

#### **21.405 Increase of retirement benefits.**

- (1) As of July 1, 1982, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, provided the person began participating in the plan prior to January 1, 2014, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned for a person retiring as of June 30, 1982.
- (2) As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, provided the person began participating in the plan prior to January 1, 2014, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).
- (3) In making the recomputations provided for in subsections (1) and (2) of this section for members who began participating in the plan prior to January 1, 2014, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: Judge of former Court of Appeals - Justice of Supreme Court; any position other than judge or justice that was covered by the Judicial Retirement System - Judge of the present Court of Appeals.
- (4) Effective August 1, 1998, to July 1, 2008, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan who began participating in the plan prior to January 1, 2014, shall have his or her benefit increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (5) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall

have his or her benefit increased by one and one-half percent (1.5%), if:

1. The funding level of the plan is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this subsection; or
  2. The General Assembly appropriates sufficient funds to fully prefund the increase described by this subsection in the year the increase is provided.
- (b) The board of trustees of the Kentucky Judicial Form Retirement System shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:
1. Whether the plan has a funding level greater than one hundred percent (100%) and if the plan can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the plan below one hundred percent (100%); and
  2. If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for plan recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.
- (c) For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the plan's actuary in the plan's actuarial valuation.
- (d) The full increase described by this subsection shall only be provided if the recipient has been receiving a benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving benefits in the twelve (12) months preceding the effective date of the increase.
- (e) In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized.
- (f) The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (6) In addition to the increase to a recipient's retirement allowance as provided by subsection (5) of this section, the General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly

appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 12, sec. 6, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 120, sec. 25, effective July 1, 2013. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 4, effective June 27, 2008. -- Amended 1998 Ky. Acts ch. 360, sec. 1, effective July 15, 1998. -- Amended 1984 Ky. Acts ch. 111, sec. 26, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 380, sec. 1, effective July 15, 1982.

**2018-2020 Budget Reference.** See Judicial Branch Budget, 2018 Ky. Acts ch. 209, Pt. I, A, 2, (2) at 1942.

**Legislative Research Commission Note (7/1/2013).** This statute was amended by Section 25 of 2013 Ky. Acts ch. 120. Section 81 of that Act reads, "Notwithstanding any other provision of this Act to the contrary, the amendments in Sections 16, 25, and 69 of this Act shall in no way nullify the provisions of 2012 Ky. Acts ch. 19, Part I, 1.(4), 2012 Ky. Acts ch. 68, Part I, 2.(2), or 2012 Ky. Acts ch. 144, Part IV, 10., which suspended the cost-of-living adjustment that would have been provided to retirees and beneficiaries of the Legislative Retirement Plan, the Judicial Retirement Plan, the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System on July 1, 2012, and July 1, 2013."