

61.592 Retirement of persons working in hazardous positions.

- (1) (a) "Hazardous position" for employees participating in the Kentucky Employees Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:
1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
 2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and
 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.
- (b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:
1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
 2. The employee's duties are not primarily clerical or administrative.
- (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) (a) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.

- (b) Each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.
- (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.
 - (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
 - (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years.

Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

- (4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 55, effective July 15, 2010; and ch. 104, sec. 3, effective April 8, 2010. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 17, effective June 27, 2008. -- Amended 2000 Ky. Acts ch. 210, sec. 3, effective July 14, 2000; ch. 385, sec. 17, effective July 14, 2000; and ch. 462, sec. 1, effective April 21, 2000. -- Amended 1998 Ky. Acts ch. 300, sec. 1, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 185, sec. 1, effective July 15, 1994; and ch. 485, sec. 15, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 211, sec. 12, effective July 14, 1992; and ch. 240, sec. 28, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 255, sec. 1, effective July 13, 1990; ch. 346, secs. 1 and 8, effective July 13, 1990; and ch. 460, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 90, sec. 14, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 232, sec. 5, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 211, sec. 1, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 186, sec. 9, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 16, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, secs. 21 and 40. -- Amended 1974 Ky. Acts ch. 128, sec. 19. -- Created 1972 Ky. Acts ch. 107, sec. 1.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 104, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (6/27/2008). Two manifest clerical or typographical errors in 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 17 (this statute), have been corrected in codification by the Reviser of Statutes under the authority of KRS 7.136(1)(h).