may elect to leave his contributions in the fund in order to receive a pension from the plan when he becomes eligible.
  - (b) Proper credit for these employee contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3). The cost of participation for employees who withdrew from service and who were not granted a refund for employee contributions shall be based only upon the time period for which the contributions were made. The cost shall be computed by the County Employees Retirement System in a manner consistent with the calculation of other delayed contribution payments, and shall be paid by the employee.
- (3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employee contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 by each employee electing to terminate coverage under the provisions of this section shall be refunded to the employee with interest as specified in the applicable statute or plan, unless the employee has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

**Effective:** July 15, 1994

**History:** Amended 1994 Ky. Acts ch. 371, sec. 2, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 240, sec. 52, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 255, sec. 2, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 96, sec. 2, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 323, sec. 2, effective April 4, 1986. -- Amended 1984 Ky. Acts ch. 177, sec. 2, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 311, sec. 22, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Created 1974 Ky. Acts ch. 302, sec. 2.

**78.532 Employees formerly employed by private employer -- Credit for former service.**

In the event a county participating in the system or an employer thereof or an eligible county which elects to participate in the system, or an employer thereof has acquired a private corporation, company, organization, or entity:

- (1) The county may elect, by adopting an order appropriate to its governing body under KRS 78.530, that the employees of such former private employer who participate in a retirement plan be eligible for participation in the system.
- (2) In the event the county adopts such order, regular full-time employees of the former private employer will be eligible for current service and prior service for the period of time said employees were employed by the private employer acquired if the employee elects to participate in the system as provided in KRS 78.540(2).
- (3) If the county elects the alternate participation plan as set forth in KRS 78.530(3), employee contributions made to a retirement plan in which the employee formerly participated shall be paid into the County Employees Retirement System and credited to the individual member's account for each employee electing to terminate coverage under his former retirement plan in order to participate in the system under the provisions of this section. Proper credit shall be given to the county for these employee contributions in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).
- (4) If the county does not elect the alternate participation plan as set forth in KRS 78.530(3), employee contributions paid into a former retirement plan by each employee electing to terminate coverage under his former retirement plan as authorized by this section, shall be refunded to the employee unless the employee has a vested account in which case he may elect to leave his contributions in the former retirement plan in order to later receive a pension when he becomes eligible.

**Effective:** June 17, 1978

**History:** Amended 1978 Ky. Acts ch. 384, sec. 555, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 321, sec. 38.

**78.533 Employees of Metropolitan Park and Recreation Board of Jefferson County, credit for former service.**

- (1) The Metropolitan Park and Recreation Board of Jefferson County, Kentucky established by joint and concurrent resolution of the Jefferson County Fiscal Court and ordinance of the board of aldermen of the City of Louisville to become effective on July 1, 1968, is hereby declared to be the successor of the Jefferson County Playground and Recreation Board for purposes of participation in the County Employees Retirement System.
- (2) Regular full-time employees of the Metropolitan Park and Recreation Board of Jefferson County shall be given credit for regular full-time service before July 1, 1958, with the City of Louisville Department of Parks and Recreation, the Jefferson County Playground and Recreation Board and any other agency participating in the County Employees Retirement System.
- (3) Any regular full-time employee of the Metropolitan Park and Recreation Board of Jefferson County shall be allowed credit for regular full-time service with the City of Louisville Department of Parks and Recreation, the Jefferson County Playground and Recreation Board and any other agency participating in the County Employees Retirement System, for the period July 1, 1958, to the date such employee becomes a member of the retirement system, provided such employee pays contributions to the retirement system in accordance with the provisions of KRS 61.552.

**Effective:** June 17, 1978

**History:** Amended 1978 Ky. Acts ch. 384, sec. 556, effective June 17, 1978. -- Created 1968 Ky. Acts ch. 24, sec. 6.

**78.534 Participation of qualified circuit clerks and deputy clerks -- Transfer of service credit.**

- (1) On and after August 1, 1996, each circuit clerk and deputy clerk who was a member of the Kentucky Employees Retirement System on July 31, 1996, each former circuit clerk or former deputy clerk who is vested in the Kentucky Employees Retirement System for service as a circuit clerk or deputy circuit clerk and who has not yet begun to draw benefits, and each circuit clerk or deputy clerk thereafter taking office shall participate in the County Employees Retirement System by appropriate order authorizing participation pursuant to KRS 78.530. Upon participation, each member shall be bound by the terms and requirements of the County Employees Retirement System and shall receive the benefits.
- (2) On July 31, 1996, the Kentucky Employees Retirement System shall transfer to the County Employees Retirement System for each member transferred pursuant to subsection (1) of this section the amount of his service credit in the Kentucky Employees Retirement System earned as a result of his service as circuit clerk or deputy clerk. The Kentucky Employees Retirement System shall also transfer for each member affected a dollar amount equal to the member's and employer's contribution attributable to that service credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were originally made, compounded annually at the same interest rate. The member shall be entitled to the transferred service credit when he pays the total difference, if any, between the amount of the funds transferred by the Kentucky Employees Retirement System and the cost of the credit to the County Employees Retirement System, as determined by the board's actuary.
- (3) The transfer of a member's service credit from the Kentucky Employees Retirement System to the County Employees Retirement System, in accordance with this section, shall terminate any credit in the Kentucky Employees Retirement System earned for service as a circuit clerk or deputy clerk. However, any credit a member has in any other retirement system, earned for service in any capacity other than a circuit clerk or deputy clerk, shall not be affected. No person shall attain credit in more than one (1) of the retirement systems mentioned in this section for the same period of time.

**Effective:** July 15, 1996

**History:** Created 1996 Ky. Acts ch. 31, sec. 3, effective July 15, 1996.

**78.535 Termination of participation -- Effect on employees and employers.**

- (1) If a participating county fails to fully comply with the provisions of KRS 78.510 to 78.852, the board shall notify the county in writing of its failure to comply and shall inform the county that the failure shall be deemed to be cause for termination of the participation of the county in the system.
- (2) In not less than ninety (90) days after the issuance of the notice in accordance with subsection (1) of this section, the board may terminate the participation of the county in the system unless the county has fully complied or has made satisfactory arrangements to comply. The board shall determine the effective date of the termination of participation.
- (3) The county may appeal the decision of the board to the Franklin Circuit Court.
- (4) Employees of the county who are members of the system on the effective date of termination of participation shall have the privilege of continuing in membership in the system until their county employment is terminated. The employees shall continue to make contributions to the system in accordance with the provisions of KRS 78.610 and the county shall contribute employer contributions for the employees in accordance with KRS 61.565.
- (5) Notwithstanding the provisions of subsection (4) of this section, the aggregate amount of the employer contributions during a fiscal year of a county whose participation has been terminated by the board shall be not less than the amount the system is required to pay in retirement allowances during the fiscal year to former employees of the county and the beneficiaries of the former employees. In determining the amount of retirement allowances, the system shall allow credit for the member contributions paid by the former employees.
- (6) In lieu of termination of the participation of a county which fails to fully comply with the provisions of KRS 78.510 to 78.852, the board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund of the delinquent county as is necessary to achieve full compliance with the provisions of KRS 78.625.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 240, sec. 53, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 11, sec. 17, effective July 15, 1988. -- Amended 1980 Ky. Acts ch. 188, sec. 71, effective July 15, 1980. -- Created 1964 Ky. Acts ch. 49, sec. 3.

## **78.540 Membership.**

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system;
- (2)
  - (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;
  - (b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;
- (3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
- (4) All persons electing coverage in the system under KRS 78.530(3)(d).
- (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.
- (6) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 36, sec. 33, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 270, sec. 2, effective April 9, 2002. -- Amended 2000 Ky. Acts ch. 385, sec. 34, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 22, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 485, sec. 26, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 54, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 222, sec. 6, effective July 13, 1990. -- Amended 1988

Ky. Acts ch. 11, sec. 12, effective July 15, 1988; and ch. 349, sec. 33, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 90, sec. 24. -- Amended 1984 Ky. Acts ch. 177, sec. 12; and ch. 195, sec. 1. -- Amended 1982 Ky. Acts ch. 423, sec. 16. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1972 Ky. Acts ch. 116, sec. 63. -- Amended 1964 Ky. Acts ch. 49, sec. 4. -- Created 1958 Ky. Acts ch. 167, sec. 4.

**78.542 Required participation by retired hazardous members in an elected city or county office on June 21, 2001 -- Election not to participate -- Purchase of service credit.**

Any other provision of law to the contrary notwithstanding, all retired hazardous members in an elected city or county office on June 21, 2001, shall contribute to the County Employees Retirement System unless they elect not to participate within sixty (60) days of June 21, 2001. Members who begin participating under the provisions of this section may purchase credit for service in the elected city or county office between July 15, 1998, and June 21, 2001, by paying to the system one hundred percent (100%) of the cost of the service.

**Effective:** June 21, 2001

**History:** Created 2001 Ky. Acts ch. 41, sec. 2, effective June 21, 2001.

**78.545 Matters not specified in KRS 78.510 to 78.852.**

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Transfer of dormant accounts, as provided for by KRS 61.626;
- (30) Members' account, confidential, as provided for by KRS 61.661;

- (31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (32) Maximum disability benefit, as provided for by KRS 61.607;
- (33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (34) Employer contributions, as provided for by KRS 61.565;
- (35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (36) Hospital and medical insurance plan, as provided by KRS 61.702;
- (37) Death benefit, as provided by KRS 61.705;
- (38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (40) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (41) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (42) Death or disability from a duty-related injury as provided in KRS 61.621;
- (43) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525; and
- (44) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 52, sec. 23, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 7, sec. 3, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 385, sec. 35, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 485, sec. 27, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 55, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 346, sec. 7, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 349, sec. 34, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 423, sec. 17, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 311, sec. 23, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, secs. 33 and 40. -- Amended 1974 Ky. Acts ch. 128, sec. 34, effective March 26, 1974. -- Created 1972 Ky. Acts ch. 107, sec. 2; and ch. 116, sec. 64.

**78.550 Nonelection of membership.**

Any person who is an employee on the date his county first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 78.510 to 78.852 to become a member and thereby make contributions required of him by KRS 78.510 to 78.852, shall forfeit all right for credit for service with any county prior to the date he might subsequently elect to become a member, except as provided in KRS 61.552 or 78.530(3)(d).

**Effective:** July 15, 1988

**History:** Amended 1988 Ky. Acts ch. 349, sec. 35, effective July 15, 1988. -- Amended 1976 Ky. Acts ch. 321, secs. 34 and 40. -- Amended 1962 Ky. Acts ch. 31, sec. 4. -- Created 1958 Ky. Acts ch. 167, sec. 5.

**78.606 Service credit earned upon retirement of noncertified employee --  
Recalculation of benefits.**

- (1) Upon retirement, a noncertified employee shall have his service credit earned after July 1, 1998, recalculated in accordance with KRS 78.615 except that the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounding any remainder to the next whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
- (2) The Kentucky Retirement Systems shall adjust the service credit for all affected members who earned service credit for the school years 1996-97 and 1997-98 by recomputing the members' service based on the rounding method provided in subsection (1) of this section.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 52, sec. 19, effective July 15, 2002. -- Created 1998 Ky. Acts ch. 246, sec. 1, effective July 15, 1998.

**78.610 Employee's contribution -- Rate -- Deduction -- Picked-up employee contributions.**

- (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation unless he did not elect membership pursuant to KRS 61.545(3).
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.
- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 240, sec. 56, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 221, sec. 2, effective July 13, 1990; ch. 222, sec. 7, effective July 13, 1990; and ch. 476, Pt. VII D, sec. 647, effective April 11, 1990. -- Amended 1986 Ky. Acts ch. 90, sec. 26, effective July 15, 1986; ch. 176, sec. 2, effective July 15, 1986; and ch. 293, sec. 5, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 166, sec. 3, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 186, sec. 19, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 557, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1972 Ky. Acts ch. 116, sec. 66. -- Amended 1966 Ky. Acts ch. 34, sec. 5. -- Amended 1964 Ky. Acts ch. 49, sec. 6. -- Amended 1962 Ky. Acts ch. 31, sec. 8. -- Created 1958 Ky. Acts ch. 167, sec. 11.

**78.615 Deduction of employee contributions -- Service credit -- Employer's report -  
- Picked-up employee contributions.**

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).
  - (a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.
  - (b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of calendar days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars (\$1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars (\$250) for each additional thirty (30) day period the information is reported late.
    1. If the employee works fewer than the number of contracted calendar days, the employee shall receive service credit determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
    2. If the employee works fewer than the number of contracted calendar days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
    3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

- (c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each employee who made contributions to his or her account during the year. Employees shall be entitled to a full year of service credit if their total paid calendar days were not less than one hundred eighty (180) calendar days for a regular school or fiscal year. In the event an employee is paid for less than one hundred eighty (180) calendar days, the employee may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Employees who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Employees who are employed and paid for less than the number of calendar days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of calendar days employed and the number of calendar days in the employee's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the employee is employed during that year.
  - (d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable.
- (2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.
  - (3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:
    - (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and
    - (b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 52, sec. 20, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 151, sec. 1, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 299, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 23, effective July 15, 1998; and ch. 154, sec. 73, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 167, sec. 25, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 29, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 57, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 117, sec. 3, effective July 13, 1990; and ch. 222, sec. 8, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 176, sec. 3, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 166, sec. 10, effective July 15, 1982; and ch. 423, sec. 18, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 311, sec. 24, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, sec. 34. -- Created 1972 Ky. Acts ch. 116, sec. 67.

**78.616 Purchase of service credit with retirement system for unused sick leave --  
Alternative.**

- (1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.
- (2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.
- (3)
  - (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852, except as provided by paragraph (d) of this subsection. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board, subject to the restrictions provided by paragraph (d) of this subsection.
  - (b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.
  - (c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.
  - (d) For a member who begins participating in the retirement system on or after September 1, 2008, whose employer has established a sick-leave program under subsections (1) to (4) and (6) of this section:
    1. The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid;

2. The service added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 78.510 to 78.852;
  3. The service added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852; and
  4. The cost of the service provided by this paragraph shall be paid by the employer.
- (4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.
- (5) (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, or as provided in KRS 161.155 in the case of school boards, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow.
- (b) The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment.
- (c) The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation. For an employee who begins participating on or after September 1, 2008, the number of months added to the employee's total service credit under this paragraph shall not exceed twelve (12) months, and the additional service shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.
- (6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

**Effective:** June 27, 2008

**History:** Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 26, effective June 27, 2008. -- Amended 2002 Ky. Acts ch. 52, sec. 21, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 385, sec. 36, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 24, effective July 15, 1998; and ch. 262, sec. 1, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 240, sec. 58, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 11, sec. 18, effective July 15, 1988; ch. 349, sec. 37, effective July 15, 1988; and ch. 366, sec. 4, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 232, sec. 10, effective July 13, 1984.

**78.625 Contributions forwarded to board -- Collection -- Suspension of benefits on delinquency.**

- (1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.
- (2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.
- (3)
  - (a) If the agency reporting official fails to forward all contributions on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars (\$1,000), shall be added to the amount due the system.
  - (b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.
- (4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties have been paid to the system.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 36, sec. 34, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 52, sec. 22, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 105, sec. 25, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 167, sec. 26, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 240, sec. 59, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 349, sec. 38, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 423, sec. 19, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 321, secs. 36 and 40. -- Amended 1972 Ky. Acts ch. 116, sec. 69. -- Amended 1968 Ky. Acts ch. 24, sec. 1. -- Created 1964 Ky. Acts ch. 49, sec. 7.

**78.630 Fund assets.**

All of the assets of the system shall be held and invested in the county employees' retirement fund and credited, according to the purpose for which they are held, to one (1) of two (2) accounts, namely, the members' contribution account, and the retirement allowance account.

**History:** Amended 1964 Ky. Acts ch. 49, sec. 7. -- Created 1958 Ky. Acts ch. 167, sec. 13.

**78.640 Members' contribution account -- Interest.**

- (1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member contribution account.
- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.
- (3)
  - (a) Each member on June 30 of each year shall have his individual account credited with interest.
  - (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
  - (c) For a member who begins participating on or after September 1, 2008, interest shall be credited to his or her individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
  - (d) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

**Effective:** June 27, 2008

**History:** Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 27, effective June 27, 2008. -- Amended 2000 Ky. Acts ch. 385, sec. 37, effective July 14, 2000. -- Amended 1982 Ky. Acts ch. 166, sec. 30, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 311, sec. 25, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1966 Ky. Acts ch. 34, sec. 6. -- Amended 1964 Ky. Acts ch. 49, sec. 8. -- Amended 1962 Ky. Acts ch. 31, sec. 10. -- Created 1958 Ky. Acts ch. 167, sec. 14.

**Legislative Research Commission Note (6/27/2008).** The Reviser of Statutes has altered the numbering of subsection (3) of this statute from the way it appears in 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 27, under the authority of KRS 7.136(1)(c).

**78.650 Retirement allowance account.**

The retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' contribution account the interest credited annually to each member's individual account as provided by KRS 78.510 to 78.852.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 240, sec. 60, effective July 14, 1992. -- Created 1958 Ky. Acts ch. 167, sec. 15, effective June 19, 1958.

**78.652 Excess benefit plan -- Purpose -- Excess benefit fund.**

There is created and established:

- (1) An excess benefit plan to be known as the County Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement systems under KRS 78.520 to 78.852 that would otherwise be limited by 26 U.S.C. sec. 415.
- (2) A state fund to be known as the County Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.
- (3) The administration and assets of the plan shall be as set forth in KRS 61.652.

**Effective:** July 14, 2000

**History:** Created 2000 Ky. Acts ch. 385, sec. 39, effective July 14, 2000.

**78.780 Administration of systems by board of trustees of state system.**

- (1) The government and control of the system is vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the County Employees Retirement System, shall be paid a per diem of eighty dollars (\$80), plus actual expenses.
- (2) Expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 385, sec. 38, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 240, sec. 61, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 489, sec. 7, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 349, sec. 39, effective July 15, 1988. -- Amended 1980 Ky. Acts ch. 186, sec. 23, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 321, secs. 37 and 40. -- Amended 1972 Ky. Acts ch. 116, sec. 71. -- Amended 1962 Ky. Acts ch. 31, sec. 22. -- Amended 1960 Ky. Acts ch. 165, Pt. III, sec. 2. -- Created 1958 Ky. Acts ch. 167, sec. 28.

**Legislative Research Commission Note.** Although this section is included in Acts 1980, ch. 186, the proposed change was deleted by committee amendment.

**78.790 Board trustee of funds -- Investments -- Registration of securities.**

- (1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.
- (2) All securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and executive director of the systems.
- (3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 36, sec. 35, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 169, sec. 14, effective March 31, 2003. -- Amended 1988 Ky. Acts ch. 349, sec. 40, effective July 15, 1988. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1974 Ky. Acts ch. 128, sec. 35, effective March 26, 1974. -- Amended 1972 Ky. Acts ch. 116, sec. 72. -- Amended 1966 Ky. Acts ch. 34, sec. 13. -- Amended 1960 Ky. Acts ch. 165, Pt. III, sec. 3. -- Created 1958 Ky. Acts ch. 167, sec. 29.

**Legislative Research Commission Note** (7/12/2006). 2006 Ky. Acts ch. 247 instructs the Reviser of Statutes to adjust KRS references throughout the statutes to conform with the 2006 renumbering of the Financial Services Code, KRS Chapter 286. Such an adjustment has been made in this statute.

**78.852 Benefits not to be reduced or impaired -- Exception.**

It is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall, except as provided in KRS 6.696 effective September 16, 1993, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment, or repeal.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 167, sec. 27, effective July 15, 1996. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 80, effective September 16, 1993. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Created 1972 Ky. Acts ch. 116, sec. 75.