

**95.761 Adoption of civil service, employees retirement system, and police and firefighters' pension plan -- Exemptions from classified service -- Limitations on creation of new fund after August 1, 1988.**

- (1) Any city of the fourth or fifth class 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 subsection, it may adopt either KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766 or KRS 90.300 to 90.420. A city of the fourth or fifth class may adopt KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.
- (2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and firefighters' pension fund, the same as a city of the third class.
- (3) A city of the fourth or fifth class 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. 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.
- (4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or KRS 95.767 to 95.784 for its police and firefighters.
- (5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employees unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section, or unless the city adopts 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. If a city has adopted a retirement system but has not done so pursuant to the options listed in this subsection or in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in subsection (2), (3), or (4) of this section, the city may not revoke, rescind or repeal these adoptions for any employee covered thereby.
- (6) (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.
- (7) 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.
- (8) 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.
- (9) 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.

**Effective:** July 15, 2014

**History:** Amended 2014 Ky. Acts ch. 121, sec. 2, effective July 15, 2014. -- Amended 1988 Ky. Acts ch. 11, sec. 11, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 177, sec. 6, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 256, sec. 1, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 164, sec. 33, effective June 17, 1978. -- Amended 1970 Ky. Acts ch. 26, sec. 1. -- Amended 1966 Ky. Acts ch. 236, sec. 1. -- Created 1942 Ky. Acts ch. 9, sec. 2.

**Legislative Research Commission Note.** Acts 1988, ch. 11, 19, provides: "In order that city employees with a choice can make an informed decision on whether or not to join the county employees retirement system, Kentucky retirement systems shall conduct briefings for each affected pension system on the provisions of this Act. Each employee shall receive a written summary of the retirement benefits which the county employees retirement system offers, and each employee shall be given the opportunity to attend an oral presentation. All such presentations shall be completed by October 15, 1988, and each affected employee shall make his decision by November 1, 1988. Failure of an employee subject to the provisions of this Act to receive a written summary or to attend an oral briefing shall in no way invalidate any of the provisions of this Act."