

**95.761 Adoption of civil service, employees retirement system, and police and firefighters' pension plan in cities with population of 1,000 to 7,999 -- Exemptions from classified service -- Limitations on creation of new fund after August 1, 1988.**

- (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. 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.

**Effective:** January 1, 2015

**History:** Amended 2014 Ky. Acts ch. 92, sec. 140, effective January 1, 2015; and 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** (1/1/2015). This statute was amended by 2014 Ky. Acts chs. 92 and 121. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 92, which was last enacted by the General Assembly, prevails under KRS 446.250.

**Legislative Research Commission Note.** Acts 1988, ch. 11, Â§ 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."