

**21.400 Computation of retirement allowance -- Benefit reduction for early retirement.**

- (1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.
- (2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
  - (a) The provisions of subsection (1) of this section; or
  - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (3) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each

year by which his actual age at the time the election is made is lower than the normal retirement age.

- (4) A member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
  - (a) The provisions of subsection (1) of this section; or
  - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (5) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection (4) of this section are lower than twenty-seven (27).

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 305, sec. 2, effective July 14, 2000. - Amended 1996 Ky. Acts ch. 292, sec. 1, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 299, sec. 7, effective July 15, 1988. -- Amended 1980 Ky. Acts ch. 407, sec. 4, effective July 15, 1980. --Amended 1978 Ky. Acts ch. 193, sec. 5, effective July 1, 1978. -- Amended 1962 Ky. Acts ch. 9, sec. 6, effective July 1, 1962. -- Created 1960 Ky. Acts ch. 84, Art. III, sec. 6.