

CIVIL SERVICE COMMISSION

A GUIDE FROM KLC MUNICIPAL LAW



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CIVIL SERVICE COMMISSIONS

To play any game, you must first learn the rules. The same holds true for the law surrounding civil service commissions. It is impossible to carry out the duties of civil service commissions unless you familiarize yourself with the applicable state statutes, as well as your local ordinances, that govern.

Statutes are not contained in some magical spell book. There is no forbidden wisdom in a statutory code book. You do not need a law school education to understand their meaning. We wanted to remove some of the mystique from the law by compiling this simple PDF. It contains the entire portion of Kentucky Revised Statutes which pertain to civil service commissions.

Feel free to use this guide in any way that you deem fit. We wanted to present this information as a PDF because a PDF does have just a little bit of magic. A PDF is word searchable. If you have the PDF on a laptop during a meeting and an issue comes up, you can plug the words in, and the relevant portion of the law about civil service commissions will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

95.442 Authorization for civil service commission in city with population of 8,000 or more; rights of employee accepting management position

Any city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census, may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission. Any classified employee in the police or fire department who accepts an appointment and qualifies 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 those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

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 to 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 meeting the criteria of subsection (6) of this section 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, except that if there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department. 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 amended¹. 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 any civil service system for any of its employees 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.

95.762 Examination and qualifications of applicants for police and fire departments; political discrimination forbidden; guarantee of tenure; decrease of personnel

- (1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or firefighter, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firefighters. Every member of the police or fire department shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.
- (2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds.
- (3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.
- (4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.784 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firefighters, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firefighters, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

- (5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than twelve (12) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

95.763 Appointment of civil service commission; qualifications; term; vacancies; officers; oath

The mayor, by and with the approval of the legislative body, shall appoint three (3) citizens, who have been taxpayers and voters of the city for five (5) years previous to their appointment, and who shall not be less than thirty (30) years of age, who shall constitute the civil service commission of said city. Such appointees shall originally be appointed for one (1) year, two (2) years and three (3) years, respectively, and the successors of such appointees shall be appointed in like manner, each for a period of three (3) years. Any member of the civil service commission shall be eligible for reappointment. Vacancies shall be filled in the same manner as appointments of said commissioners are made, provided that any person appointed to fill a vacancy shall serve only to the end of the term of the commissioner whose office was vacated. Said commissioners shall elect one (1) of their members as chairman and one (1) as secretary of the civil service commission. Each of said commissioners shall qualify by taking the oath as prescribed by the Constitution of Kentucky.

95.764 Conduct of examinations; notice; certification of eligible list; appointment from list; rules and regulations; compensation of commissioners

The civil service commission shall conduct an examination of persons for appointment as members of the police and fire departments each time a vacancy shall occur in said departments. The mayor shall notify the commissioners each time a vacancy occurs in either of said departments and the commissioners shall within the two (2) weeks following the receipt of such notice hold an examination for persons seeking appointment to such vacancy after giving notice by publication pursuant to KRS Chapter 424. Within one (1) week following the holding of said examination, said commissioners shall certify to the legislative body the names of the three (3) persons receiving the highest grades. The legislative body may appoint any one (1) of said three (3) persons to said department. In the event a vacancy thereafter occurs in said department, or additions thereto of regular or substitute policemen or firefighters are made, within one (1) year following the certification of said names, the legislative body shall fill said vacancy or make such additions from the list of names certified. The commissioners shall make all rules and regulations for the proper conduct of their office. The civil service commissioners shall receive a salary each of one dollar (\$1) per annum, paid out of the city's general fund, and for their services and the expense of holding any one (1) examination by the commissioners after due notice by the mayor has been given to the chairman of the said commission that a vacancy occurs in either of said departments and after the eligible list has been exhausted, shall be paid by the legislative body out of the city's general fund, not to exceed ten dollars (\$10).

90.300 Definitions for KRS 90.310 to 90.410; application

- (1) In KRS 90.310 to 90.410, unless the context requires otherwise:
 - (a) "Administrative or directorial position" means the head of a department of municipal government;
 - (b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution;
 - (c) "Civil service" means the offices and positions of trust or employment in the service of the city not specifically excluded by KRS 90.310 to 90.410 or by ordinance of the city as provided in KRS 90.310;
 - (d) "Commission" means the board of civil service commissioners as established under KRS 90.310;

- (e) “Dismissal” means the discharge of an employee;
 - (f) “Employee” means any person employed in the conduct of municipal affairs, but the term shall not include the mayor, city manager, city administrative officer, or an administrative or directorial position. The term “employee” shall not include the offices of the board of health, members of the planning and zoning commission, the board of trustees of the public library, members of the housing authority, municipal hospital commission or the trustees, members or corresponding officers of similar boards or commissions, persons employed on temporary and special projects or to persons whose regular employments with the city are seasonal and are less than nine (9) months in any one (1) year, persons in a class of employees designated by ordinance to be non-civil-service positions, and the city clerk or city assessor; and
 - (g) “Pension fund” means the moneys derived from the employees and the levy of a special tax, either or both, or any other sum derived from any other source, to be used for the retirement of employees after the prescribed years of service and for the benefit of disabled employees, and surviving spouses and dependent children in the case of death of an employee within the scope of his employment according to the terms of KRS 90.310 to 90.410 and the ordinance of the city.
- (2) The provisions of KRS 90.310 to 90.410 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds, as provided in KRS Chapter 95.

90.310 Adoption of civil service ordinance; civil service commission

- (1) Except as provided in subsection (5) of this section, any city of the home rule class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. In all cities of the home rule class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.
- (2) The mayor, subject to the approval of the city legislative body, shall appoint at least three (3) but no more than five (5) persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years, one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners not more than three (3) commissioners shall be adherents of the same political party. The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.
- (3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.
- (4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.

- (5) No city shall adopt an ordinance pursuant to this section to create a civil service commission during the months of November or December in any even-numbered year.
- (6) 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.

90.320 Examinations; certifications; preference points; eligible list

- (1) The civil service commission shall prescribe and propound such examinations as are proper, commensurate with vacant positions within the various departments of the city, according to classification prescribed by ordinance, shall set such times and places for holding examinations as may be proper and shall give public notice of examinations by publication pursuant to KRS Chapter 424.
- (2) The civil service commission shall, as soon after examinations as is practicable, certify to the mayor or other appointing authority a list of the applicants so examined, with the one (1) having the highest average ranked first and all others ranked numerically according to the result of the examination.
- (3) Any honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, and who is an applicant for any municipal civil service position, and a registered voter of that municipality, shall be entitled to a five percent (5%) increase on his examination score. Any Red Cross nurse who served during the period of hostilities between the United States and the Central Powers in World War I and between the United States and Japan and Germany in World War II, and who is a registered voter of that municipality, shall be entitled to the same percentages. Such percentages shall be added to examination scores only if the score is determined by the civil service commission to be a passing score and after verification of the required service.
- (4) The civil service commission of cities shall maintain an eligible list of not less than three (3) for each position to be filled.
- (5) The appointing authority may designate certain civil service positions and prescribe that for such positions the examinations shall first be given exclusively to current employees; provided, however, that if less than three (3) employees with a minimum of two (2) years seniority achieve a passing grade, the examination shall be held in accordance with subsection (1) of this section.

90.330 Qualifications of applicants

- (1) The civil service commission shall examine all applicants as to their physical and mental qualification for the particular classification wherein they seek employment. To be eligible for examination a person shall be at least eighteen (18) years of age, be a law-abiding citizen of sobriety and integrity, and must be able to read and write and understand the English language.
- (2) Any city legislative body that operates under this chapter may by ordinance require persons appointed to civil service positions to be a resident of the county in which the city is located.

90.340 Present employees

Employees who at the time the provisions of KRS 90.310 to 90.410 are adopted by any city have been in the employ of that city for one (1) year last past shall not be required to stand an original examination, and shall be eligible for all the benefits provided by KRS 90.310 to 90.410.

90.350 Appointments; promotions

- (1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the lists of applicants certified to him by the civil service commission after examination. Appointments shall be made only by the selection of one (1) of the three (3) holding the highest averages in the particular class and grade wherein the vacancy exists, except as provided in subsection (6) of this section.
- (2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list of as many as three (3) persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission for noncompetitive examination, and if certified by the commission as qualified after the noncompetitive examination he may be appointed provisionally to fill the vacancy until an appointment can be made after competitive examination. This provisional appointment shall continue only until a regular appointment can be made from the eligible list prepared by the commission, which eligible list shall be prepared within sixty (60) days after a vacancy occurs.
- (3) In case of great emergency and when no one upon the eligible list or by promotion from a lower rank is available, an appointment may be made by the appointing authority without examination, but in no case shall such appointment continue longer than forty-five (45) days, and in no case shall successive appointments be made of the same person, or other persons, to such vacancy.
- (4) Temporary appointments made necessary by reason of illness or disability of regular employees shall continue only during such period of disability.
- (5) The death of an employee shall not authorize an appointment without examination.
- (6) Whenever, from any cause, there shall be a vacancy in any of the classified services, the employee in said classification ranking next highest in seniority, if he chooses, shall succeed to and fill said vacancy, unless upon charges made by the city that said employee is not qualified to fill said vacancy, and after notice and upon trial to determine his qualifications in the same manner as is now required for the dismissal, suspension or reduction in grade or pay of an employee, it be established by the city that said employee has not the necessary qualifications to enable him to discharge the duties of the office or position in which the said vacancy occurs. Provided that in case of a vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory evidence that for reasons stated in writing by the appointing authority, competitive examination in such case has failed to provide an eligible list; the commission may suspend the provisions requiring competitive examination under civil service.
- (7) Where the service to be rendered by an appointee in the classified service is for a temporary period, and the need of such service is imperative, the appointing authority may select for that temporary service any person on the list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.
- (8) No person shall be certified by the commission from an eligible list more than four (4) times to the same appointing authority for the same or similar position.
- (9) The appointing authority may provide that all appointments for initial permanent employment may be probationary appointments for a period of not more than twelve (12) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

90.360 Dismissal, suspension, or reduction; exclusions from classified service

- (1) No employee in the classified service shall be dismissed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, violation of law involving moral turpitude, or violation of any rule adopted by the city legislative body or civil service commission.
- (2) Any person may prefer charges in writing against any employee by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he or she believes guilty of conduct justifying his or her removal. Upon the filing of charges, the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place, and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.
- (3) Upon the hearing, the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.
- (4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he or she may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employee without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents (\$0.50) to the city clerk by the employee. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.
- (5) In cases where the head of the department or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.
- (6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended, or dismissed except as provided in this section.
- (7) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service:
 1. Chief of police;
 2. Assistant chief of police;

3. Chief of firefighters; and
 4. 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 those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

90.370 Action in Circuit Court

- (1) Any employee of the city found guilty by the civil service commission of any charge as provided by KRS 90.360 may bring an action in the Circuit Court of the county in which the city is located to contest the action of that body.
- (2) Upon request in writing by the accused, and the payment of costs therefor, the clerk of the civil service commission shall file a certified copy of the charges and the judgment of that body in the Circuit Court. Upon the transcript being filed the case shall be docketed in the Circuit Court and tried as an original action.
- (3) If the clerk fails to certify the transcript to the Circuit Court within five (5) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges made at the time of trial and judgment, together with a statement that demand for the transcript had been made of the clerk more than five (5) days prior to the filing of the affidavit. Upon filing of this affidavit in the Circuit Court, the case shall be docketed in that court and the court may compel the filing of the transcript by the clerk by entering proper mandatory order, and upon failure of the clerk so to do, he shall be liable to fine and imprisonment for contempt. Such action shall have precedence over other business and be determined speedily.

90.380 Number of employees; salaries; protection from dismissal, suspension, or reduction; abolishment of office or position; reinstatement

- (1) The city legislative body shall fix by ordinance the number and classification of city employees, and the salaries for each classification. When the number of employees and their classification has been fixed by ordinance, no employee shall be dismissed, suspended, or reduced in grade or pay for any reason except that set out in KRS 90.360.
- (2) Provided, further, that: Whenever in the exercise of a reasonable discretion, it shall be the judgment of the legislative body of the city that economic necessity requires it, or that there is no longer a need for a particular office or position to exist, the board of commissioners may abolish said office or position and any officer or employee occupying said office or position may be laid-off or suspended until and if such office or position is re-created or reestablished. The abolition of any office or position must not be a subterfuge to effect another purpose, but must be actual and bona fide and must not amount to the mere alteration, modification, or abolition of title only.
- (3) Should any officer or employee conceive that he has been aggrieved by the abolition or the proposed abolition of said office or position, he may, at any time within ninety (90) days, file a petition in equity in the Circuit Court of the county wherein the city is located, stating his reason why the position or office has not been fairly abolished, or why it should not be abolished, and upon issue joined thereon by the city, the burden shall be on the latter to establish the necessity for and the good faith of the city in abolishing said office or position. The right to abolish and the right to have the office or position re-created shall be determined as other equitable actions are determined.

- (4) If the office or position is re-created or reestablished within five (5) years, then any person who was deprived of his office or position shall be restored to the office or position he formerly held or occupied in the order of his seniority if he shall elect to do so, and the city shall advise said officer or employee at his last known address and advertise pursuant to KRS Chapter 424, that the office or position has been re-created or reestablished.

90.390 Prohibition of political activity

- (1) No person shall be appointed to any position because of political partisan service rendered by him or his family, or because of political sentiment or affiliation, nor shall any person be dismissed or reduced in grade because of any political opinion.
- (2) No employee shall coerce or persuade another, or in any way actively participate in any election, or cause others to do so.

90.400 Pension fund in cities; coverage provided in County Employees Retirement System after August 1, 1988; option to convert pension benefits to annuity benefits; repeal of ordinances established for creation or maintenance of pension fund; liquidation and distribution of residual assets; report

- (1) Any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, shall continue to operate the existing pension fund in accordance with this section. The city may assess monthly such amount or percent of the salary of the employees as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employees' salaries and paid in cash into the pension fund.
- (2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:
 - (a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the city legislative body at least once every three (3) to five (5) years after completion of the actuarial valuation required by KRS 65.156, and shall be in effect until the next actuarial valuation is completed by the fund.
 - (b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.
- (3) The city may create or continue to operate a board for the pension fund and designate trustees of that board to serve as the governing body of the fund, and may fix the powers of the trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension.
- (4) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.
- (5) In no year shall the contribution by the city 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.

- (6) 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 city employees frequent and report.
- (7) When any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, picks up employee contributions pursuant to KRS 65.155, or accepts from its employees a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, except that employees, pursuant to subsection (8) of this section, may choose to participate in the County Employees Retirement System. A repeal of that ordinance by the city shall in no wise affect such employees unless by the mutual consent of the city and an employee or employees.
- (8) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city which provided a pension plan for its employees on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The board shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.
- (9) If there are fewer than twelve (12) active and retired members or beneficiaries of the pension fund, the governing body of the fund may elect to offer to individuals entitled to benefits from the fund a one (1) time irrevocable option to convert monthly pension benefits from the fund to monthly annuity benefits from an insurance company for the same amount. An insurance company accepting a benefit transfer shall honor any features and options available under the existing plan. If the governing body of the fund elects to offer the option to convert monthly pension benefits to monthly annuity benefits, it shall provide to individuals entitled to benefits from the fund sufficiently complete and appropriate disclosures to assist in making an informed decision.
- (10) If all liabilities to all individuals entitled to benefits have been satisfied for a pension fund covered by this section, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the city. If repealed, the governing body of the fund shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the fund's governing body to the city government's general fund so long as the return of assets complies with federal and state law governing the distribution of assets. Within thirty (30) days following the distribution of residual assets, the governing body of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to dissolve the fund and liquidate residual assets of the fund for retention by the city clerk the same as for other city records.

90.410 Pension fund in cities; increase in benefits; coverage provided in County Employees Retirement System after August 1, 1988; option to convert pension benefits to annuity benefits; repeal of ordinances established for creation or maintenance of pension fund; liquidation and distribution of residual assets; report

- (1) Any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, shall continue to operate the existing pension fund in accordance with this section. The city may assess monthly such amount or percent of the salary of employees as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employee. The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employees.
- (2) The city may create a board for the pension fund and designate trustees of that board to serve as the governing body of the fund, and may fix the powers of trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension, not to exceed one-half () of the monthly salary of any employee at the time of his or her retirement.
- (3) In order to adjust retirement benefits to the purchasing power of the dollar, the city may annually provide an increase in benefits paid pursuant to this section. The city may provide an increase of any amount up to the increase in the consumer price index calculated pursuant to KRS 64.527, but in no case shall the annual increase exceed five percent (5%).
- (4) When any city maintaining a pension fund for employees under civil service hired before August 1, 1988, operating pursuant to this section as of January 1, 2015, picks up employee contributions pursuant to KRS 65.155, or accepts from its employees a portion of their wages and contributes city funds therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance, except that employees, pursuant to subsection (5) of this section, may choose to participate in the County Employees Retirement System. A repeal of that ordinance by the city shall in no wise affect such employees unless by the mutual consent of the city and an employee or employees.
- (5) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city which provided a pension plan for its employees on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The board shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.
- (6) If there are fewer than twelve (12) active and retired members or beneficiaries of the pension fund, the governing body of the fund may elect to offer to individuals entitled to benefits from the fund a one (1) time irrevocable option to convert monthly pension benefits from the fund to monthly annuity benefits from an insurance company for the same amount. An insurance company accepting a benefit transfer shall honor any features and options available under the existing plan. If the governing body of the fund elects to offer the option to convert monthly pension benefits to monthly annuity benefits, it shall provide to individuals entitled to benefits from the fund sufficiently complete and appropriate disclosures to assist in making an informed decision.

- (7) If all liabilities to all individuals entitled to benefits have been satisfied for a pension fund covered by this section, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the city. If repealed, the governing body of the fund shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the fund's governing body to the city government's general fund so long as the return of assets complies with federal and state law governing the distribution of assets. Within thirty (30) days following the distribution of residual assets, the governing body of the fund shall as its last act file a complete report with the legislative body of the city of the actions taken to dissolve the fund and liquidate residual assets of the fund for retention by the city clerk the same as for other city records.

90.990 Penalties

Any person who shall knowingly, or wittingly, or intentionally, or through gross negligence, violate any of the provisions of this chapter shall be guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), provided, however, that the provisions of this section shall not apply to KRS 90.220.