Pension Reform Summary

Background

During the 2018 Regular Session of the General Assembly, Senate Bill 151 was passed changing retirement eligibility and benefits with various effective dates for active, inactive and future members of the Kentucky Retirement Systems (KRS). Other legislation enacted into law during the 2018 legislative session of importance to KRS members is summarized below.

The Attorney General, the Kentucky Education Association and the Kentucky State Fraternal Order of Police filed a lawsuit regarding Senate Bill 151 asking the court to declare the new law unconstitutional and unenforceable. On June 20, 2018, Franklin Circuit Judge Shepherd ruled that Senate Bill 151 is unenforceable because the legislative process violated certain provisions of the Kentucky Constitution. This ruling was appealed to the Kentucky Supreme Court. On December 13, 2018, the Kentucky Supreme Court affirmed the decision of the Franklin Circuit Court in the case of Bevin V. Commonwealth of Kentucky (Case No. 2018-SC-00419-TG and Case No. 2018-SC-000421-TG), declaring Senate Bill 151 void and of no effect as unconstitutional. KRS will continue to provide monthly retirement benefits based on current state laws.

Timeline of Legislative Changes

The following legislative changes became law as of the effective date.

Effective 1/1/2018 (Tax Year 2018)
House Bill 366 reduced the pension income exclusion from $41,110 to $31,110 for taxable years beginning on or after January 1, 2018.
Effective 4/13/2018 (Fiscal Year 2018)
House Bill 185 made changes to death in the line of duty benefits for a surviving spouse and dependent children.
Effective 4/14/2018 (Fiscal Year 2018)
House Bill 366 added reemployment exceptions for county police departments and school resource officers.
Effective 4/14/2018 (Fiscal Year 2019)
House Bill 362 caps CERS employer contribution rate increases up to 12% per year over the prior fiscal year for the period of July 1, 2018 to June 30, 2028.
Effective 4/27/2018 (Fiscal Year 2019)
House Bill 265 reduced the employer contribution rate for Regional Mental Health/Mental Retardation Boards, Local and District Health Departments, State Universities, Community Colleges and any other agency eligible to voluntarily cease participating in the KERS.

How are Members Impacted?

Senate Bill 151 included changes to all three of the KRS benefit tiers but does not impact current retirees. ***However, as noted above, the Kentucky Supreme Court affirmed the decision of the Franklin Circuit Court declaring Senate Bill 151 void and of no effect as unconstitutional.***

Retirees may be impacted by House Bill 366, which reduced the pension income exclusion from $41,110 to $31,110 for taxable years beginning on or after January 1, 2018. Retired members should consult a qualified tax advisor or the Kentucky Revenue Cabinet to determine how this change may affect their tax returns.

Line of Duty Death Benefits

This change impacts all KRS members. House Bill 185 was passed during the 2018 legislative session with an emergency clause, which means it became effective immediately when the Governor signed it into law on 4/13/2018. This law changes line of duty and duty related benefits for a surviving spouse and dependent children.

Retirees Returning to Work

New exemptions were established for county police departments and participating agencies that reemploy retirees in the position of school resource officer. **Please note that members must still submit reemployment requests in writing for our Legal department to review.**

Effective 4/14/2018, the following exemptions apply to county police departments and participating agencies employing school resource officers:

- The employer is not required to reimburse KRS for the health insurance contribution paid on behalf of the retiree.
- The employer is not required to pay employer contributions on behalf of the retiree.

Reporting Officials will receive additional information on how to report these positions to KRS. Please note that the current exemptions and process for sheriffs and cities to employ retired police officers still applies.

Employer Contribution Rates

KERS Nonhazardous House Bill 265 reduced the employer contribution rate for Regional Mental Health/Mental Retardation Boards, Local and District Health Departments, State Universities, Community Colleges and any other agency eligible to voluntarily cease participating in the KERS. These agencies will continue to pay the same employer contribution rate that was paid in fiscal year 2018 in fiscal year 2019. A list of agencies authorized to pay the reduced KERS Nonhazardous employer contribution rate for fiscal year 2019 is published on our website. Agencies not listed will pay the KERS Nonhazardous budgeted employer contribution rate, an increase from the prior fiscal year.

CERS Hazardous and Nonhazardous House Bill 362 passed during the 2018 legislative session caps CERS employer contribution rate increases up to 12% per year over the prior fiscal year for the period of July 1, 2018 to June 30, 2028.

Timeline of Senate Bill 151 Changes

An explanation and timeline of changes included in Senate Bill 151 are provided below. ***As noted above, the Kentucky Supreme Court affirmed the decision of the Franklin Circuit Court declaring Senate Bill 151 void and of no effect as unconstitutional.*** KRS will continue to provide monthly retirement benefits based on current state laws. It is important for members to know their participation date and tier to understand how their benefits may have changed under Senate Bill 151. Members are encouraged to use our Member Self Service website, which provides online access to account information, including participation date. Learn more at https://kyret.ky.gov/Pages/Login.aspx.

Effective 8/1/2018 (Fiscal Year 2019)
Tier 2 members retiring on or after 8/1/2018 cannot use sick leave service credit to reduce actuarial penalties for early retirement benefits.
KERS and CERS agencies not participating in a KRS sick leave program cannot opt-in after this date.

Effective 1/1/2019 (Fiscal Year 2019)
There are changes to retired reemployed rules, employer contributions and employer health insurance reimbursement costs for members retiring on or after 1/1/2019 who later reemploy.
Tier 1 members with a participation date on or after 7/1/2003 but before 9/1/2008 will begin paying a non-refundable 1% health insurance contribution.
Tier 1 members retiring on or after 1/1/2019 must use the highest complete fiscal year-salaries (i.e. each fiscal year must have 12 months of service credit) to calculate the retirement benefit. Partial years will not be considered unless three or five complete fiscal years do not exist.
Members who first began participating in a retirement system administered by KRS on or after 1/1/2014 are no longer eligible for the $5,000 death benefit.
Uniform, equipment, and other expense allowances paid on or after 1/1/2019 are excluded from creditable compensation.
Effective 6/30/2019 (Fiscal Year 2019)
Tier 3 interest payment calculation changes for KERS nonhazardous and CERS nonhazardous members for fiscal year 2019.
Effective 7/1/2019 (Fiscal Year 2020)
Start date for optional Tier 4 defined contribution 401(a) Money Purchase Plan.
Effective 7/1/2020 (Fiscal Year 2021)
The employer contribution calculation changes so that employers will begin paying the normal cost as a percentage of payroll plus a fixed dollar amount each year towards the unfunded liability.
Effective 7/1/2023 (Fiscal Year 2024)
Tier 1 members retiring on or after 7/1/2023 cannot use sick leave service credit for retirement eligibility service requirements or to reduce actuarial penalties for early retirement benefits. Sick leave credit will be used in the benefit calculation but is not considered for retirement eligibility.
Effective 8/1/2023 (Fiscal Year 2024)
Compensatory payouts at termination for Tier 1 nonhazardous members retiring after 7/1/2023 will no longer be considered creditable compensation.

Tier 1 Members - Participation Date Prior to 9/1/2008

Tier 1 members are impacted by the changes outlined below.

Health Insurance Contribution Effective 1/1/2019, Tier 1 members who began participating on or after 7/1/2003 and before 9/1/2008 will pay an additional, non-refundable 1% health insurance contribution. There is no exemption based on hire date. This additional employee contribution will help fund retiree insurance benefits.

Final Compensation For members retiring on or after 1/1/2019, the three or five highest fiscal years are still included in the retirement calculation but must be complete years. Partial years will not be considered unless three or five complete fiscal years do not exist.

Sick Leave Credit Members retiring prior to 7/1/2023 can use sick leave service credit to satisfy retirement eligibility and to reduce their actuarial penalty for early retirement. Members with retirement dates on or after 7/1/2023:

- Will be able to use sick leave service credit to increase their pension benefit.
- Cannot use sick leave service credit toward early or unreduced retirement eligibility.
- Cannot use sick leave service credit to reduce applicable actuarial penalties.

Nonhazardous Compensatory Payout Changes For retirement dates on or after 8/1/2023:

- Compensatory payouts upon termination are not considered creditable compensation.
- Compensatory payouts upon termination should not be reported to KRS after 7/1/2023.

Tier 2 Members - Participation Date 9/1/2008 - 12/31/2013

Sick Leave Credit Tier 2 members retiring on or after 8/1/2018 cannot use sick leave service credit to reduce actuarial penalties for early retirement benefits. Tier 2 members are already limited to 12 months of sick leave service credit at retirement and this service cannot be used toward determining retirement eligibility.

Tier 3 Members – Participation Date on or after 1/1/2014

Interest Changes for Nonhazardous Only When interest is paid on KERS and CERS nonhazardous accounts for the current fiscal year, the interest credit will only be awarded if a member participated in a KRS plan during the fiscal year. If a member did not participate during the year, the interest credit is 0%.

Effective fiscal year 2019, the guaranteed interest and interest credit calculation will be different (see below). A member must participate in a state-administered retirement system during the fiscal year to receive the interest credit. For example, if a member has a KERS account but contributed during the year to the Teachers' Retirement System, the member will receive an interest credit next fiscal year, even though the member does not receive interest credit for the current fiscal year. Kentucky law requires the interest credited to be calculated based on the prior fiscal year end balance.

Interest Type	Current Fiscal Year July 1, 2017 – June 30, 2018	Next Fiscal Year July 1, 2018 - June 30, 2019
Guaranteed Interest	4%	0%
Interest Credit Requirement	Interest is only credited if a member participated in a KRS plan during the fiscal year.	Interest is only credited if a member participated in a state-administered retirement system during the fiscal year.
Interest Credit	75% of the excess investment earnings if a plan's geometric average net investment return for the five-year period exceeds 4%.	85% of a plan's geometric average net investment return for the ten-year period but cannot be less than 0%.
Please note that interest changes apply to Tier 3 nonhazardous accounts only. There is no change for hazardous accounts.		

Establishes Tier 4

Optional Benefit Tier Senate Bill 151 established a new benefit tier. Tier 4 is a 401(a) Money Purchase Plan. This is an optional defined contribution plan for members with a participation date on or after 1/1/2019. Existing members would also have a set timeframe to participate prospectively in Tier 4.

$5,000 Death Benefit

Currently, all KRS members are eligible for a $5,000 death benefit, provided they meet the requirements. Effective 1/1/2019, members who first began participating in a retirement system administered by KRS on or after 1/1/2014 are no longer eligible to receive this benefit.

Equipment, Uniform, and other Expense Allowances

This change impacts all KRS members. Equipment, Uniform, and other Expense Allowances paid on or after 1/1/2019 are excluded from creditable compensation and are not to be reported to KRS.

Retirees Returning to Work

Retired reemployed changes enacted with Senate Bill 151 apply to all KRS members retiring on or after 1/1/2019 who are reemployed on or after 1/1/2019.

For members retiring on or after 1/1/2019 and returning to work with a participating employer, with any state administered retirement system, in a regular full-time position:

- The employer is responsible for paying the normal cost contributions.
- The employer is not required to reimburse KRS for the health insurance contribution paid on behalf of the retiree.
- KRS retirees are not eligible to earn a second retirement account based upon their reemployment.
- Teachers' Retirement System, Legislators' Retirement Plan and Judicial Form Retirement System retirees who are reemployed with a KRS participating agency are not eligible to earn a second retirement account based upon their reemployment.
- The definition of regular full-time is different for retired reemployed purposes. Regular full time is defined as more than 100 days of work per fiscal year for classified school board employees. For all other employees, full-time is defined as any position that averages 100 hours or more per month over a calendar or fiscal year. Seasonal, interim and temporary positions remain exempt from full-time status.

Other provisions are different for hazardous and nonhazardous retirees returning to work.

Nonhazardous Members The required 3-month break in service still applies, along with the requirement that the member not have a pre-arranged agreement with the employer. However, with the law change, members who retire on or after 1/1/2019 and return to work will have different rules in place. If a retiree is reemployed with a participating employer in a regular full-time position within 12 months of their effective retirement date, the retiree's benefit and insurance coverage will be suspended for the remainder of the 12-month period. When the 12-month period ends, monthly benefit payments will be reinstated. However, to reinstate health insurance coverage, the retiree must re-apply through KRS as a qualifying event.

If the retiree does not return to work within 12 months of their effective retirement date, the retiree may return to work without suspension of benefit payments and health insurance coverage. The retiree must still submit a reemployment request in writing for our Legal department to review.

Hazardous Members A one-month break is required or the individual's retirement is voided. After observing a 1-month break in service from their effective retirement date, the retiree can return to work and continue to receive their monthly benefit.

Certified Peace Officers Subject to the same reemployment rules as hazardous members, even if retired from a nonhazardous position or returning to a nonhazardous certified peace officer position.

Employer Reporting

Employer Rate Calculation Effective with fiscal year 2021, which begins 7/1/2020, employers will begin paying the normal cost as a percentage of payroll plus a fixed dollar amount each year towards the unfunded liability. Normal cost is the ongoing employer cost of future service accruals after employee contributions are taken into account. The dollar amount that will be paid toward the unfunded liability is referred to as level dollar funding.

Level Dollar Funding The actuary will calculate the dollar amount required for each agency to pay their portion of the existing unfunded liability over a closed period of thirty years. Each employer's cost for this liability will be based on the actuarial valuation for fiscal year 2019. Employers will pay a set dollar amount that will be prorated to each agency based upon the agency's average percentage of payroll reported to KRS in fiscal years 2015, 2016 and 2017. This means each employer will have a different level dollar payment amount, with the exception of executive branch agencies, which will submit one collective payment.

New Contribution Groups The new 1% health insurance contribution for Tier 1 members, Retired Reemployed changes outlined below and new Tier 4 members will require new contribution groups for monthly reporting. This will impact how employers report certain information on the monthly report and will require file layout changes for employers who submit a monthly file to KRS. Additional reporting changes may also be necessary.

Retired Reemployed and Health Insurance Reimbursement See the Retirees Returning to Work section above for new rules for members retiring on or after 1/1/2019 who later become reemployed. The following also applies to participating agencies:

- The employer is responsible for paying the normal cost contributions.
- There is no payment for the actuarially accrued liability when level dollar funding is implemented.
- The employer is not required to reimburse KRS for the health insurance contribution paid on behalf of the retiree.

Sick Leave Programs KERS and CERS agencies not already participating in the Standard or Alternate Sick Leave Program as of 8/1/2018 will no longer be permitted to participate.

Creditable Compensation Equipment, Uniform, and other Expense Allowances paid on or after 1/1/2019 are excluded from creditable compensation and are not to be reported to KRS. For Tier 1 nonhazardous members retiring on or after 8/1/2023, payments for compensatory time at termination will not be considered creditable compensation and should not be reported to KRS after 7/1/2023.