

**61.598 Employer to pay actuarial costs resulting from certain increases in creditable compensation -- Inquiries from employers -- Hearing and appeal.**

- (1) For purposes of this section, "bona fide promotion or career advancement":
  - (a) Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
  - (b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.
- (2) For employees retiring on or after January 1, 2014, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems and the system may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.
- (3)
  - (a) The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement.
  - (b) Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from the provisions of this section.
- (4) Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this section. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.
- (5) Any employer who disagrees with a determination made by the system in accordance with this section may request a hearing and appeal the decision in accordance with KRS 61.645(16). The systems shall not charge interest, or consider the costs due under this section as delinquent contributions, during the pendency of the hearing process and appeal.
- (6) For any additional actuarial costs charged to the employer under this section, the systems shall allow the employer to pay the costs over a period, not to exceed one (1) year, without interest.

**Effective:** July 1, 2013

**History:** Created 2013 Ky. Acts ch. 120, sec. 10, effective July 1, 2013.