

**78.540 Membership -- Cessation. (Effective April 1, 2021)**

Membership in the system shall consist of the following:

- (1) (a) All persons who become employees of a participating county after the date the county first participates in the system, except that:
    1. Mayors and members of city legislative bodies may decline prior to their participation in the system; and
    2. 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;
  - (b) 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;
  - (c) 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;
  - (d) All persons who declined participation as provided by paragraph (a) of this subsection and who later elect to participate. Persons who elect to participate under this paragraph may purchase service credit for any prior years by paying a delayed contribution payment, provided the person began participating in the system prior to January 1, 2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
  - (e) All persons electing coverage in the system under KRS 78.530(3)(d).
- (2) The provisions of subsection (1)(a) to (c) 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.
  - (3) Membership in the system shall not include:
    - (a) Persons who are not eligible to participate in the system as provided by KRS 78.535; or
    - (b) Employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems or the County Employees Retirement System, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

- (4) (a) The membership of any person in the system shall cease:
1. Upon withdrawal of his or her accumulated account balance at or any time after termination of employment, regardless of length of service;
  2. Upon retirement;
  3. Upon death;
  4. For persons hired prior to August 1, 2000, upon termination of employment with prejudice, as defined by paragraph (b) of this subsection; or
  5. For persons hired on or after August 1, 2000, upon conviction of a felony relating to the person's employment as provided in paragraph (c) of this subsection.
- (b) For purposes of KRS 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by the member at the time of termination of employment.
- (c) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in the system and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment shall forfeit rights and benefits earned under the system, except for the return of his or her accumulated contributions and interest credited on those contributions. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited. The employer shall notify the system when an employee is convicted under the provisions of this subsection.
- (d) When membership ceases, except in the case of retirement, the member shall thereafter lose all right to any retirement allowance or benefits under KRS 78.510 to 78.852 arising from service prior to the date of such cessation of membership.

**Effective:** April 1, 2021

**History:** Amended 2020 Ky. Acts ch. 79, sec. 35, effective April 1, 2021. -- Amended 2017 Ky. Acts ch. 32, sec. 18, effective June 29, 2017. -- Amended 2015 Ky. Acts ch. 28, sec. 9, effective June 24, 2015. -- Amended 2013 Ky. Acts ch. 120, sec. 74, effective July 1, 2013. -- 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.