

**67A.320 Pension fund -- Picked-up employee contributions.**

- (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 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 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 study shall be arranged by the board at the cost of the urban-county government at least once in every three-year period thereafter. If the fund created by this section is extended to cover employees not described in the first sentence of this section, the actuarial 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 to be elected to the board by those employees 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 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).

**Effective:** March 19, 1992

**History:** Amended 1992 Ky. Acts ch. 69, sec. 1, effective March 19, 1992. -- Amended 1990 Ky. Acts ch. 476, Pt. VII D, sec. 645, effective April 11, 1990. -- Amended 1984 Ky. Acts ch. 24, sec. 3, effective July 13, 1984; and ch. 192, sec. 7, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 166, sec. 36, effective July 15, 1982; and ch. 297, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 287,

sec. 1, effective July 15, 1980. -- Created 1974 Ky. Acts ch. 246, sec. 12, effective June 21, 1974.