

**21.374 Election by member participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to July 1, 2019, to participate in the Kentucky Employees Retirement System and receive benefits under money purchase plan -- Private letter ruling -- Administrative regulations. (Declared void -- See LRC Note Below)**

Notwithstanding KRS 6.500 to 6.577 and 21.345 to 21.580:

- (1) Subject to the provisions of this section, any member who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to July 1, 2019, may on or after July 1, 2019, but prior to January 1, 2021, elect to cease participating in the Legislators' Retirement Plan or the Judicial Retirement Plan and participate prospectively in the Kentucky Employees Retirement System as a nonhazardous employee for any future service as a legislator, judge, or justice and be provided the following benefits in lieu of the benefits provided by KRS 6.500 to 6.577 and 21.345 to 21.580:
  - (a) Participation in the 401(a) money purchase plan provided by KRS 61.5956. Members making an election shall not accrue service credit in the Kentucky Employees Retirement System for purposes of determining retirement benefits under KRS 61.510(14), 61.595, or 61.597; and
  - (b) Any other benefits the person would be eligible for in the Kentucky Employees Retirement System based upon the election provided by this section or his or her membership date in the state-administered retirement systems;
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Judicial Form Retirement System board;
- (3) For each member who makes an election provided by this section, any service credit, final compensation, or other benefits the member has accrued prior to the member's effective election date, in the Judicial Retirement Plan or Legislators' Retirement Plan, shall remain, but the member shall not accrue any additional service, final compensation, or any other benefits in the Judicial Retirement Plan or the Legislators' Retirement Plan on or after the effective election date;
- (4) Before accepting an election provided by this section, the Judicial Form Retirement System board shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable; and
- (6)
  - (a) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan shall not be eligible to make an election prescribed by this section until the Judicial Form Retirement System receives a favorable private letter ruling from the Internal Revenue Service regarding this section.
  - (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
  - (c) The Judicial Form Retirement System may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 107, sec. 7, effective July 14, 2018. -- Created 2017 Ky. Acts ch. 125, sec. 4, effective March 27, 2017.

**Legislative Research Commission Note** (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.