GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 46

TUESDAY, JANUARY 26, 2016

The following bill was reported to the House from the Senate and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

AN ACT relating to local government pension plans.

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

➔Section 1. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 shall submit the retirement system to an actuarial ***valuation, if the system provides a defined benefit,*** ~~[evaluation]~~ at least:

(a) Once every three (3) years ***if the system has six (6) or more active and retired members*** ~~[, if the system provides a defined benefit]~~***; or***

(b) Once every five (5) years if the system has less than six (6) active and retired members.

The ***valuation*** ~~[evaluation]~~ shall be prepared by an actuary who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the Employees' Retirement Income Security Act of 1975. The board shall send a copy of the most recent ***valuation*** ~~[evaluation]~~ to the librarian of the Legislative Research Commission by September 1, 1982, and thereafter the board shall send a copy of each new ***valuation*** ~~[evaluation]~~ within ten (10) days of receipt. ***If all liabilities to all individuals entitled to benefits from the local government retirement system have been satisfied, no actuarial valuation shall be required.***

(2) Actuaries performing ***valuations*** ~~[evaluations]~~ pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city or municipal agency with a retirement system created pursuant to KRS

79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884, or KRS Chapter 96 which is closed to new members pursuant to KRS 78.530, 95.520, 95.621, or 95.852 shall, if its local pension system provides a defined benefit, contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

(4) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal, and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing ***valuations***~~[evaluations]~~ pursuant to this section shall include estimates of the expenses in their recommendations for pension system funding, and local governments shall add payments for the expenses to their annual contributions to their respective retirement systems.

(5) A city or city agency, consolidated local government, or urban-county government may, pursuant to KRS 67A.340, 79.080, 90.410, or KRS Chapter 96 as applicable, provide for the retirement security of its employees through the creation of a money purchase or defined contribution plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. City employee deferred compensation plans created pursuant to KRS 18A.270, or money purchase or defined contribution plans, qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, which by their nature cannot have an unfunded liability, shall not be subject to the

actuarial ***valuation***~~[evaluation]~~ requirements of this section, and shall not be subject to termination for purposes of employee entry into the County Employees Retirement System, as required by KRS 78.530, 79.080, 90.410, and 96.180.

(6) No city or county, except an urban-county, or special district, nor any agency or instrumentality of a city or county or special district shall create or maintain for its officers or employees a defined benefit retirement system, which by its nature can have an unfunded liability. The provisions of this subsection shall not preclude employer contributions for city managers or other appointed local government executives who participate, pursuant to KRS 78.540, in a retirement system which operates in more than one (1) state, nor the continuation of a local government defined benefit retirement system which has been closed to new members but which must fulfill its obligations to current active members, retirees, and beneficiaries. Notwithstanding any provision to the contrary, the provisions of this subsection shall not apply to length of service awards programs established for the benefit of volunteer firefighters and volunteer life squad and volunteer rescue personnel.

(7) Notwithstanding any provision to the contrary, any city or county may establish awards programs that recognize the length of service to the community by volunteer firefighters, volunteer life squads, and volunteer rescue personnel.

➔Section 2. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the pension fund for those employees covered by the pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum necessary to maintain the fund in accordance with the actuarial principles established by the actuarial studies described in this section, and may assess monthly the amount or percent of the salary of the employees as determined on a

fair actuarial basis, and in any case not in excess of nine percent (9%) of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial ***valuation***~~[study]~~, which shall be completed within six (6) months thereafter, and shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the fund, including any payments required to bring the fund to an actuarially sound position if it was not so at the time of the performance of the ***valuation***~~[study]~~. The legislative body shall determine a reasonable period over which additional funding, if any, shall be made, which period shall not exceed thirty (30) years. A similar ***valuation***~~[study]~~ shall be arranged by the board at the cost of the urban-county government at least once in every ***three (3) year***~~[three-year]~~ ***to five (5) year*** period thereafter ***as prescribed by Section 1 of this Act***. If the fund created by this section is extended to cover employees not described in the first sentence of this section, the actuarial ***valuation***~~[study]~~ shall determine the required payments necessary to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain the fund, and shall assess against the additional covered employees the same monthly contribution as required for other government employees.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1,

1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

(3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.

(4) There is hereby created a board for the existing employees' pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the Division of Personnel, and three (3) civil service employees ***or retirees*** to be elected to the board by those employees ***and retirees*** covered by the employees' pension fund. In the event that there is no position in the

urban-county government denominated secretary of the Finance and Administration Cabinet and/or director of the Division of Personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.

(7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employees frequent and report.

(8) If the urban-county government issues the appropriate order allowing participation in the County Employees Retirement System alternate participation plan pursuant to KRS 78.530(3) and 78.531(2), the urban-county government shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local pension fund and to retirees and their survivors as determined by actuarial ***valuation***~~[evaluation]~~ and other than assets payable to the County Employees Retirement System pursuant to KRS 78.531(2), to assist in the payment of both the employee's and employer's costs of alternate participation pursuant to KRS 78.530(3)(d).

(9) If all liabilities to all individuals entitled to benefits from the employees' pension fund have been satisfied, 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 urban-county government. If repealed, the fund's

board of trustees 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 board of trustees to the urban-county government's general fund which shall then contribute the entire distribution received into the Policemen's and Firefighters' Retirement Fund as a supplemental contribution, so long as the return of assets complies with federal and state law governing the distribution of assets. The supplemental contribution provided to the Policemen's and Firefighters' Retirement Fund under this subsection shall be in addition to the contributions required by KRS 67A.360 to 67A.690 and shall not be used to offset any other contributions required to be paid to the fund under the provisions of KRS 67A.360 to 67A.690. Within thirty (30) days following the distribution of residual assets, the board of trustees of the fund shall as its last act file a complete report with the legislative body of the urban-county government of the actions taken to terminate the fund and liquidate residual assets of the fund. Upon completion of the provisions specified by this subsection, the provisions of KRS 67A.320 to 67A.330 as it relates to the employees' pension fund shall be void.

➔Section 3. KRS 67A.655 is amended to read as follows:

The legislative body in an urban-county government may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen and firefighters in the County Employees Retirement System. All new employees who would have been granted membership in the policemen's and firefighter's retirement fund of the urban-county government shall be members of the County Employees Retirement System. All active members of the policemen's and firefighter's retirement fund of the urban-county government at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local retirement fund, but the legislative body may withdraw its order

prior to the effective date if the number of active members choosing to transfer is not sufficient to fully fund the balance of the cost of transition after available local pension assets are included. The urban-county government shall elect the alternate participation plan, pursuant to KRS 78.530(3), for active members who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the urban-county government may, at its option, extend the payment period for the cost of alternate participation to a maximum of thirty (30) years with the interest at the rate actuarially assumed by the County Employees Retirement System board. The urban-county government shall have the right to use assets in the local pension fund, other than those assets, as determined by actuarial ***valuation*** ~~[evaluation]~~, necessary to pay benefits to the remaining active members of the local retirement fund and retirees and their survivors, to assist in the payment of the annual installment cost of alternate participation. The County Employees Retirement System employee contribution shall be made as a deduction from salary, and payment to the member of salary less this deduction shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment. All policemen and firefighters who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

➔Section 4. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.310 to 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884, and KRS Chapter 96, notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the County Employees Retirement System pursuant to KRS 78.520 to 78.852.

(2) (a) If the city or urban-county government elects the alternate participation plan,

as set forth in KRS 78.530(3), employee contributions made to the fund under authority of KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to ***95.784*** ~~[95.785]~~, 95.852 to 95.884, or KRS Chapter 96 shall be paid to the County Employees Retirement System and credited to the individual member's account in the system for any employee electing to terminate coverage under the provisions of this section. Any person who is an active member of the County Employees Retirement System on July 15, 1990, who withdrew from service prior to August 1, 1988, under any of the plans enumerated in this section and who was not granted a refund of his employee contributions, shall be refunded employee contributions with any interest specified in the applicable statute or plan, unless the employee has a vested account in the former plan, in which case he may elect to leave his contributions in the fund in order to receive a pension from the plan when he becomes eligible.

(b) Proper credit for these employee contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3). The cost of participation for employees who withdrew from service and who were not granted a refund for employee contributions shall be based only upon the time period for which the contributions were made. The cost shall be computed by the County Employees Retirement System in a manner consistent with the calculation of other delayed contribution payments, and shall be paid by the employee.

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employee contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to

95.620, 95.621 to 95.629, 95.767 to ***95.784***~~[95.785]~~, 95.852 to 95.884, or KRS Chapter 96 by each employee electing to terminate coverage under the provisions of this section shall be refunded to the employee with interest as specified in the applicable statute or plan, unless the employee has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

➔Section 5. KRS 90.400 is amended to read as follows:

(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 the employees as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employees' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the city legislative body ***at least once every three (3) to five (5) years after completion of the actuarial valuation required by Section 1 of this Act***~~[every three (3) years after an actuarial survey of the fund]~~, and shall be in effect ***until the next actuarial valuation is completed by the fund***~~[for a period of at least three (3) years]~~.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create or continue to operate 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 the 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.

(4) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employees frequent and report.

(7) 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 (8) 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.

(8) 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.

(9) 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.

➔Section 6. KRS 90.410 is amended to read as follows:

(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 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 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.

➔Section 7. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.160 to 95.290 and in KRS 95.830 to 95.845, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority;

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of

positions;

(c) "Fire department" means the officers, firefighters, and clerical or maintenance employees, including the chief of the fire department;

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department;

(e) "Police department" means the officers, policemen, and clerical or maintenance employees, including the chief of police;

(f) "Police force" means the officers and policemen of the police department, other than the chief of police;

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee;

(h) "Salary" means any compensation received for services; and

(i) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS 95.440 to 95.630, the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority;

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions;

(c) "Fire department" means and includes all officers, firefighters, and clerical or maintenance employees of the fire department;

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employees of the police department;

(e) "Member" means any and all officers, firefighters, policemen, clerical or

maintenance employees in the police or fire department, except as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580; it shall not include the chief of police in an urban-county government;

(f) "Police force" means and includes all officers and policemen in the police department;

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee;

(h) "Firefighter" means a member of the fire department below the rank of officer, other than a clerical or maintenance employee;

(i) "Salary" means any compensation received for services;

(j) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure; and

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled members of police and fire departments, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to ***95.784***~~[95.785]~~ the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to ***95.784***~~[95.785]~~, a "regular police department" is defined as one having a fixed

headquarters, where police equipment is maintained and where a policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties;

(b) "Regular fire department." For the purpose of KRS 95.761 to ***95.784***~~[95.785]~~, a "regular fire department" is defined as one having a fixed headquarters where firefighting apparatus and equipment are maintained, and where firefighters are in constant and uninterrupted attendance to receive and answer fire alarms;

(c) "Legislative body." Wherever in KRS 95.761 to ***95.784***~~[95.785]~~ the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government or urban-county government;

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to ***95.784***~~[95.785]~~;

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to ***95.784***~~[95.785]~~; and

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and firefighter or firefighters salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and firefighter or firefighters after the prescribed number of years of service and for the benefit of disabled policeman or policemen and firefighter or firefighters, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of a policeman or firefighter within the scope of his employment, according to the terms of KRS 95.761 to ***95.784***~~[95.785]~~.

➔Section 8. KRS 95.290 is amended to read as follows:

(1) The city legislative body in cities of the first class may enact ordinances providing

for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the firefighters' pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess, and collect contributions from the members for the benefit of the fund.

(2) ***(a)*** There shall be a governing body of the policemen's pension fund, and a governing body of the firefighters' pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be ***composed***~~[comprised]~~ of persons receiving pension benefits from the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the firefighters' pension fund, ***except if there are fewer than six (6) active and retired members of the policemen's or the firefighters' pension fund, the governing body of the pension fund shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor from the city's respective police department or fire department***. To be effective, an action of the governing body of a fund shall require only a simple majority of the votes cast at a properly convened meeting of the governing body where a quorum is present, with a quorum being a majority of the members of a governing body.

(b) If all liabilities to all individuals entitled to benefits from the policemen's pension fund or firefighters' pension fund have been satisfied, the

ordinances establishing the fund may be repealed by the majority vote of the duly elected members of the entire legislative body. If repealed, the governing body of the policemen's or firefighters' pension 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 paragraph shall be distributed by the governing body to the city's general fund provided 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, for retention by the city clerk the same as for other city records, of the actions taken to dissolve the fund and liquidate residual assets of the fund.

(3) Any policemen's pension fund or any firefighters' pension fund established under the provisions of this section shall be held or distributed for, and only for, any of the following purposes of the respective fund as applicable:

(a) Paying pensions, and any bonus payments under applicable ordinances;

(b) Making payments to the city for transfer to the County Employees Retirement System for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2) ***or for the distribution of residual assets in the event the fund is dissolved pursuant to subsection (2)(b) of this section***;

(c) Transferring pension assets through investment contract or other financial instrument for the purpose of amortizing unfunded service liabilities; and

(d) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565.

Pursuant to the terms of this section, if policemen of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b),

and (c) of this subsection, these excess funds shall be distributed to the city for use by the city for any other purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (d) of this subsection. The governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal services, the amount such governing board deems proper.

(e) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565. Pursuant to the terms of this section, if firefighters of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed according to the terms of an agreement negotiated between the city and the union organization representing the firefighters. The city may use its share of the distributed excess funds for any purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (e) of this subsection.

(4) (a) The governing body of each pension fund shall insure that all of the assets in the fund are distributed for the purposes in subsection (3) of this section, and only for these purposes. If in any calendar year the assets in either fund exceed those needed for the actuarial liability for payment of pension benefits and any anticipated liabilities under subsection (3)(b) and (c) of this section, the legislative body of the city establishing the pension system shall insure by pension bonus ordinance that a portion of these excess funds be distributed in an equitable manner to all eligible pension recipients. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.

(b) The governing board of either fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal or other professional services, the amount such governing board deems proper.

(5) Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.

(6) To assure equal protection for the beneficiaries of either fund, any action taken by the city executive or legislative body in cities of the first class that affects a policemen's pension fund or a firefighters' pension fund established under this section shall, to the maximum extent permitted by law, treat each fund in a uniform manner and shall not cause any change to be made to the structure or operation of either fund, whether through legislation, litigation, compromise, settlement, or otherwise, unless any proposed change is offered to the other fund before it takes effect. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.

(7) The legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the County Employees Retirement System. All new employees who would have been granted membership in the local policemen's pension system shall be members of the County Employees Retirement System. All active members of the local policemen's pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of

alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local policemen's pension system and to retirees and their survivors as determined by actuarial ***valuation***~~[evaluation]~~, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage, and the city may, at its option, purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.

(8) The legislative body in a city of the first class may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for firefighters in the County Employees Retirement System. In the event that the legislative body in a city of the first class issues such an order, then all new employees who would have been granted membership in the local firefighters' pension system shall be members of the County Employees Retirement System. All active members of the local firefighters' pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for firefighters who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local firefighters' pension fund, other than assets necessary to pay benefits to the remaining active members of the local firefighters' pension system and to retirees and their survivors as determined by actuarial ***valuation***~~[evaluation]~~, to assist in the

payment of the annual installment cost of alternate participation. After certification by the County Employees Retirement System of eligibility for hazardous duty coverage, each firefighter who becomes a member of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

(9) Notwithstanding the provisions of KRS 61.565, which relate to the contributions required of participating employers, any city of the first class participating in the County Employees Retirement System hazardous duty pension plan which has in effect a collective bargaining agreement with a group of employees who participate in said plan, shall have the right to enter into agreement with its employees or with their respective collective bargaining representatives. This agreement may include, but is not limited to, specifications of what portion of the required employer contribution shall be borne by the participating employer and what portion shall be borne by the participating employee. This provision in no way modifies the employer's obligation to remit the contributions required by the County Employees Retirement System pursuant to KRS 61.565, whether such contributions are borne by the city or by its participating employees.

(10) With regard to the employer participation or employer contributions pursuant to KRS 61.565 as it relates to future pension contribution requirements or as it relates to payback period or interest charge for service liability cost under alternate participation, if any statute or any resolution of the appropriate state board of trustees having authority over employer participation or employer contribution grants any terms or conditions to any city of the home rule class, or to any county, or to any urban-county government, which are more favorable in terms of participation than terms or conditions granted to any city of the first class, then said provisions for employer participation or contribution shall be available to the city of the first class, at its option and effective upon adoption by the city of the first class

and notification to the County Employees Retirement System.

➔Section 9. KRS 95.530 is amended to read as follows:

(1) In cities with a pension fund established under KRS 95.520 where there are fewer than six (6) active members of the pension fund, ***except as provided by subsection (3) of this section,*** the board of trustees of the policemen's and firefighter's pension fund is composed of the mayor, city treasurer ***or chief financial officer***, and one (1) retired member each from the police and fire departments. The retired members from the police and fire departments shall be elected by the respective retired members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their respective successors are elected and qualified. The board shall select from their number a president and a secretary.

(2) If there are six (6) or more active members of the fund, there shall be two (2) additional board members ***added to the members established by subsection (1) of this section*** who shall be one (1) active member of the fund from each department elected by the active members of the fund from the respective departments and who shall serve for one (1) year and until their respective successors are elected and qualified. If all of the six (6) or more active members or all of the retired members are from one (1) department, then both of the active member board members or both of the retired board members, as the case may be, shall be elected from that department.

(3) If there are fewer than six (6) active and retired members of the policemen's and the firefighters' pension fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other

department.

(4)~~[(3)]~~ The board of trustees' membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after July 15, ***2016***~~[1990]~~.

(5) If all liabilities to all individuals entitled to benefits from the policemen's and firefighters' pension fund have been satisfied, the legislative body of the city may by majority vote of the entire legislative body, adopt an ordinance dissolving the fund. If adopted, the fund's board of trustees shall, within sixty (60) days of adoption, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the board of trustees to the city'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 board of trustees 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.

➔Section 10. KRS 95.580 is amended to read as follows:

(1) The policemen's and firefighters' pension fund established under KRS 95.520 shall consist of:

(a) Revenues of the city authorized to be paid by the city legislative body, which shall be not less than the amount contributed by the members of the police and fire departments.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(c) Assessments, which the board of trustees of the pension fund may make, upon each member of the police and fire departments, of not less than one percent (1%) nor more than four percent (4%) of his salary, to be withheld from the

monthly salary and paid by the city treasurer ***or chief financial officer*** into the pension fund.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities with a pension fund established under KRS 95.520.

➔Section 11. KRS 95.590 is amended to read as follows:

(1) The city treasurer ***or chief financial officer***, in cities with a pension fund established under KRS 95.520, is ex officio treasurer of the board of trustees of the pension fund, and custodian of the pension funds.

(2) The treasurer, as custodian, shall securely keep the fund, subject to the control of the board, and shall keep his books and accounts concerning the fund in the manner prescribed by the board. The books and accounts are always subject to the inspection of the board or any board member.

(3) The treasurer shall, within ten (10) days after his ***appointment***~~[election]~~, execute a bond to the city with good surety, in the penal sum the board of trustees directs, to be approved by the board, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truthfully account for all money and properties that come into his hands as treasurer of the pension fund, and that upon the expiration of his term of office he will deliver to his successor all securities, unexpended moneys and other properties that come into his hands as treasurer of the fund. The bond shall be filed in the office of the treasurer, and suit may be filed thereon in the name of the city for the use of the board or any person injured by its breach.

➔Section 12. KRS 95.610 is amended to read as follows:

(1) The officers of cities with pension funds established under KRS 95.520 that are designated by law to draw warrants on the city treasurer ***or chief financial officer*** shall, on request in writing by the board of trustees of the pension fund, draw warrants on the city treasurer ***or chief financial officer*** payable to the treasurer of

the board of trustees of the pension fund for all funds belonging to the pension fund.

(2) Moneys ordered paid from the pension fund to any person shall be paid by the treasurer of the board of trustees only upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board of trustees duly entered on the records of the proceedings of the board.

(3) If at any time there is not sufficient money in the pension fund to pay each beneficiary the full amount per month to which he is entitled, an equal percentage of the monthly payments due shall be paid to each until the fund is so replenished as to warrant payment in full to all beneficiaries.

➔Section 13. KRS 95.620 is amended to read as follows:

(1) Except for court or administratively ordered current child support, or owed child support, or to-be-owed child support, and except as provided in KRS 65.156, ***subsection (5) of Section 9 of this Act,*** and subsections (2), (3) and (4) of this section, the policemen's and firefighters' pension fund established under KRS 95.520 shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982, and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause,

withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

➔Section 14. KRS 95.622 is amended to read as follows:

(1) There shall be created in cities that elected to adopt the provisions of KRS 95.621 to 95.629 a policemen's and firefighter's pension fund, and a board of trustees for that fund.

(2) ***(a)*** ***Except as provided by paragraph (c) of this subsection,*** in ~~[these]~~cities where there are fewer than six (6) active members of the pension fund, the board of trustees of the policemen's and firefighter's pension fund shall be composed of the mayor, city treasurer ***or chief financial officer***, and one (1) retired member each from the police and fire departments shall be elected by the respective retired members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their successors are elected and qualified.

(b) If there are six (6) or more active members of the fund, there shall be two (2)

additional board members who shall be one (1) active member of the fund from each department elected by the active members of the fund from the respective departments and who shall serve for one (1) year and until their successors are elected and qualified. If all of the six (6) or more active members or all of the retired members are from one (1) department, then both of the active member board members or both of the retired board members, as the case may be, shall be elected from that department.

(c) If there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department.

(d) The board shall select from their number a president and a secretary. The board of trustees shall be the trustees of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) The board of trustees may draw the pension fund from the treasury and invest it, in whole or in part, in the name of the board or nominee name as provided by KRS 286.3-225, as the board deems most advantageous for the objects of the fund, in a local government pension investment fund created pursuant to KRS 95.895 or in any other securities in which trustees are permitted to invest trust funds under the laws of this state. The securities shall be subject to the order of the board.

(4) The board of trustees' membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after

July 15, ***2016***~~[1990]~~.

(5) If all liabilities to all individuals entitled to benefits from the policemen's and firefighters' pension fund have been satisfied, the ordinances establishing the fund may be repealed by the majority vote of the duly elected members of the entire legislative body in accordance with the provisions established by subsection (5) of Section 9 of this Act.

➔Section 15. KRS 95.628 is amended to read as follows:

(1) The city treasurer ***or chief financial officer*** shall be ex officio treasurer of the board of trustees of the pension fund, and custodian of the pension fund.

(2) The treasurer, as custodian, shall securely keep the fund, subject to the control of the board, and shall keep his books and accounts concerning the fund in such manner as may be prescribed by the board. The books and accounts shall always be subject to the inspection of the board or any board member.

(3) The treasurer shall, within ten (10) days after his ***appointment***~~[election]~~, execute a bond to the city with good surety, in such penal sum as the board of trustees directs, to be approved by the board, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truthfully account for all money and properties that come into his hands as treasurer of the pension fund, and that upon the expiration of his term of office he will deliver to his successor all securities, unexpended moneys and other properties that come into his hands as treasurer of the fund. The bond shall be filed in the office of the treasurer, and suit may be filed thereon in the name of the city for the use of the board or any person injured by its breach.

➔Section 16. KRS 95.761 is amended to read as follows:

(1) Any city with a population equal to or greater than one thousand (1,000) but less than eight thousand (8,000) based upon the most recent federal decennial census which has now, or in which there may be hereafter established a regular police or

fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments. If a city elects to establish a civil service system for its police and fire employees under this section, then it may adopt either the provisions of this section, or KRS 95.762, 95.763, 95.764, 95.765, and 95.766, or it may adopt the provisions of KRS 90.300 to 90.420. A city meeting the population criteria of this subsection may adopt the provisions of KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.

(2) Any city may provide a retirement system for any of its employees, including police and firefighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system, ***except that if there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department***. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(3) A city meeting the criteria of subsection (6) of this section may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or either KRS 95.520

to 95.620 or KRS 95.767 to 95.784 for its police and firefighters. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employee covered thereby.

(4) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of firefighters and assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(5) After August 1, 1988, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(6) As used in subsections (2) and (3) of this section, "city" means only those cities that were previously classified as cities of the fourth and fifth class under the classification system that was in effect before August 1, 1988.

(7) Notwithstanding subsection (1) of this section, no city shall adopt a civil service system for any of its employees under KRS 90.300 to 90.420 or under KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766 during the months of November or

December in any even-numbered year.

(8) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

➔Section 17. KRS 95.762 is amended to read as follows:

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or firefighter, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firefighters. Every member of the police or fire department shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or firefighter and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign

funds.

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to ***95.784***~~[95.785]~~ shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firefighters, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firefighters, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

(5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than twelve (12) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

➔Section 18. KRS 95.765 is amended to read as follows:

(1) No member of the police or fire departments shall be removed from the department or reduced in grade upon any reason except inefficiency, misconduct, insubordination or violation of law, or violation of the rules adopted for the departments. Any person may prefer charges against a member of the police or fire departments, which must be filed in the office of the mayor, who shall thereupon communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges and must set out with clearness and distinctness each and every charge. It shall be the duty of the mayor

and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the police or fire departments whom he or she believes to have been guilty of any conduct justifying his removal or punishment in the interest of public order. The charges thus filed shall be written and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issue so presented. All charges against members of the police or fire departments shall be filed with the clerk of the legislative body, and within three (3) days after said filing the legislative body shall proceed to hear and examine said charges; provided two (2) days before said hearing the member of the police or fire departments, accused, has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three (3) days after said charges are filed with the clerk of said legislative body. The legislative body will have the power to summon and compel the attendance of witnesses at all hearings or sittings by said body, upon subpoena issued by the clerk of said body, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The member of the police or fire department, the accused, shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose by the clerk of said legislative

body, and the written charges filed in this matter shall be preserved and securely attached to the book containing the legislative body's decisions.

(2) In cases where the mayor or chief has probable cause to believe that a member of the police or fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body. The said body shall fix punishment against a member of the police or fire departments found guilty of any charge under KRS 95.761 to ***95.784***~~[95.785]~~, by reprimand or suspension for any length of time in their judgment, not to exceed six (6) months, or by reducing the grade, if the accused be chief or other officer, or by combining any two (2) or more of said punishments, or by removal or dismissal from the service of any such member of the police or fire department. No member of the police or fire department except as provided in KRS 95.761 to ***95.784***~~[95.785]~~ shall be reprimanded, removed, suspended, or dismissed from the department until written charges have been made, or preferred against him, and a trial had as herein provided.

➔Section 19. KRS 95.767 is amended to read as follows:

(1) ***(a)*** There shall be organized in connection with the police and fire departments a board to be known as the board of trustees of the policemen's and firefighter's pension fund.

(b) If there are six (6) or more active members of the fund, the board shall be composed of the mayor of the city, city treasurer ***or chief financial officer***, one (1) member of the city legislative body appointed by the mayor, one (1) retired member each from the police and fire departments elected by the respective retired members of those departments annually by ballot, and one (1) active member of the fund from each department elected by the active

members of the fund from the respective departments annually. If all of the six (6) or more active members or all of the retired members are from one (1) department, then both of the active member board members or both of the retired board members, as the case may be, shall be elected from that department.

(c) If there are fewer than six (6) active members of the fund, no active members of the departments shall be elected to the board. The trustees shall select from their number a president and secretary. The city treasurer ***or chief financial officer*** shall be ex officio treasurer of the board and custodian of its funds.

(d) If there are fewer than six (6) active and retired members of the policemen's and firefighters' pension fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, one (1) member of the city legislative body appointed by the mayor, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department.

(2) The board of trustees membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after July 15, ***2016***~~[1990]~~.

➔Section 20. KRS 95.768 is amended to read as follows:

(1) The police and firefighters' pension fund in cities that have established a fund pursuant to KRS 95.767 to 95.784 shall consist of:

(a) Revenues of the city authorized by the city legislative body, which shall not be less than the amount contributed by the members of the police and fire departments;

(b) All rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department;

(c) Assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half percent (3.5%) of his salary, to be held from the monthly salary and paid by the city treasurer ***or chief financial officer*** into the pension fund. Beginning July 15, 1982, and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or firefighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Firefighters' Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the

necessary remedies in the premises.

(3) (a) 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.

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System.

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System.

(d) Cities which were covered by this section on or prior to August 1, 1988, 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.

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System are employed in hazardous positions.

➔Section 21. KRS 95.769 is amended to read as follows:

Said board of trustees of the policemen's and firefighters' pension fund shall have the exclusive control and management of the said fund and all moneys donated, paid or assessed for the relief or for pensioning retired, crippled or disabled members of the police or fire departments or the widows and dependent children under the age of fourteen (14) years or dependent fathers or mothers of any members of the departments killed in the service, while in line of duty, and shall assess each member of the police and fire departments not exceeding three and one-half percent (3.5%) of the salary of such

member, to be deducted and withheld from the monthly pay of each member so assessed, the same to be placed by the treasurer ***or chief financial officer*** of such city to the credit of such fund, subject to the order of such board.

➔Section 22. KRS 95.771 is amended to read as follows:

The said board of trustees of the policemen's and firefighters' pension fund shall have all needful rules and regulations for its government in the discharge of its duties, and shall hear and decide all applications for relief or pensions under KRS 95.761 to ***95.784***~~[95.785]~~, and its decision of such applications shall be final and conclusive, and not subject to revisions or reversal, except by said board, and a record shall be kept of all meetings and the proceedings of said board.

➔Section 23. KRS 95.772 is amended to read as follows:

The said board of trustees of the policemen's and firefighters' pension fund shall have the power to draw such pension fund from the treasury and may invest the same, or any part thereof, in the name of the board of trustees of the policemen's and firefighters' pension fund or nominee name as provided by KRS 286.3-225, in interest-bearing bonds of the United States or the State of Kentucky, or any county or city in the State of Kentucky, or in any securities in which trustees or guardians are permitted to invest trust or guardianship funds under the laws of this state including a local government pension investment fund created pursuant to KRS 95.895, and all such securities shall be subject to the order of said board. Both the principal and interest of said pension fund shall be applicable to the payment of pensions under KRS 95.761 to ***95.784***~~[95.785]~~.

➔Section 24. KRS 95.777 is amended to read as follows:

No person shall be entitled to receive any pension from the said pension fund under KRS 95.761 to ***95.784***~~[95.785]~~ except a regularly retired member or a regular member in the said police or fire department, his widow, or children under the age of fourteen (14) years, or dependent mother or father.

➔Section 25. KRS 95.778 is amended to read as follows:

The treasurer of the board of trustees of the policemen's and firefighters' pension fund shall be the custodian of said pension fund and shall securely and safely keep the same, subject to the control and direction of said board, and shall keep his or her books and accounts concerning such fund in such manner as may be prescribed by the board and the said books and accounts shall always be subject to the inspection of the board or any member thereof. The treasurer shall, within ten (10) days after his appointment~~[or election]~~, execute a bond to the city with good and sufficient surety, in such penal sum as the legislative body shall direct, to be approved by the legislative body of said city, conditioned for the faithful performance of the duties of his or her office, and that he or she will safely keep and well and truthfully account for all money and properties which may come into his or her hands as such treasurer; and that, upon the expiration of his or her term of office, he or she will surrender and deliver to his or her successor all bonds, securities, and all unexpended moneys or other properties which may have come into his or her hands as treasurer of said fund. Said bond shall be filed in the office of the city clerk, as other bonds, and may be sued on in the name of the said city, for the use of said board of trustees, or in the name of the board of trustees, or any person or persons injured by a breach thereof. The premium on said bond shall be paid out of said pension fund in the manner provided in KRS 95.761 to ***95.784***~~[95.785]~~ for expending sums.

➔Section 26. KRS 95.779 is amended to read as follows:

It shall be the duty of such officer or officers of the said city as are designated by law, to draw warrants on the treasurer ***or chief financial officer*** of said city, on request in writing by said board of trustees, payable to the treasurer of said board of trustees for all funds belonging to said pension fund as aforesaid.

➔Section 27. KRS 95.783 is amended to read as follows:

(1) Except as provided by subsection (2) of this section, in the event that the provisions of KRS 95.767 to 95.784 are accepted and adopted by the legislative body of a city, as authorized in KRS 95.7665 by ordinance, as herein provided, the

repeal of such ordinance shall not become effective unless adopted by the unanimous vote of the duly elected members of such legislative body. In the event a repeal ordinance is adopted by such legislative body, all moneys or property belonging to the policemen's and firefighters' pension fund at the time of the repeal of the said adoption ordinance shall be dissolved or liquidated by the board of trustees of said policemen's and firefighters' pension fund and distributed by said board in the following manner: Within sixty (60) days of adoption by said legislative body of said repeal ordinance, the said board of trustees shall proceed with the liquidation of said pension fund as follows: All unexpended moneys appropriated to said pension fund out of the said city's general fund to the policemen's and firefighters' pension fund by the said legislative body of such city and at the time of adoption of a repeal ordinance shall revert back to the city's general fund. All other unexpended moneys or property which has come into the said pension fund's hands shall be liquidated by said board of trustees in the following manner: All unexpended moneys in the said pension fund which accumulated thereto by pick up of employee contributions by the employer pursuant to KRS 65.155 or assessments from policemen's and firefighters' salaries and gifts, or accumulated thereto in any manner except appropriations from the said city's general fund, shall revert back to the active or retired policemen and firefighters and dependents who have qualified under KRS 95.761 to ***95.784***~~[95.785]~~ in such city. In the division to the beneficiaries, the board of said trustees shall use in the division of said fund the per centum of the present salaries of such members. After all disbursements have been made of said fund by the board of trustees, the said board of trustees shall file, as their last act, a complete report of same with said legislative body within thirty (30) days, and such report shall be kept in the office of the city clerk as other city records.

(2) If all liabilities to all individuals entitled to benefits from the policemen's and

firefighters' pension fund have been satisfied, the ordinances establishing the fund may be repealed by the majority vote of the duly elected members of the entire legislative body. If repealed, the fund's board of trustees 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 board of trustees to the city'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 board of trustees of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to terminate the fund and liquidate residual assets of the fund for retention by the city clerk the same as for other city records.

➔Section 28. KRS 95.859 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 95.851(13), for each year of total service up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. If the calculated benefit for a member is less than four thousand eight hundred dollars ($4,800) per year, the board may increase the annual benefit to a minimum of four thousand eight hundred dollars ($4,800) if the increase can be supported on an actuarially sound basis by the fund.

(2) Any member who retired prior to June 21, 1974, shall receive an increase of ten dollars ($10) per month for each year or part thereof of retirement prior to June 21, 1974, with a maximum increase of one hundred seventy dollars ($170) per month. No surviving widow of a retiree shall receive a pension of less than one hundred and fifty dollars ($150) per month. The board may increase the minimum benefit to no more than five hundred dollars ($500) per month if the increase can be supported on an actuarially sound basis by the fund. When Social Security benefits are

increased, the surviving widows' minimum shall be increased by a like percentage, but the pension increase shall not exceed five percent (5%).

(3) (a) Within six (6) months after the performance of the actuarial ***valuation***~~[study]~~ required by KRS 95.872(6), the rate of retirement annuity of each annuitant shall be increased annually by an amount determined by the study to reflect so much of the annual increase in the cost of living of the annuitant as may be supported on an actuarially sound basis by the fund. So long as the same is published, such studies shall rely on the percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by the United States Department of Labor's Bureau of Labor Statistics, not to exceed five percent (5%). In any year that the percentage increase in the annual average of the consumer price index for all items is less than five percent (5%), the board may set the annual increase at a rate higher than the increase of the consumer price index but not in excess of five percent (5%), if the board determines that the increase can be supported on an actuarially sound basis by the fund. The increases shall be payable to all members of the fund on the effective date of the increases, and all increases granted on July 15, 1990, or thereafter shall be compounded.

(b) If the board determines that no annual cost-of-living adjustment on annuities can be paid in accordance with paragraph (a) of this subsection, the city may, by action of the city's legislative body, require the fund to provide an increase in annuities paid to annuitants of the fund subject to the following conditions:

1. Any cost-of-living adjustment the city directs the fund to pay shall not exceed the percentage increase in the annual average of the consumer price index for all items for the most recent calendar year as published by the United States Department of Labor's Bureau of Labor Statistics or five percent (5%), whichever is less;

2. Each annual cost-of-living adjustment provided under this paragraph shall require the action of the city's legislative body before being provided to annuitants of the fund; and

3. The city's legislative body shall have the authority to suspend, reduce, or repeal any cost-of-living adjustments approved under this paragraph if in their judgment the welfare of the city so demands.

(4) A surviving spouse who does not receive a pension increase pursuant to subsection (2) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in subsection (3) of this section shall receive the same increase an annuitant receives pursuant to subsection (3) of this section, not to exceed a total of five percent (5%).

➔Section 29. KRS 95.868 is amended to read as follows:

The city shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contributions by the active members. Such rate percent shall be fixed by the board ***at least once*** every three (3) ***to five (5)*** years after ***completion of the***~~[an]~~ actuarial ***valuation***~~[survey]~~ of the fund ***as required by Section 1 of this Act***, and shall be in effect ***until the next actuarial valuation is completed by the fund***~~[for a period of at least three (3) years]~~. For the first three (3) fiscal years of operation of the fund, the city's rate of contribution shall be at least twelve percent (12%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

➔Section 30. KRS 95.869 is amended to read as follows:

(1) ***(a)*** The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees.

(b) If there are no active members of the fund, the board of trustees shall consist of four (4) members who shall be: (a) the mayor ex officio; (b) the city treasurer ***or chief financial officer*** ex officio; and (c) one (1) retired member of each department who shall be elected by ballot by the retired members of the respective departments. The mayor ex officio and the city treasurer ex officio shall serve for terms of one (1) year under rules adopted by the board. The two (2) retired members of the police and fire department shall serve for terms of at least one (1) year with a maximum of two (2) years under rules adopted by the board. If there are active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of the fund from each department elected by ballot by the active members of the fund from the respective departments and who shall serve for terms of at least one (1) year with a maximum of two (2) years under rules adopted by the board. If all of the active members or all of the retired members are from one (1) department, then both of the active-member board members or both of the retired board members shall be elected from that department.

(c) If there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are

appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department.

(d) In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) The board of trustees membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after July 15, ***2016***~~[1994]~~.

(3) Any member of the board convicted of an offense relating to mismanagement or embezzlement of the fund created pursuant to KRS 95.852 shall be removed from the board and shall be prohibited from serving on the board. If the board member removed is an ex officio member, the city council shall appoint a replacement until another person shall fill the office entitled to a seat on the board. If the board member removed is an active policeman or firefighter, the board shall fill the vacancy by appointment of another active policeman or firefighter until the next regular election.

(4) If all liabilities to all individuals entitled to benefits from the policemen's and firefighters' pension fund have been satisfied, the ordinances establishing the fund may be repealed by the majority vote of the duly elected members of the entire legislative body. If repealed, the fund's board of trustees 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 board of trustees to the city'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 board of trustees of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to terminate the fund and liquidate residual

assets of the fund for retention by the city clerk the same as for other city records.

➔Section 31. KRS 95.872 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president shall serve as president in the absence of the president.

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

(3) The city treasurer ***or chief financial officer*** shall be ex officio treasurer of the board, and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The city treasurer ***or chief financial officer*** shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his

successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(5) The director of law of the city shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the board.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution, and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment, an actuarial ***experience*** study shall be made for the purpose of recommending rates ***of***~~[,]~~ mortality, disability, retirement, separations from service and other essential factors. At least once every ***five (5)***~~[three (3)]~~ years thereafter, an actuarial ***experience study***~~[survey]~~ and investigation shall be made of the operating experience of the fund, including a study of the rates ***of***~~[,]~~ mortality, disability, retirement, separations from service and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost-of-living increases as provided in KRS 95.859(1) to (3)(a). In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to

make such study and investigation, from the Circuit Court of any county in which the city is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 95.851 to 95.884 and 95.991, which shall not be inconsistent therewith.

➔Section 32. KRS 95.875 is amended to read as follows:

(1) The officers of the city designated by law to draw warrants on the city treasurer ***or chief financial officer***, shall on request in writing by the board, draw warrants on the city treasurer ***or chief financial officer***, payable to the treasurer of the board, against moneys of the fund.

(2) Moneys ordered paid from the fund to any person shall be paid by the treasurer only, upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board duly entered on the record of proceedings of the board.

➔Section 33. KRS 95.890 is amended to read as follows:

For the purposes of KRS 95.895 to 95.945, the following terms shall have the following meanings:

(1) "Beneficiary" shall mean a member, either active or retired, of a local government pension system which participates in the local government pension investment fund;

(2) "Board" shall mean the governing body of the local government pension investment fund, as provided for in KRS 95.905;

(3) "Fund" shall mean the local government pension investment fund, as created by KRS 95.895 to 95.945;

(4) "Qualified investment manager" shall mean a bank or trust company as defined and regulated in Subtitle 3 of KRS Chapter 286, or an investment adviser as defined in KRS 292.310 and registered under KRS 292.330, or an investment adviser registered under the federal investment advisers act of 1940, or an insurance company certified pursuant to KRS 304.3-160;

(5) "Participant" shall mean a locally administered public pension system, created pursuant to KRS 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to ***95.784***~~[95.785]~~, 95.851 to 95.884, 95.991 or 96.180, which chooses to invest in and thereby become a member of the local government pension investment fund.

➔Section 34. KRS 96.180 is amended to read as follows:

(1) The board may, by proper order, provide a pension plan for its employees. In the event the board elects to provide a pension plan, it shall determine and formulate the form of pension plan to be used; determine and prescribe the eligibility of employees or their dependents to a pension or other benefits; determine and prescribe the monthly allowance or pension for employees or their dependents so determined to be eligible for a pension or benefits under the pension plan, not to exceed, however, a sum equal to one-half (1/2) of the monthly salary or wages of any employee at the time of his or her retirement; appoint a commission, which shall consist of three (3) members possessing the qualifications of a member of the board, for the administration of the pension plan and prescribe the powers and duties of such commission; appoint a trustee of the pension fund, fix the term of his office and the compensation of such trustee, and prescribe the powers and duties of such trustee and do and perform any other or further acts necessary to effectuate such pension plan. When a pension plan shall have been adopted, a commission appointed to administer such plan and a trustee of the pension fund appointed and qualified, the board may annually appropriate and pay out of its operating revenue, as an operating expense, into the sinking fund, a sum sufficient, when determined on a fair actuarial basis, to maintain the pension plan so adopted, not exceeding, however, a sum equal to one-half of one percent (0.5%) of the fair value of the utility property and assets. The board may assess, and cause to be paid into the pension fund monthly, such amount or percent of the salary of all employees

eligible under and electing to accept the pension plan as may be equitably determined on a fair actuarial basis, not to exceed, however, five percent (5%) of the monthly salary of any employee. The trustee of the pension fund shall give such bond as required by the board, the cost of which shall be payable out of the pension fund. The trustee of the pension fund shall each year file with the board a report showing his actions and his accounts as such trustee.

(2) The board shall have full power to receive any and all funds of property which may be available or become available to the board or the city for use in the creation or maintenance of a pension plan for the employees of the board, including but not limiting the power to sign, execute and deliver such receipts, indemnity agreement or other writing which either the board or the city may be required to sign, execute and deliver to obtain any such fund or property for such purpose.

(3) If all liabilities to all individuals entitled to benefits from the pension fund established under this section have been satisfied, the ordinances establishing the fund may be repealed by the majority vote of the entire board. If repealed, the fund's trustees 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 trustees to the board'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 trustees of the fund shall as its last act file a complete report with the board of the actions taken to terminate the fund and liquidate residual assets of the fund.

(4) ~~[(3)]~~ (a) After August 1, 1988, except as permitted by KRS 65.156, no new pension fund shall be created pursuant to this section and boards 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.

(b) Any board 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.

➔Section 35. KRS 427.125 is amended to read as follows:

No portion of a pension fund created under KRS 95.761 to ***95.784***~~[95.785]~~ shall, before or after its order for distribution by the board of trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory, or other order, or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand, or judgment against the beneficiary of said fund, except for court or administratively ordered child support, or owed or to-be-owed child support, but said fund shall be held and distributed for the purpose of KRS 95.761 to ***95.784***~~[95.785]~~, and for no other purpose whatever.

➔Section 36. The following KRS section is repealed:

95.785 Effect of adoption of KRS 95.761 to 95.784 on other statutes.

President of Senate

Speaker-House of Representatives

Attest: _____
Chief Clerk of Senate

Approved _____
Governor

Date 4 APRIL 2016