

**90.410 Pension fund in cities -- Increase in benefits -- Coverage provided in County Employees Retirement System after August 1, 1988 -- Option to convert pension benefits to annuity benefits -- Repeal of ordinances established for creation or maintenance of pension fund -- Liquidation and distribution of residual assets -- Report.**

- (1) Any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, shall continue to operate the existing pension fund in accordance with this section. The city may assess monthly such amount or percent of the salary of employees as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employee. The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employees.
- (2) The city may create a board for the pension fund and designate trustees of that board to serve as the governing body of the fund, and may fix the powers of trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employee at the time of his or her retirement.
- (3) In order to adjust retirement benefits to the purchasing power of the dollar, the city may annually provide an increase in benefits paid pursuant to this section. The city may provide an increase of any amount up to the increase in the consumer price index calculated pursuant to KRS 64.527, but in no case shall the annual increase exceed five percent (5%).
- (4) When any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, picks up employee contributions pursuant to KRS 65.155, or accepts from its employees a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, except that employees, pursuant to subsection (5) of this section, may choose to participate in the County Employees Retirement System. A repeal of that ordinance by the city shall in no wise affect such employees unless by the mutual consent of the city and an employee or employees.
- (5) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city which provided a pension plan for its employees on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The board shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.
- (6) If there are fewer than twelve (12) active and retired members or beneficiaries of the pension fund, the governing body of the fund may elect to offer to individuals

entitled to benefits from the fund a one (1) time irrevocable option to convert monthly pension benefits from the fund to monthly annuity benefits from an insurance company for the same amount. An insurance company accepting a benefit transfer shall honor any features and options available under the existing plan. If the governing body of the fund elects to offer the option to convert monthly pension benefits to monthly annuity benefits, it shall provide to individuals entitled to benefits from the fund sufficiently complete and appropriate disclosures to assist in making an informed decision.

- (7) If all liabilities to all individuals entitled to benefits have been satisfied for a pension fund covered by this section, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the city. If repealed, the governing body of the fund shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the fund's governing body to the city government's general fund so long as the return of assets complies with federal and state law governing the distribution of assets. Within thirty (30) days following the distribution of residual assets, the governing body of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to dissolve the fund and liquidate residual assets of the fund for retention by the city clerk the same as for other city records.

**Effective:** July 15, 2020

**History:** Amended 2020 Ky. Acts ch. 121, sec. 2, effective July 15, 2020. -- Amended 2016 Ky. Acts ch. 31, sec. 6, effective July 15, 2016. -- Amended 2014 Ky. Acts ch. 92, sec. 86, effective January 1, 2015. -- Amended 1990 Ky. Acts ch. 118, sec. 3, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 11, sec. 9, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 177, sec. 9, effective July 13, 1984; and ch. 192, sec. 6, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 166, sec. 47, effective July 15, 1982; and ch. 297, sec. 6, effective July 15, 1982. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3480e-2, 3480e-10.