

**78.616 Purchase of service credit for unused sick leave -- Employer's election to participate -- Accumulated sick leave added to employee's service credit -- Payments by employer and employee -- Alternative compensation -- City of first class -- Statute not applicable to employees who began participation on or after January 1, 2014.**

- (1) Any employer participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.
- (2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.
- (3)
  - (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852, except as provided by paragraph (d) of this subsection. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board, subject to the restrictions provided by paragraph (d) of this subsection.
  - (b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.
  - (c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.
  - (d) For a member who begins participating in the retirement system on or after September 1, 2008, but prior to January 1, 2014, whose employer has established a sick-leave program under subsections (1) to (4) and (6) of this section:
    1. The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid;

2. The service added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 78.510 to 78.852;
  3. The service added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852; and
  4. The cost of the service provided by this paragraph shall be paid by the employer.
- (4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.
- (5) (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, or as provided in KRS 161.155 in the case of school boards, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow.
- (b) The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment.
- (c) The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation. For an employee who begins participating on or after September 1, 2008, but prior to January 1, 2014, the number of months added to the employee's total service credit under this paragraph shall not exceed twelve (12) months, and the additional service shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.
- (6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the

eligible employees of the city.

- (7) The provisions of this section shall not apply to employees who begin participating in the system on or after January 1, 2014, and no service credit shall be provided for accumulated sick leave balances of those employees who begin participating in the system on or after January 1, 2014.

**Effective:** April 1, 2021

**History:** Amended 2021 Ky. Acts ch. 102, sec. 23, effective April 1, 2021. -- Amended 2018 Ky. Acts ch. 107, sec. 17, effective July 14, 2018. -- Amended 2013 Ky. Acts ch. 120, sec. 76, effective July 1, 2013. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 26, effective June 27, 2008. -- Amended 2002 Ky. Acts ch. 52, sec. 21, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 385, sec. 36, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 24, effective July 15, 1998; and ch. 262, sec. 1, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 240, sec. 58, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 11, sec. 18, effective July 15, 1988; ch. 349, sec. 37, effective July 15, 1988; and ch. 366, sec. 4, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 232, sec. 10, effective July 13, 1984.

**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.