

1 AN ACT relating to policemen's and firefighters' retirement funds of the urban-
2 county governments.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 67A.440 is amended to read as follows:

5 (1) (a) Upon death of a member due to occupational causes, regardless of length of
6 service, ~~the~~^[his] surviving ~~spouse~~^[widow] shall be entitled immediately upon
7 cessation of salary to an annuity equal to seventy-five percent (75%) of the
8 member's last rate of salary. This annuity shall be payable until ***the surviving***
9 ***spouse***~~[she]~~ dies. In addition, if any minor children of the member, under age
10 eighteen (18), survive the member, the ***surviving spouse***^[widow] or parent or
11 legal guardian shall receive on account of each child, ten percent (10%) of the
12 member's last rate of salary until each child attains age eighteen (18). In the
13 case of a child regularly engaged in full-time educational activities, payments
14 shall continue until age twenty-three (23), but payments shall be made directly
15 to a child between the ages of eighteen (18) and twenty-three (23). The
16 combined payments to a ***surviving spouse***^[widow] and minor children shall
17 not exceed one hundred percent (100%) of ~~the~~^[his] final rate of salary. When
18 more than one (1) child survives the member, the amount payable by reason of
19 such children shall be divided equally among them.

20 (b) Any surviving ~~spouse~~^[widow] who is drawing a benefit pursuant to paragraph
21 (a) of this subsection on July 1, 2013, that is less than the amount computed
22 under paragraph (a) of this subsection, shall have ~~the~~^[her] retirement annuity
23 increased to the amount determined under paragraph (a) of this subsection.

24 (2) If the member is not survived by a ~~spouse~~^[widow],~~[or, if she remarries,]~~ and there
25 are minor children of the member, the following benefits shall be paid:

26 (a) One (1) minor child, fifty percent (50%) of the final rate of salary;

27 (b) Two (2) minor children, an additional fifteen percent (15%) of final salary;

1 (c) Three (3) or more minor children, an additional ten percent (10%) of final
2 salary, subject to a maximum combined payment of seventy-five percent
3 (75%) of the member's final rate of salary.

4 These benefits shall be divided in equal amounts for each child and paid to the
5 parent or legal guardian of each child under eighteen (18). In the case of a child
6 regularly engaged in full-time educational activities, payments shall continue until
7 age twenty-three (23), but payments shall be made directly to the child between the
8 ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the
9 total annuity payment shall be reduced by percentage amount in reverse order.

10 (3) If neither a surviving spouse~~[widow]~~ nor minor children eligible for benefits
11 survive the member, each dependent parent shall be entitled to an annuity equal to
12 twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%)
13 to both parents.

14 ➔Section 2. KRS 67A.450 is amended to read as follows:

15 (1) ~~For~~~~[Upon death of]~~ a member who on the date of death is not eligible for a
16 voluntary service retirement under KRS 67A.410, whose death occurs~~[occurring]~~
17 while in service, arising from any cause other than in the performance of duty,
18 provided the member has had at least five (5) years of total service, his or her
19 surviving spouse shall receive an annuity equal to one and one-half percent (1-
20 1/2%) of average salary for each year of total service, credited to the member, but
21 not less than fifteen percent (15%) of average salary, subject to the following
22 conditions:

23 (a) The surviving spouse had been married to the member at least six (6) months
24 prior to his or her death;

25 (b) The surviving spouse's annuity will terminate in any event when the surviving
26 spouse dies. The annuity of each child or children shall continue until each
27 child attains age eighteen (18), or, in the case of a child regularly engaged in

1 full-time educational activities the age of twenty-three (23).

2 (2) If, in addition to a surviving spouse, minor children survive the member, an
3 additional annuity shall be payable for such children equal to fifty percent (50%) of
4 the amount of the surviving spouse's annuity for the first child, and twenty-five
5 percent (25%) of the amount of the surviving spouse's annuity for each additional
6 child, subject to a maximum combined payment for the surviving spouse and
7 children of seventy-five percent (75%) of the member's average salary. The annuity
8 payable for minor children shall be divided and paid in equal amounts for each child
9 to the parent or guardian of each child under eighteen (18), and directly to each
10 child between the ages of eighteen (18) and twenty-three (23) who is regularly
11 engaged in full-time educational activities. As eligibility of children expires, the
12 total annuity payable for such children shall be reduced by percentage amount in
13 reverse order.

14 (3) If the member is not survived by a surviving spouse who qualifies under KRS
15 67A.450(1)(a) and there are minor children, the following benefits shall be paid:
16 (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen
17 percent (15%) additional, (c) three (3) or more minor children ten percent (10%)
18 additional, subject to a maximum combined payment of seventy-five percent (75%)
19 of the average salary as defined in KRS 67A.360(13). The benefits payable for
20 minor children shall be divided and paid in equal amounts for each child to the
21 parent or legal guardian of each child under the age of eighteen (18), and directly to
22 each child between the ages of eighteen (18) and twenty-three (23) who is regularly
23 engaged in full-time educational activities. The annuity of each child or children
24 shall continue until each child attains age eighteen (18), or, in the case of a child
25 regularly engaged in full-time educational activities the age of twenty-three (23).
26 The annuity payments shall be reduced in reverse order, as provided in subsection
27 (2) of this section.

1 **(4) Any active member who, on the date of death would otherwise be eligible for a**
2 **service retirement under KRS 67A.410, shall be deemed to have service until the**
3 **date of the member's death calculated with credit for accumulated sick leave**
4 **under KRS 67A.404. The deceased member shall be deemed to have elected the**
5 **survivorship one hundred percent (100%) allowance option under subsection**
6 **(2)(b) of Section 4 of this Act.**

7 ➔Section 3. KRS 67A.462 is amended to read as follows:

8 (1) Once each year following the retirement of a member on a disability retirement
9 allowance, the board may require the person, prior to his **or her** normal retirement
10 date, to undergo a medical examination. Should he **or she** refuse to submit to any
11 such medical examination, his **or her** retirement allowance shall be discontinued
12 until his **or her** withdrawal of his **or her** refusal, and should his **or her** refusal
13 continue for one (1) year, all his **or her** rights to any further disability allowance
14 shall cease. Any member whose medical examination reveals that he **or she** is no
15 longer totally and permanently disabled within the meaning of KRS 67A.360(16)
16 shall be disqualified from further receipt of disability benefits.

17 (2) (a) Once each year following the retirement of a member on a disability
18 retirement allowance the board shall require the person, prior to his **or her**
19 normal retirement date, to complete and return to the board a statement
20 indicating whether he **or she** is employed, the name of his **or her** employer, if
21 any, and a description of his **or her** job duties. The board shall discontinue the
22 disability benefits of any member for the duration of his **or her** refusal to
23 provide the board with employment information. Any member who fails to
24 provide the information to the board within one (1) year after the initial
25 request shall lose his **or her** right to any further disability benefits.

26 (b) The board shall have the right to terminate the disability retirement benefits of
27 any member who is employed in an occupation which is essentially similar to

1 that of his or her former employment, either in job classification, similarity of
 2 duties, or which otherwise demonstrates that the member is performing
 3 activities for which he or she earlier claimed he or she was disabled from
 4 performing. For the purpose of this section, members~~[who were sworn police~~
 5 ~~officers]~~ may not hold a sworn position as an elected, paid, or volunteer
 6 peace officer, firefighter, paramedic, or any other position generally
 7 considered to be a public safety position that otherwise qualifies for
 8 hazardous duty salary, retirement, or death benefits under the laws of the
 9 Commonwealth or the laws applicable to such employment within the state
 10 or federal jurisdiction governing the position, and continue to receive
 11 disability benefits.

12 (3) The board is authorized to make reasonable investigative inquiries, conduct
 13 a hearing, and request the appearance of witnesses, including the member
 14 receiving disability benefits, to ensure compliance with this section. Any
 15 member whose disability benefits are terminated may request a rehearing
 16 before the board under KRS 67A.660. A member may seek judicial review of
 17 any final order of the board revoking disability benefits in accordance with
 18 KRS 67A.670.

19 ➔Section 4. KRS 67A.492 is amended to read as follows:

- 20 (1) (a) Upon the death of a retired member, his or her surviving spouse shall receive
 21 an annuity equal to sixty percent (60%) of the member's final annuity, or of
 22 the member's final rate of pay, whichever is greater.
- 23 (b) Upon the death of a member who withdraws on a certificate as provided by
 24 KRS 67A.410(3)(a) or (b), his or her surviving spouse shall receive an annuity
 25 equal to sixty percent (60%) of the member's service retirement annuity.
- 26 (c) The surviving spouse must have been married to the member for at least three
 27 (3) years prior to the member's death or six (6) months prior to the member's

1 retirement or withdrawal on a certificate as provided by KRS 67A.410(3)(a)
2 or (b), in order to be eligible for the benefits provided in this section. Effective
3 April 4, 2006, the benefits provided by this section shall be made eligible to
4 surviving spouses of any retired member who died on July 14, 2000, or
5 thereafter.

6 (2) Any member who retires on July 15, 1990, or thereafter, and any member who
7 withdraws on a certificate as provided by KRS 67A.410(3)(a) or (b), shall have the
8 option at retirement or upon application for a certificate to purchase an increased
9 annuity allowance for his or her surviving spouse. The amount of any such optional
10 survivorship allowance shall be actuarially equivalent to the amount of retirement
11 allowance otherwise payable to the member. **No surviving minor children annuity**
12 **shall be payable under subsection (3) of this section if a surviving spouse annuity**
13 **is payable under this subsection.** The member may elect either of two (2) options:

14 (a) Survivorship seventy-five percent (75%). The member may elect to receive a
15 decreased retirement allowance during his or her lifetime and have seventy-
16 five percent (75%) of such retirement allowance continue after the member's
17 death to his or her eligible surviving spouse until the surviving spouse's death.

18 (b) Survivorship one hundred percent (100%). The member may elect to receive a
19 decreased retirement allowance during his or her lifetime and have such
20 retirement allowance continued at the same rate after the member's death to
21 his or her eligible surviving spouse until the surviving spouse's death.

22 **(3) If, in addition to a surviving spouse who is entitled to an annuity under**
23 **subsection (1) of this section, a minor child or children survive the member, an**
24 **additional annuity shall be provided for such child or children equal to:**

25 **(a) For the first child, fifty percent (50%) of the amount of the surviving**
26 **spouse's annuity; and**

27 **(b) For each additional child, twenty-five percent (25%) of the amount of the**

1 surviving spouse's annuity;
2 subject to a maximum combined annuity for the surviving spouse and minor
3 children not to exceed seventy-five percent (75%) of the member's final annuity,
4 final rate of pay, or service retirement annuity, calculated, as applicable, under
5 subsection (1) of this section.

6 The annuity provided for the minor children shall be divided and paid in equal
7 amounts for each child to the surviving parent or guardian of each child under
8 the age of eighteen (18), and paid directly to each child between the ages of
9 eighteen (18) and twenty-three (23) who is regularly engaged in full-time
10 educational activities. The annuity of each child or children shall continue until
11 each child attains the age of eighteen (18), or in the case of a child regularly
12 engaged in full-time educational activities, the age of twenty-three (23). As the
13 eligibility of children expire, the total annuity for such children shall be reduced
14 by percentage amount in reverse order.

15 (4) If the member is not survived by a spouse who qualifies under subsection (1) or
16 (2) of this section, and a minor child or children survive the member, an annuity
17 shall be provided for such child or children equal to the following share of the
18 member's final annuity, final rate of pay, or service retirement, whichever is
19 greater:

20 (a) For the first child, fifty percent (50%); and

21 (b) 1. For two (2) children, an additional fifteen percent (15%); or

22 2. For three (3) or more children, an additional ten percent (10%) each;

23 subject to a maximum combined annuity for all minor children not to exceed
24 seventy-five percent (75%) of the member's final annuity, final rate of pay, or
25 service retirement, whichever is greater.

26 The annuity provided for the minor children shall be divided and paid in equal
27 amounts for each child to the surviving parent or guardian of each child under

1 the age of eighteen (18), and paid directly to each child between the ages of
 2 eighteen (18) and twenty-three (23) who is regularly engaged in full-time
 3 educational activities. The annuity of each child or children shall continue until
 4 each child attains the age of eighteen (18), or in the case of a child regularly
 5 engaged in full-time educational activities, the age of twenty-three (23). As the
 6 eligibility of children expire, the total annuity for such children shall be reduced
 7 by percentage amount in reverse order.

8 ➔Section 5. KRS 67A.530 is amended to read as follows:

- 9 (1) The responsibility for the proper operation of the fund and the direction of its
 10 policies shall be vested in a board of trustees of twelve (12) members, consisting of
 11 the mayor, the commissioner of public safety, the commissioner of finance, the
 12 director of human resources, two (2) retired members of the fund, the chiefs of the
 13 police and fire department, and two (2) active members of each department, who
 14 shall be elected by ballot by the active members of the respective departments and
 15 shall serve for alternating terms of two (2) years under rules adopted by the board.
 16 One of the active members representing each department shall be elected on even-
 17 numbered years; and the other active member representing the department shall be
 18 elected on odd-numbered years. In the event of a vacancy of an elected member, the
 19 pension board shall fill the vacancy by appointment until the next regular election.
- 20 (2) The retired fund members shall be selected by retired fund members by ballot to
 21 serve two (2) year terms. One (1) retired fund member shall be a retired fire
 22 department member, and the other shall be a retired police department member.
 23 Retired fund members of a department shall submit the names of at least three (3)
 24 nominees from their department to the pension board not less than three (3) months
 25 before the term of office is due to expire. The retired members of each
 26 department~~[both departments]~~ shall have the right to vote for nominees of the~~[from~~
 27 ~~either]~~ department from which the member retired. For the term beginning October

1 15, 2000, names of nominees from each department shall be submitted to the
 2 pension board by no later than August 15, 2000, and August 15 of each subsequent
 3 election year. The pension board shall cause to be prepared an official ballot of the
 4 retired nominees for each respective department which shall be distributed to all
 5 retired fund members from each respective department from which the member
 6 retired by mail to their last known address. The ballot shall contain the name~~[,]~~ and
 7 address~~[, and former department]~~ of each of the candidates. ~~[The candidates shall be~~
 8 ~~grouped together by departments for voting purposes and]~~ Retired fund members
 9 shall be instructed to vote for one (1) nominee~~[member from each department]~~.
 10 Any ballot marked with more than one (1) vote per ballot~~[department]~~ shall be
 11 disqualified and not counted.~~[The retiree from either department receiving the most~~
 12 ~~votes shall serve a two (2) year term. The retiree from the other department~~
 13 ~~receiving the most votes shall serve an initial term of one (1) year. Subsequently,~~
 14 ~~retirees elected in alternate years from each department shall serve two (2) years.]~~ In
 15 the event of vacancy of an elected retired fund member of the board, the retiree
 16 receiving the next largest number of votes from the department for which the
 17 vacancy exists shall fill the vacancy until the next election for a representative of
 18 that retiree's department. Retired fund members shall vote for one (1) candidate
 19 from ~~the~~~~[each]~~ department from which the member retired by marking a square
 20 opposite the name of the candidate of his or her choice and returning the marked
 21 ballot to the secretary of the pension board. Votes shall be tabulated by a committee
 22 of three (3) pension board members appointed by the chairman for that purpose.
 23 The tabulating committee shall report in writing to the pension board the results of
 24 the election and the name of the retired fund member who shall serve on the board.

25 ➔Section 6. KRS 67A.560 is amended to read as follows:

- 26 (1) The officers of the board shall consist of a president, vice president, and a secretary.
 27 The president shall be the chief executive officer of the board, shall preside at all

1 meetings and shall appoint all necessary committees. The vice president shall serve
2 as president in the absence of the president.

3 (2) The board shall designate a secretary who may be a member of the board and shall
4 fix the secretary's compensation. The secretary shall keep a full account of all
5 proceedings of the board and shall give notice of all meetings and give effect to all
6 resolutions, orders, and directives of the board. The secretary shall be in charge of
7 the detailed affairs of administration of the fund; shall keep the record of
8 proceedings of all meetings; shall keep all books, files, records, and accounts of the
9 fund; shall receive all applications for annuities, benefits, and refunds; shall prepare
10 periodic reports relative to the financial operations of the fund for the information
11 of the board and its membership; shall compile all statistics pertinent to the
12 operations of the fund; and shall answer all correspondence received by the board.

13 (3) The commissioner of finance shall be ex officio treasurer of the board and custodian
14 of the fund. The commissioner shall have custody of all cash and securities of the
15 fund, subject to the authority and directives of the board, and shall keep such
16 accounts and records as may be prescribed by the board. These accounts and records
17 shall be subject to inspection of the board or any member thereof.

18 (4) The commissioner of finance shall, within ten (10) days after his or her selection,
19 execute a bond to the board, with good surety, in such penal sum as the board
20 directs, to be approved by the board, conditioned upon the faithful performance of
21 the duties of the office, and that the commissioner shall safely keep and shall
22 truthfully account for all money and properties that come into his or her hands as
23 treasurer of the fund, and that upon the expiration of his or her term of office, he or
24 she shall deliver to his or her successor all securities, unexpended moneys, and
25 other properties that come into his or her hands as treasurer of the fund. The bond
26 shall be filed with the secretary of the board, and suit thereon may be filed in the
27 name of the board for use of the board or any person injured by its breach. The

1 premium on said bond may be paid out of the fund.

2 (5) The commissioner of law of the government shall serve as legal adviser to the
3 board, except that the board shall have the power to hire independent counsel, the
4 cost of such independent counsel to be borne by the pension fund.

5 (6) (a) The board shall employ actuarial assistance from time to time to advise it in
6 matters relating to the technical aspects of operations of the fund, to assist in
7 the preparation of the periodic financial reports, to conduct the annual
8 actuarial valuation of the fund, to determine the government's contribution as
9 provided by KRS 67A.520, and to make periodic analyses of the operation of
10 the fund.

11 (b) Within six (6) months after the establishment of an urban-county form of
12 government, an actuarial study shall be made for the purpose of
13 recommending rates, mortality, disability, retirement, separations from
14 service, and other essential factors.

15 (c) Beginning with the fiscal year ending June 30, 2013, and each fiscal year
16 thereafter, an actuarial valuation of the fund shall be completed by the actuary
17 employed by the fund. The valuation shall include a description of the
18 actuarial assumptions used and descriptive statistics on the actuarial health of
19 the fund, and shall determine the government's contribution in accordance
20 with KRS 67A.520. Actuarial assumptions used in the fund's valuation shall
21 be reasonably related to the experience of the fund and represent the actuary's
22 best estimate of anticipated experience.

23 (d) At least once every five (5) years, the board shall cause an actuarial
24 experience study of the fund to be completed by the actuary employed by the
25 board. The actuarial experience study shall include a review of actuarial
26 assumptions, actuarial tables, and actuarial funding methods used in the
27 actuarial valuation. Based upon the results of the experience study, the actuary

1 employed by the fund shall recommend the actuarial assumptions, actuarial
2 tables, and actuarial funding methods to be adopted by the board.

3 (e) In the event the actuarial valuation or actuarial experience study is not
4 undertaken as provided by this subsection, any member of the fund or any
5 annuitant may obtain an injunction or mandamus requiring the actuarial
6 valuation or actuarial experience study be completed, or may obtain the
7 appointment of a person or persons to complete the actuarial valuation or
8 actuarial experience study, from the Circuit Court of any county in which the
9 government is located.

10 (7) The board shall establish rules and regulations to implement the provisions of KRS
11 67A.360 to 67A.690 which shall not be inconsistent therewith. **Notwithstanding**
12 **any other evidence of legislative intent, it is hereby declared to be the controlling**
13 **legislative intent that the provisions of KRS 67A.360 to 67A.690 conform with**
14 **federal statutes or regulations and meet the qualification requirements under 26**
15 **U.S.C. sec. 401(a), applicable federal regulations, and other published guidance.**
16 **Provisions of KRS 67A.360 to 67A.690 which conflict with federal statutes or**
17 **regulations or qualification under 26 U.S.C. sec. 401(a), applicable federal**
18 **regulations, and other published guidance shall not be available. The board shall**
19 **have the authority to promulgate regulations to conform with federal statutes and**
20 **regulations and to meet the qualification requirements under 26 U.S.C. sec**
21 **401(a).**

22 ➔Section 7. KRS 67A.660 is amended to read as follows:

23 After a determination has been made on any application by the board, any interested
24 person may, within twenty (20) days after notice of the determination or finding of the
25 board, apply for a rehearing with respect to any of the matters determined by the board.
26 The application shall specify the matter of which a rehearing is sought. The board shall
27 fix the time for the rehearing **at the board's next scheduled regular meeting held**~~within~~

1 ~~twenty (20) days~~ after the same is filed with the secretary of the board, in no event to be
2 less than sixty (60) days from the date the application is filed unless otherwise agreed by
3 the parties. Upon the rehearing a complete transcript shall be made of all evidence
4 presented. The cost of such transcript shall be borne equally by the applicant for the
5 rehearing and the board. Upon rehearing, the board may change, modify, vacate or affirm
6 its previous order upon said application and enter such an order as it deems necessary.