

AN ACT relating to retirement.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

*(1) The General Assembly finds and determines that:*

*(a) It is the intent of the General Assembly to establish and preserve a necessary and proper balance between promoting the general welfare and material well-being of the citizens of the Commonwealth and meeting the commitments made to the state's current and future public sector employees and retirees;*

*(b) The general welfare and material well-being of the citizens of the Commonwealth depend upon adequate funding for investments in vital public services, including but not limited to elementary, secondary, and postsecondary education, health care and public health services, public safety and public protection, roads and infrastructure, and economic development initiatives;*

*(c) The funding requirements to support the Commonwealth's current public pension systems are unsustainable and severely constrain the capacity of state and local budgets to allocate adequate funding to support vital public services and thereby undercut the General Assembly's goal to promote the general welfare and material well-being of the citizens of the Commonwealth;*

*(d) The crowding-out of investments in vital public services due to the unsustainable growth in the state's pension systems' funding requirements makes the Commonwealth less attractive for private sector investment, which in turn hinders the economic growth and commensurate revenue growth that is necessary to support vital public services and the pension*

systems;

- (e) The general welfare and material well-being of the citizens of the Commonwealth depend on an attractive business climate conducive to attracting and retaining investment and jobs;
- (f) A substantial tax increase to fund the Commonwealth's current public pension systems would seriously hinder the state's business climate and ability to attract investment and promote job creation;
- (g) Under federal regulations, private pension plans with an unfunded ratio below eighty percent (80%) are designated as "endangered." None of Kentucky's major public pension plans currently exceeds a sixty percent (60%) funded ratio. Third-party experts working on behalf of the Commonwealth have reported that, without major reforms, the pension plans could face insolvency, and, therefore, be incapable of providing benefits to retirees. Immediate and significant steps are required to preserve the pension benefits promised to current and future retirees;
- (h) Immediate and significant steps are required to provide state and local budgets with immediate and long-term relief from the unsustainable funding requirements of the Commonwealth's public pension systems;
- (i) Contemporary retirement planning is composed of three (3) components: Social Security, employer-sponsored retirement plans, and personal savings. The United States Bureau of Labor Statistics reports that defined contribution plans are the most prevalent type of employer-sponsored retirement benefit offered by employers, especially for nonhazardous professional and management positions;
- (j) Hazardous duty occupations, such as police, firefighters, and corrections officers, are confronted with stressful, dangerous, and potentially life-threatening work conditions that, when compared to nonhazardous

occupations, results in distinct differences in the average length of service within those career fields. Those distinct differences should be considered in determining what the most appropriate employer-sponsored retirement plan should be provided to public sector hazardous duty employees;

(k) Nothing in this Act impairs the ability of current members of the Commonwealth's public retirement systems from reaching the threshold service requirement to receive an unreduced benefit; and

(l) The General Assembly preserved the right to amend, suspend, or reduce the benefits and rights of members who began participating in the Kentucky Employee Retirement System, County Employees Retirement System, State Police Retirement System, Legislators' Retirement Plan, and the Judicial Retirement Plan, on or after January 1, 2014.

(2) The Kentucky General Assembly hereby declares that the reforms to the Commonwealth's public retirement systems contained within this Act are reasonable and necessary to serve the legitimate and important purpose of meeting the retirement commitments to public sector employees and retirees, providing immediate and long-term relief to state and local budgets, and allowing for the reallocation of significant funding for investments in vital public services. The actions undertaken by this Act meet the General Assembly's intention to promote the general welfare and material well-being of the citizens of the Commonwealth and to meet any retirement commitments made to the state's current and future public sector employees and retirees.

➔SECTION 2. KRS CHAPTER 18B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "System" means the Public Employees Retirement System established by this chapter;

(2) "Board" means the board of trustees of the plans as provided in Section 19 of this Act;

(3) "Employee" means:

(a) Members of the General Assembly who are required to participate in the system as provided by Section 25 of this Act;

(b) Judges and justices who are required to participate in the system as provided by Section 26 of this Act; and

(c) Every regular full-time employee who is employed by an employer as defined by subsection (4) of this section who is:

1. Required to participate in the Public Employees Retirement System as provided by Sections 59 and 110 of this Act; or

2. Required or elects to participate in the plan established by Section 109 of this Act but is not required to make mandatory contributions to the Public Employees Retirement System; and

(d) Any regular full-time employee of an employer who makes an election to participate in the Public Employees Retirement System as provided by Section 68 of this Act and any employees who participate in a voluntary lump-sum buyout program offered in the future under the authority established by Sections 25, 26, 59, and 110 of this Act;

(4) "Employer" means each agency participating on June 30, 2018, in the:

(a) Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, except for those employers who pay the actuarial costs to voluntarily or involuntarily cease participation in the systems administered by Kentucky Retirement Systems pursuant to Section 68 of this Act;

(b) Legislators' Retirement Plan and the Judicial Retirement Plan; and

(c) Teachers' Retirement System, except for those employers who pay the

actuarial costs to voluntarily or involuntarily cease participation in the Teachers' Retirement System pursuant to Section 111 of this Act;

(5) "Creditable compensation" means all salary, wages, tips to the extent that the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer or for time during which the employee is on paid leave, which are includable on the employee's federal form W-2 wage and tax statement under the heading "wages, tips, and other compensation," including any employee contributions picked-up or paid on a before-tax basis under Section 6 of this Act. Payments upon termination of employment for accumulated sick leave, compensatory time leave, annual leave, or any other form of leave, shall not be considered creditable compensation;

(6) "Regular full-time position" means a position that meets the definition of:

(a) A regular full-time position in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (21) of Section 61 of this Act and subsection (21) of Section 62 of this Act, as applicable; or

(b) Full-time in the Teachers' Retirement System as provided by subsection (21) of Section 113 of this Act;

(7) "Beneficiary" means the person or persons or estate or trust or trustee designated by the employee to receive any plan benefits in the event of the employee's death;

(8) "Person" means a natural person;

(9) "Fiscal year" of the plan means the twelve (12) months from July 1 through the following June 30;

(10) "Participant" means the persons described by Section 5 of this Act;

(11) "Authority" means the Kentucky Public Employees Deferred Compensation Authority as provided by KRS 18A.230 to 18A.275; and

**(12) "Disabled" or "disablement" means a participant who has been determined to be disabled by the Social Security Administration or who has been approved to receive disability retirement benefits from the Kentucky Retirement Systems, Teachers' Retirement System, Legislators' Retirement Plan, or the Judicial Retirement Plan.**

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

**(1) There is hereby created and established a fund called the public employees retirement fund which shall consist of all the assets of the system as set forth in this chapter.**

**(2) All assets received by the system shall be held for the exclusive benefit of plan participants and their beneficiaries and applied solely as provided by the system.**

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

**(1) Effective July 1, 2018, the board shall establish the Public Employees Retirement System, which shall be a defined contribution plan consisting of benefit options that provide for an individual account for each employee and under which benefits are based solely on the contributions credited to the participant's account as adjusted by any applicable investment earnings and losses on those contributions.**

**(2) Each plan established or utilized by the board shall:**

**(a) Meet the requirements of this chapter;**

**(b) Qualify under 26 U.S.C. secs. 401(a) and 414(d) as a qualified retirement plan established and maintained by the state, for state government employees, employees of local school districts, and local government employees;**

**(c) Provide for a separate account for each employee;**

- (d) Provide a range of investment options and permit the employee to exercise control over the employee's assets in their individual account;
- (e) Allow an employee to receive a distribution of his or her individual account balance upon termination of employment, disablement, death, or retirement;
- (f) Provide a selection of distribution options to a retired employee in such forms as shall be determined by the board, which may include any of the following:
1. A lump-sum payment, which is a single payment for the entire balance of the account;
  2. Period-certain payments, which is a set payment payable in a fixed number of monthly installments for a specific duration or until the retired employee's account balance is exhausted;
  3. Single-life annuity payment, which is an amount payable monthly until the first of the month in which the retired employee's death occurs; or
  4. Joint-and-survivor annuity payments, which is an annuity payable monthly to the retired employee until the death of the retired employee and then to the retired employee's beneficiary, if the beneficiary is a single person, for the remainder of the beneficiary's life.
- Any annuity payment options offered by the board shall be provided through an external vendor or insurance company who shall assume all risk and responsibility for providing the annuities;
- (g) Establish a default investment option determined by the board for those participants who fail to elect an investment option; and
- (h) Allow an employee to designate a beneficiary or beneficiaries for receipt of benefits upon the employee's death.

- (3) The authority may administer the plan, enter into contracts with other entities to administer the plans, or both.
- (4) The board may establish a new plan or plans or utilize a plan or plans previously established under KRS 18A.230 to 18A.275 to meet the requirements of this section. In addition, the board may establish a separate trust fund to hold and invest plan assets, which may be commingled with other assets of plans administered by the board. The board shall have the authority to construe, interpret, and amend the plan to the extent necessary to maintain its tax-qualified status under 26 U.S.C. sec. 401(a) and KRS Chapter 141.
- (5) The Public Employees Retirement System shall manage the investment function of the 401(a) money purchase plan established by Section 109 of this Act. The same investment and distribution options provided to participants in the Public Employees Retirement System shall also be provided to members of the 401(a) money purchase plan established by Section 109 of this Act.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

- (1) Participants in the system shall consist of:
- (a) All employees; and
- (b) Any former employee who has not taken a complete distribution of his or her account balance with the system.
- (2) Participants in the system shall not include those employees as described by subsection (1)(a) of this section who are simultaneously participating in another state-administered defined benefit retirement system or those employees who are participating in an optional retirement plan authorized by KRS 161.567.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

- (1) Each employee who qualifies for participation in the plan:



(a) Who is employed by an employer, except for those employees who are participating in the plan established by Section 109 of this Act:

1. Shall contribute an amount equal to three percent (3%) of the employee's creditable compensation for each pay period; and

2. Shall be automatically enrolled to voluntarily contribute an additional six percent (6%) of creditable compensation on a before-tax basis to the 401(k) plan provided under subsection (7) of Section 19 of this Act for each pay period, but may elect to amend or opt-out of the level of voluntary contributions specified by this subparagraph; and

(b) Who is employed by an employer and is required or elects to participate in the plan established by Section 109 of this Act, shall be automatically enrolled to voluntarily contribute three percent (3%) of creditable compensation on a before-tax basis to the 401(k) plan provided under subsection (7) of Section 19 of this Act for each pay period, but may elect to amend or opt-out of the level of voluntary contributions specified by this paragraph. The provisions of this paragraph shall not apply to members covered by subsection (2)(b) of Section 110 of this Act.

A participant shall at all times have a nonforfeitable interest in his or her employee contributions as adjusted by any applicable investment earnings or losses on those employee contributions.

(2) For each pay period the employee contributes as provided by subsection (1)(a) of this section, the employer shall contribute an amount equal to:

(a) Two percent (2%) of the employee's creditable compensation; and

(b) Fifty percent (50%) of the dollar amount voluntarily contributed by the employee pursuant to subsection (1)(a)2. of this section, not to exceed three percent (3%) of the employee's creditable compensation.

No employer contribution shall be payable by an employer for those employees

who contribute under the provisions of subsection (1)(b) of this section.

(3) A participant shall be one hundred percent (100%) vested for employer contributions made under subsection (2) of this section, as adjusted by any applicable investment earnings and losses on those employer contributions, upon attaining five (5) years of contributing service, except that the five (5) year vesting period shall:

(a) Be waived for any participant who dies, becomes disabled, or who has attained at least sixty-five (65) years of age;

(b) Include any service earned prior to July 1, 2018, for those members who participated in the hybrid cash balance plans in the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, but who are required or elect to have their accumulated account balance transferred to the Public Employees Retirement System under Sections 25, 26, 59, and 75 of this Act; and

(c) Include service a participant has as a member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Teachers' Retirement System, that is not otherwise accounted for under paragraph (b) of this subsection.

(4) Notwithstanding any provision of KRS 337.060:

(a) Each employee shall be deemed to consent and agree to the deductions made under subsection (1)(a)1. of this section, and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the employee during the period covered by the payment, except as to any benefits provided by this chapter; and

(b) Agreements to voluntarily contribute to the plan as provided by subsection

- (1)(a)2. and (1)(b) of this section and plan elections made by participants pursuant to this chapter may be made in writing or by electronic record, signature, or contract as determined by the authority and in accordance with the provisions of KRS 369.101 to 369.120. Agreements and elections, including but not limited to hardship withdrawal applications, loan applications, beneficiary designations, and withdrawal requests made by participants under the system, shall not be denied legal effect or enforceability if made electronically to the extent permitted by the system.
- (5) Each employer shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code, pick up the employee contributions required by subsection (1)(a)1. of this section, and the contributions so picked up shall be treated as employer contributions in determining income tax treatment under the Internal Revenue Code and subsection (10) of Section 21 of this Act. The picked-up contributions shall not be included as gross income of the employee until the time when the contributions are distributed to the employee. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The picked-up employee contribution shall be in lieu of an employee contribution under subsection (1)(a)1. of this section, and the employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the plan.
- (6) The employer shall deduct the contributions made under subsection (1) of this section from the employee's creditable compensation at the end of each pay period, and the contributions shall be credited to the employee's individual account.
- (7) Except as provided by Section 10 of this Act, employee and employer contributions paid in accordance with this section shall be transmitted to the plan by the employer for deposit in the public employees retirement fund as soon as

administratively possible, but not later than thirty (30) days following the close of the payroll period.

(8) Notwithstanding the provisions of this section, a person who retires and begins receiving a monthly benefit from the systems administered by the Kentucky Retirement Systems, the Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, on or after July 1, 2018, shall not be eligible to receive any employer contribution paid on their behalf under the provisions of this section.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

The custodian of the funds collected under this chapter shall be selected by the board, and the authority shall administer the funds so collected as provided in this chapter.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

The benefits provided in this chapter shall not constitute an inviolable contract of the Commonwealth. The General Assembly reserves the right to suspend or reduce the benefits conferred in this chapter if, in its judgment, the welfare of the Commonwealth so demands, except as provided by KRS 18A.252.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

The following sections of the Kentucky Revised Statutes apply to this chapter in the same manner and subject to the same limitations and requirements as they apply to KRS 18A.230 to 18A.275:

(1) Board of trustees, membership, power, terms, meetings, and annual financial report, as provided in Section 19 of this Act;

(2) Inviolability of employee deferred contributions to the trust fund, as provided in KRS 18A.252;

- (3) Investments, limitation of liability, as provided under KRS 18A.255;
- (4) Regulation of investments, as provided under KRS 18A.260; and
- (5) Board of trustees, conflict of interest, as provided in Section 12 of this Act.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

In order to effectuate the provisions of Sections 2 to 11 and 109 of this Act:

- (1) Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, 78.510 to 78.852, and 161.220 to 161.716 to the contrary, the Kentucky Retirement Systems, Teachers' Retirement System, and the Judicial Form Retirement System shall provide any and all data to satisfy the needs of the authority or board;
- (2) The Department of Education, the Personnel Cabinet, and all other employers participating in the system shall amend any employee and financial reporting software and systems as needed by the board or authority to electronically report employee data and funds to the system;
- (3) (a) Each employer shall furnish the information which the authority may require in the discharge of its duties. The authority may at any time conduct an audit of an employer in order to determine if the employer is complying with Sections 2 to 11 of this Act. The authority shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his or her possession or under his or her control, shall permit access to and examination of the records upon the request of the authority. Each employer shall file all such documents and records in writing or by electronic record or signature as determined by the authority and in accordance with KRS 369.101 to 369.120.

(b) Contemporaneously with the employee and employer funding required by Section 6 of this Act, each employer shall file at the authority's office a record, by each individual participant, of all contributions to the system for each pay period. Beginning July 1, 2018, each employer shall remit all required contributions and provide all required information to the administrator of the state-administered retirement system to which the employer made contributions as of June 30, 2018, the Kentucky Retirement Systems or the Teachers' Retirement System, as applicable. The Kentucky Retirement Systems and the Teachers' Retirement System shall serve as the agent of the authority and shall transmit all contributions and information received from employers to the authority within fifteen (15) days of receipt. Employers shall continue to remit contributions and provide information to the authority through the Kentucky Retirement Systems and the Teachers' Retirement System as agents for the authority, until such time as the authority notifies each employer, or class of employers, to remit such contributions and provide such information directly to the authority.

(c) If any employer fails to fund all contributions or file all reports as required by Sections 2 to 11 of this Act, interest on the delinquent contributions at the rate established by the board, compounded annually, shall be added to the amount due the system, and the employer shall pay any charge which the board may promulgate by administrative regulation;

(4) Except as provided by KRS 161.567 and 161.568 and Sections 68 and 111 of this Act:

(a) The system shall be the primary defined contribution plan for the benefit of employees, and any other employer-sponsored defined contribution plan shall be supplemental. Any corrections or refunds required for compliance with federal tax law shall be paid first from any such supplemental plan

before any refund or correction is made by the system; and

(b) None of the employers shall establish a new defined contribution plan; and

(5) To the extent not paid by the Commonwealth, income and assets of the system shall be used to defray the expenses of administering the system.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 18B IS CREATED TO READ AS FOLLOWS:

(1) The Personnel Cabinet shall establish optional disability and death benefits for employees participating in the system, or the 401(a) money purchase plan established pursuant to Section 109 of this Act, which may include but not be limited to short-term disability benefits, long-term disability benefits, life insurance benefits, and benefits payable in the event an employee becomes disabled or dies in the line of duty. The Personnel Cabinet may contract with a duly licensed insurance company to provide for the benefits that may be offered by the Personnel Cabinet pursuant to this section.

(2) The cost of providing the optional benefits or insurance policies for benefits and administration of benefits specified by this section shall be payable by the employee.

➔SECTION 12. A NEW SECTION OF KRS 18A.230 TO 18A.275 IS CREATED TO READ AS FOLLOWS:

(1) No trustee or employee of the board or authority shall:

(a) Have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority, except that any such trustee or employee may be a member, employee, or beneficiary of the system or plans administered by the board or authority;

(b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system or plans administered by the board or authority, except to make

current and necessary payments authorized by the board or authority;

(c) Become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board or authority;

(d) Have a contract or agreement with the board or authority, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the board or authority to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the board or authority to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the board or authority. The provisions of this paragraph shall not prohibit a trustee from serving as an employee of an agency participating in the system or plans.

(2) No trustee or employee of the board or authority, who has served as a trustee or employee of the board or authority on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the system or plans administered by the board or authority.

(3) (a) No person who is serving as a member of the General Assembly or is a public servant as defined by subsection (9) of Section 17 of this Act shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or



authority, except that any such trustee or public servant may be a member, employee, or beneficiary of the system or plans administered by the board or authority.

(b) No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by subsection (9) of Section 17 of this Act on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the system or plans administered by the board or authority.

→ Section 13. KRS 7A.210 is amended to read as follows:

As used in KRS 7A.200 to 7A.260, unless the context requires otherwise:

- (1) "Board" means the Public Pension Oversight Board;
- (2) "State-administered retirement systems" means:
  - (a) The State Police Retirement System as provided by KRS 16.505 to 16.652;
  - (b) The Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705;
  - (c) The County Employees Retirement System as provided by KRS 78.510 to 78.852;
  - (d) The Legislators' Retirement Plan as provided by KRS 6.500 to 6.577;
  - (e) The Judicial Retirement Plan as provided by KRS 21.345 to 21.580; ~~and~~
  - (f) The Kentucky Teachers' Retirement System as provided by KRS 161.220 to 161.716; and
  - (g) The Kentucky Public Employees Deferred Compensation Authority and the Public Employees Retirement System as provided by KRS 18A.230 to

**18A.275 and Sections 2 to 11 of this Act, respectively; and**

- (3) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.

➔Section 14. KRS 7A.240 is amended to read as follows:

The Public Pension Oversight Board shall have the authority to:

- (1) Except for information protected under KRS 61.661 or 161.585 or information specific to the account of a current or former employee or retiree, require the state-administered retirement systems, or any other state agency, to provide any and all information necessary to carry out the duties of the board, including any actuarial analysis. The cost of providing the information to the board, including any actuarial analysis, shall be included in the administrative budget of the state-administered retirement systems or the state agency;
- (2) Conduct public hearings in furtherance of its general duties, at which it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public;
- (3) Establish a uniform format for reports and data submitted to the board by the state-administered retirement systems and the frequency and due dates for the reports and data;
- (4) Request the Auditor of Public Accounts to perform a financial or special audit of the state-administered retirement systems; and
- (5) Subject to selection and approval by the Legislative Research Commission, utilize the services of consultants, actuaries, managers, legal counsel, and auditors to render professional, managerial, and technical assistance, as needed. The cost for actuarial services required by **subsections (7) and (8) of Section 15 of this Act** ~~[KRS 7A.250(8) and (9)]~~ shall be paid by the state-administered retirement systems to the Legislative Research Commission and shall be included in the administrative

budget of the state-administered retirement systems.

➔Section 15. KRS 7A.250 is amended to read as follows:

The Public Pension Oversight Board:

- (1) Shall, from time to time, conduct an impartial review of all the laws governing the state-administered retirement systems and recommend any changes it may find desirable with respect to benefits and administration, funding of benefits, investments of funds, and the improvement of language, structure, and organization of the statutes;
- (2) ~~Shall, once every five (5) years, review the benefits provided to employees who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, and recommend any changes to the provisions affecting these employees that are necessary to maintain the actuarial soundness of the systems;~~
- ~~(3)~~ Shall review semiannually the investment programs of the state-administered retirement systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, total return objectives, relative volatility, performance evaluation guidelines, investment policies, and securities litigation policies and recoveries from fraud or other corporate malfeasance. The board may establish an advisory committee, as provided by KRS 7A.260, which may include investment professionals to assist in complying with the provisions of this subsection;
- ~~(3)~~~~(4)~~ May review any benefits, bylaws, policies, or charters established by the state-administered retirement systems;
- ~~(4)~~~~(5)~~ Shall, at the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to laws affecting the state-administered retirement systems and report to the Speaker or the President on the probable costs, actuarial implications, and desirability as a matter of public policy;

- ~~(5)~~~~(6)~~ May review all new or amended administrative regulations of the state-administered retirement systems and provide comments to the Administrative Regulation Review Subcommittee established by KRS 13A.020;
- ~~(6)~~~~(7)~~ Shall research issues related to the state-administered retirement systems as directed by the Legislative Research Commission;
- ~~(7)~~~~(8)~~ Shall at least once every five (5) years have an actuarial audit performed for the state-administered retirement systems, *except for the Public Employees Retirement System or the Kentucky Public Employees Deferred Compensation Authority*, to evaluate the reliability of each system's actuarial assumptions and methods. The actuarial audit shall be performed by an actuary retained by the Public Pension Oversight Board;
- ~~(8)~~~~(9)~~ ~~May~~~~Shall~~ prior to each budget biennium *occurring on or after July 1, 2020*, have an actuarial review of the funding requests and needs submitted by the state-administered retirement systems, *except for the Public Employees Retirement System or the Kentucky Public Employees Deferred Compensation Authority*. The review shall be performed by an actuary retained by the Public Pension Oversight Board; and
- ~~(9)~~~~(10)~~ Shall publish an annual report covering the board's evaluation and recommendations with respect to the operations of the state-administered retirement systems. The report shall be submitted to the Legislative Research Commission no later than December 31 of each year and shall include at a minimum any legislative recommendations made by the board, a summary of the financial and actuarial condition of the state-administered retirement systems, and an analysis of the adequacy of the current levels of funding.

➔Section 16. KRS 7A.255 is amended to read as follows:

- (1) Notwithstanding KRS 21.345 to 21.580, 61.661, 61.870 to 61.884, or 161.585 to the contrary, on or before November 15 following the close of each fiscal year, the

state-administered retirement systems shall collectively file a report with the Public Pension Oversight Board that shall include the following information for each member or recipient of a retirement allowance from any of the state-administered retirement systems:

- (a) A unique identification number for each member or recipient that is created solely for purposes of compiling the report provided by this section and which shall not be the member's Social Security number or personal identification number issued by the systems. For individual members or recipients with multiple accounts in the state-administered retirement systems, all of the state-administered retirement systems shall use the same unique identification number;
- (b) The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
- (c) The status of the member or recipient, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, a beneficiary, or a retired member who has returned to work following retirement with an agency participating in the systems;
- (d) If the individual is a retired member or beneficiary, the annualized monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
- (e) If the individual is a member who has not yet retired, the estimated annual retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.

Under no circumstances shall the member's name, address, or Social Security

number be included in the information required to be reported to the board by this section, nor shall the unique identification number established by subsection (1) of this section be capable of being linked to a specific member's retirement account with a state-administered retirement system.

- (2) On or before November 15 following the close of each fiscal year, the state-administered retirement systems shall report to the Public Pension Oversight Board the percentage of system assets and managers for which fees and commissions are being reported in accordance with KRS ~~[21.540(4)(m), ]~~61.645(19)(i)~~[,]~~ and 161.250(4)(i). This subsection shall apply on a fiscal year basis beginning on or after July 1, 2017.
- (3) On or before November 15, 2017, the state-administered retirement systems shall tender to the Public Pension Oversight Board a copy of their board-adopted investment procurement policy along with certification from the secretary of the Finance and Administration Cabinet that the investment procurement policy meets or does not meet the best practices for investment management procurement. If the board amends its investment procurement policy, it shall tender a copy of its amended investment procurement policy to the Public Pension Oversight Board within sixty (60) days of adoption along with certification from the secretary of the Finance and Administration Cabinet that the policy meets or does not meet the best practices for investment management procurement.

**(4) This section does not apply to the Public Employees Retirement System or the Kentucky Public Employees Deferred Compensation Authority.**

➔Section 17. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company,

receivership, trust, or any legal entity through which business is conducted, whether or not for profit;

- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Kentucky Claims Commission, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, *the Kentucky*

**Public Employees Deferred Compensation Authority board of trustees, the Public Employees Retirement System board of trustees,** Public Service Commission,

Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
- (a) The Governor;
  - (b) The Lieutenant Governor;
  - (c) The Secretary of State;
  - (d) The Attorney General;
  - (e) The Treasurer;
  - (f) The Commissioner of Agriculture;
  - (g) The Auditor of Public Accounts; and
  - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS



- 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.

→Section 18. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
- (4) Department of Law.
  - (a) Attorney General.
- (5) Department of the Treasury.
  - (a) Treasurer.
- (6) Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.

(7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

(1) Justice and Public Safety Cabinet:

- (a) Department of Kentucky State Police.
- (b) Department of Criminal Justice Training.
- (c) Department of Corrections.
- (d) Department of Juvenile Justice.
- (e) Office of the Secretary.
- (f) Office of Drug Control Policy.
- (g) Office of Legal Services.
- (h) Office of the Kentucky State Medical Examiner.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department of Public Advocacy.

(2) Education and Workforce Development Cabinet:

- (a) Office of the Secretary.
  - 1. Governor's Scholars Program.
  - 2. Governor's School for Entrepreneurs Program.
- (b) Office of Legal and Legislative Services.
  - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
  - 1. Division of Human Resources.
  - 2. Division of Administrative Services.
- (e) Office of Technology Services.

- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
  - 1. Kentucky Board of Education.
  - 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
  - 1. Office for the Blind.
  - 2. Office of Vocational Rehabilitation.
  - 3. Office of Employment and Training.
    - a. Division of Grant Management and Support.
    - b. Division of Workforce and Employment Services.
    - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
  - 1. Division of Educator Preparation.
  - 2. Division of Certification.
  - 3. Division of Professional Learning and Assessment.
  - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.

- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of General Counsel.
    - 3. Office of Administrative Hearings.
    - 4. Mine Safety Review Commission.
    - 5. Kentucky State Nature Preserves Commission.
    - 6. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.
    - 2. Division for Air Quality.
    - 3. Division of Water.
    - 4. Division of Environmental Program Support.
    - 5. Division of Waste Management.
    - 6. Division of Enforcement.
    - 7. Division of Compliance Assistance.
  - (c) Department for Natural Resources.
    - 1. Office of the Commissioner.
    - 2. Division of Technical and Administrative Support.
    - 3. Division of Mine Permits.
    - 4. Division of Mine Reclamation and Enforcement.
    - 5. Division of Abandoned Mine Lands.
    - 6. Division of Oil and Gas.
    - 7. Division of Mine Safety.
    - 8. Division of Forestry.
    - 9. Division of Conservation.

10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
    1. Division of Efficiency and Conservation.
    2. Division of Renewable Energy.
    3. Division of Biofuels.
    4. Division of Energy Generation Transmission and Distribution.
    5. Division of Carbon Management.
    6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
    - (a) Office of the Secretary.
      1. Office of Communications and Public Outreach.
      2. Office of Legal Services.
        - a. Insurance Legal Division.
        - b. Charitable Gaming Legal Division.
        - c. Alcoholic Beverage Control Legal Division.
        - d. Housing, Buildings and Construction Legal Division.
        - e. Financial Institutions Legal Division.
    - (b) Kentucky Claims Commission.
    - (c) Kentucky Boxing and Wrestling Commission.
    - (d) Kentucky Horse Racing Commission.
      1. Office of Executive Director.
        - a. Division of Pari-mutuel Wagering and Compliance.
        - b. Division of Stewards.
        - c. Division of Licensing.
        - d. Division of Enforcement.
        - e. Division of Incentives and Development.
        - f. Division of Veterinary Services.

- (e) Department of Alcoholic Beverage Control.
    - 1. Division of Distilled Spirits.
    - 2. Division of Malt Beverages.
    - 3. Division of Enforcement.
  - (f) Department of Charitable Gaming.
    - 1. Division of Licensing and Compliance.
    - 2. Division of Enforcement.
  - (g) Department of Financial Institutions.
    - 1. Division of Depository Institutions.
    - 2. Division of Non-Depository Institutions.
    - 3. Division of Securities.
  - (h) Department of Housing, Buildings and Construction.
    - 1. Division of Fire Prevention.
    - 2. Division of Plumbing.
    - 3. Division of Heating, Ventilation, and Air Conditioning.
    - 4. Division of Building Code Enforcement.
  - (i) Department of Insurance.
    - 1. Division of Insurance Product Regulation.
    - 2. Division of Administrative Services.
    - 3. Division of Financial Standards and Examination.
    - 4. Division of Agent Licensing.
    - 5. Division of Insurance Fraud Investigation.
    - 6. Division of Consumer Protection.
    - 7. Division of Kentucky Access.
  - (j) Department of Professional Licensing.
    - 1. Real Estate Authority.
- (5) Labor Cabinet.

- (a) Office of the Secretary.
  - 1. Division of Management Services.
  - 2. Office of General Counsel.
    - a. Workplace Standards Legal Division.
    - b. Workers' Claims Legal Division.
- (b) Office of General Administration and Program Support for Shared Services.
  - 1. Division of Human Resource Management.
  - 2. Division of Fiscal Management.
  - 3. Division of Budgets.
  - 4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
  - 1. Division of Apprenticeship.
  - 2. Division of Occupational Safety and Health Compliance.
  - 3. Division of Occupational Safety and Health Education and Training.
  - 4. Division of Wages, Hours, and Mediation.
- (e) Department of Workers' Claims.
  - 1. Division of Workers' Compensation Funds.
  - 2. Office of Administrative Law Judges.
  - 3. Division of Claims Processing.
  - 4. Division of Security and Compliance.
  - 5. Division of Information Services.
  - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
  - 7. Workers' Compensation Board.



- (f) Workers' Compensation Funding Commission.
  - (g) Occupational Safety and Health Standards Board.
  - (h) Apprenticeship and Training Council.
  - (i) State Labor Relations Board.
  - (j) Employers' Mutual Insurance Authority.
  - (k) Kentucky Occupational Safety and Health Review Commission.
  - (l) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
- (a) Department of Highways.
    - 1. Office of Project Development.
    - 2. Office of Project Delivery and Preservation.
    - 3. Office of Highway Safety.
    - 4. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Aviation.
  - (d) Department of Rural and Municipal Aid.
    - 1. Office of Local Programs.
    - 2. Office of Rural and Secondary Roads.
  - (e) Office of the Secretary.
    - 1. Office of Public Affairs.
    - 2. Office for Civil Rights and Small Business Development.
    - 3. Office of Budget and Fiscal Management.
    - 4. Office of Inspector General.
  - (f) Office of Support Services.
  - (g) Office of Transportation Delivery.
  - (h) Office of Audits.
  - (i) Office of Human Resource Management.

- (j) Office of Information Technology.
  - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
    - 1. Office of Legal Services.
    - 2. Department for Business Development.
      - a. Office of Entrepreneurship.
        - i. Commission on Small Business Advocacy.
      - b. Office of Research and Public Affairs.
      - c. Bluegrass State Skills Corporation.
    - 3. Office of Financial Services.
      - a. Kentucky Economic Development Finance Authority.
      - b. Division of Finance and Personnel.
      - c. Division of Network Administration.
      - d. Compliance Division.
      - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
  - (b) Office of Health Policy.
  - (c) Office of Legal Services.
  - (d) Office of Inspector General.
  - (e) Office of Communications and Administrative Review.
  - (f) Office of the Ombudsman.
  - (g) Office of Finance and Budget.
  - (h) Office of Human Resource Management.
  - (i) Office of Administrative and Technology Services.
  - (j) Department for Public Health.

- (k) Department for Medicaid Services.
  - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
  - (m) Department for Aging and Independent Living.
  - (n) Department for Community Based Services.
  - (o) Department for Income Support.
  - (p) Department for Family Resource Centers and Volunteer Services.
  - (q) Kentucky Commission on Community Volunteerism and Service.
  - (r) Kentucky Commission for Children with Special Health Care Needs.
  - (s) Governor's Office of Electronic Health Information.
  - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
  - (b) Office of the Inspector General.
  - (c) Office of Legislative and Intergovernmental Affairs.
  - (d) Office of General Counsel.
  - (e) Office of the Controller.
  - (f) Office of Administrative Services.
  - (g) Office of Policy and Audit.
  - (h) Department for Facilities and Support Services.
  - (i) Department of Revenue.
  - (j) Commonwealth Office of Technology.
  - (k) State Property and Buildings Commission.
  - (l) Office of Equal Employment Opportunity and Contract Compliance.
  - (m) Kentucky Employees Retirement Systems.
  - (n) Commonwealth Credit Union.
  - (o) State Investment Commission.

- (p) Kentucky Housing Corporation.
  - (q) Kentucky Local Correctional Facilities Construction Authority.
  - (r) Kentucky Turnpike Authority.
  - (s) Historic Properties Advisory Commission.
  - (t) Kentucky Tobacco Settlement Trust Corporation.
  - (u) Kentucky Higher Education Assistance Authority.
  - (v) Kentucky River Authority.
  - (w) Kentucky Teachers' Retirement System Board of Trustees.
  - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.
    - 3. Division of Communications and Promotions.
  - (b) Kentucky Department of Parks.
    - 1. Division of Information Technology.
    - 2. Division of Human Resources.
    - 3. Division of Financial Operations.
    - 4. Division of Facilities Management.
    - 5. Division of Facilities Maintenance.
    - 6. Division of Customer Services.
    - 7. Division of Recreation.
    - 8. Division of Golf Courses.
    - 9. Division of Food Services.
    - 10. Division of Rangers.
    - 11. Division of Resort Parks.
    - 12. Division of Recreational Parks and Historic Sites.

- (c) Department of Fish and Wildlife Resources.
  - 1. Division of Law Enforcement.
  - 2. Division of Administrative Services.
  - 3. Division of Engineering, Infrastructure, and Technology.
  - 4. Division of Fisheries.
  - 5. Division of Information and Education.
  - 6. Division of Wildlife.
  - 7. Division of Marketing.
- (d) Kentucky Horse Park.
  - 1. Division of Support Services.
  - 2. Division of Buildings and Grounds.
  - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
  - 1. Office of Administrative and Information Technology Services.
  - 2. Office of Human Resources and Access Control.
  - 3. Division of Expositions.
  - 4. Division of Kentucky Exposition Center Operations.
  - 5. Division of Kentucky International Convention Center.
  - 6. Division of Public Relations and Media.
  - 7. Division of Venue Services.
  - 8. Division of Personnel Management and Staff Development.
  - 9. Division of Sales.
  - 10. Division of Security and Traffic Control.
  - 11. Division of Information Technology.
  - 12. Division of the Louisville Arena.
  - 13. Division of Fiscal and Contract Management.
  - 14. Division of Access Control.

- (f) Office of the Secretary.
    - 1. Office of Finance.
    - 2. Office of Government Relations and Administration.
    - 3. Office of Film and Tourism Development.
    - 4. Kentucky Sports Authority.
  - (g) Office of Legal Affairs.
  - (h) Office of Human Resources.
  - (i) Office of Public Affairs and Constituent Services.
  - (j) Office of Creative Services.
  - (k) Office of Capital Plaza Operations.
  - (l) Office of Arts and Cultural Heritage.
  - (m) Kentucky African-American Heritage Commission.
  - (n) Kentucky Foundation for the Arts.
  - (o) Kentucky Humanities Council.
  - (p) Kentucky Heritage Council.
  - (q) Kentucky Arts Council.
  - (r) Kentucky Historical Society.
    - 1. Division of Museums.
    - 2. Division of Oral History and Educational Outreach.
    - 3. Division of Research and Publications.
    - 4. Division of Administration.
  - (s) Kentucky Center for the Arts.
    - 1. Division of Governor's School for the Arts.
  - (t) Kentucky Artisans Center at Berea.
  - (u) Northern Kentucky Convention Center.
  - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department of Human Resources Administration.
- (c) Office of Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.

**1. Public Employees Retirement System.**

- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity, Equality, and Training.
- (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.
- (10) Kentucky Communications Network Authority.

➔Section 19. KRS 18A.245 is amended to read as follows:

- (1) **Effective July 1, 2018,** the authority shall be administered by a board of trustees composed of **eleven (11)**~~seven (7)~~ members, who shall be as follows:
  - (a) Secretary, Finance and Administration Cabinet, ex officio;
  - (b) Secretary of personnel, ex officio;

- (c) The state controller, ex officio; and
- (d) **Eight (8)**~~Four (4)~~ at-large members appointed by the Governor, **who do not have a conflict of interest as provided by Section 12 of this Act, of which:**
- 1. Three (3)**~~one (1)~~ of whom shall have at least five (5) years of investment ~~for banking~~ experience **as defined by subsection (2)(b) of this section;**~~and one (1) of whom shall be a representative of a nonstate government employer.~~
  - 2. One (1) of whom shall be appointed from a list of three (3) names submitted by the Kentucky League of Cities. Each name submitted shall have at least five (5) years of investment experience as defined by subsection (2)(b) of this section;**
  - 3. One (1) of whom shall be appointed from a list of (3) names submitted by the Kentucky Association of Counties. Each name submitted shall have at least five (5) years of investment experience as defined by subsection (2)(b) of this section;**
  - 4. One (1) of whom shall be appointed to represent retired teachers;**
  - 5. One (1) of whom shall be appointed from a list of four (4) names, of which two (2) names shall be submitted by the Kentucky Speaker of the House of Representatives and two (2) names shall be submitted by the Kentucky Senate President; and**
  - 6. One (1) trustee who shall be a retired justice or retired judge who shall be appointed from a list of three (3) names submitted by the Chief Justice of the Kentucky Supreme Court.**
- (2) **(a) 1.** The members of the board appointed by the Governor shall serve for a period of four (4) years, **except that the first individuals appointed pursuant subsection (1)(d)5. and 6. of this section shall serve an initial term of two (2) years.** ~~and~~



2. The ex officio members of the board shall serve only for the period of their term of office. Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.

**(b) For purposes of subsection (1)(d) of this section, "investment experience"**

**means:**

**1. A portfolio manager acting in a fiduciary capacity;**

**2. A professional securities analyst or investment consultant;**

**3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity; or**

**4. A chartered financial analyst in good standing as determined by the CFA Institute.**

- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice

chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
- (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
  - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
  - (c) Establish a system of accounting;
  - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
  - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, **and Sections 2 to 11 of this Act**, including but not limited to:
    - 1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
    - 2. Amending the board's plan for the Kentucky Public Employees 401(k)

Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; ~~and~~

3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees; and

**4. Establishing, maintaining, amending, and terminating the Public Employees Retirement System as provided by Sections 2 to 11 of this Act, including managing the investment function of the 401(a) money purchase plan established by Section 109 of this Act; and**

- (f) Contract with persons or companies duly licensed by the state of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund, to provide investment advice to participants in the plans, with respect to their selection of permitted investments in the plans.
- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities, **including information provided separately for the Public Employees Retirement System,** and shall submit a copy to the Governor and the Legislative Research Commission, **and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Public Employees Deferred Compensation Authority or the Public Employees Retirement System.** All board meetings and records shall be open for inspection by the public.
- (10) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 18A.230 to**

18A.275 and Sections 2 to 11 of this Act shall conform with federal statutes or regulations and meet the plan qualification requirements under applicable federal code, federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Kentucky Public Employees Deferred Compensation Authority and the Public Employees Retirement System with federal statutes and regulations and to meet the plan qualification requirements and to carry out the provisions of Sections 2 to 11 of this Act.

➔Section 20. KRS 18A.275 is amended to read as follows:

The ~~{State Treasurer shall be the }~~custodian of the funds collected under KRS 18A.235 ~~{and }~~shall be selected by the board, and the authority shall administer the funds~~{upon warrants issued by the Finance and Administration Cabinet pay to the board the amounts}~~ so collected ~~{to be administered}~~ as provided in KRS 18A.230 to 18A.275. The treasurer of the local unit of government shall ~~{likewise }~~be the custodian of any funds created by KRS 18A.270 and shall pay to the board, or its designee, the amounts so collected to be administered as provided in KRS 18A.230 to 18A.275.

➔Section 21. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2015, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2015, that would otherwise terminate, and as modified by KRS 141.0101;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;
- (8) "Modified gross income" means the greater of:
  - (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
    - 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
    - 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
  - (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (9) "Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
  - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and

Kentucky;

- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, Section 6 of this Act, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
- (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (i) 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans. The "applicable amount" shall be:

- a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
  - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
  - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
  - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  3. As used in this paragraph:
    - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
    - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
    - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized

under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

- (j)
  - 1.
    - a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
    - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
  - 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents, or for any person authorized to be provided excludable coverage by the taxpayer pursuant to the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No. 111-152, during the taxable year. Any amounts paid by the taxpayer for health



insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain;
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the

year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries; and

- (u) For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;
- (11) "Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus:
- (a) The deduction allowed by KRS 141.0202;
  - (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
  - (c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and
  - (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except:
    - a. Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
    - b. Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed

- with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
- c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;
  - d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;
  - e. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;
  - f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;
  - g. The itemized deduction limitation established in 26 U.S.C. sec. 68 shall be determined using the applicable amount from 26 U.S.C.

sec. 68 as it existed on December 31, 2006; and

- h. A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section; and

- 2. Nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
- (b) Exclude all dividend income received after December 31, 1969;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
- (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
- (f) Include the amount calculated under KRS 141.205;
- (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
- (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal

Revenue Code);

- (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
  - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
  - (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
  - (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
  - (m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and
  - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (13) "Net income," in the case of corporations, means "gross income" as defined in

subsection (12) of this section minus:

- (a) The deduction allowed by KRS 141.0202;
- (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
- (c) For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and
- (d) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except:
  - 1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
  - 2. The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
  - 3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
  - 4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
  - 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
  - 6. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency

established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

7. Any deduction prohibited by KRS 141.205;
  8. Any dividends-paid deduction of any captive real estate investment trust;  
and
  9. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "Taxable net income," in the case of homeowners' associations as defined in

Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

- (d) "Taxable net income," in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;



- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
- (b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
  2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
  3. A foreign limited liability company as defined in KRS 275.015;
  4. A limited liability company as defined in KRS 275.015;
  5. A professional limited liability company as defined in KRS 275.015;
  6. A foreign limited partnership as defined in KRS 362.2-102(9);
  7. A limited partnership as defined in KRS 362.2-102(14);
  8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);
  9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;

10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

- (25) "Doing business in this state" includes but is not limited to:
- (a) Being organized under the laws of this state;
  - (b) Having a commercial domicile in this state;
  - (c) Owning or leasing property in this state;
  - (d) Having one (1) or more individuals performing services in this state;
  - (e) Maintaining an interest in a pass-through entity doing business in this state;
  - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an

entity separate from its single member for federal income tax purposes; or

- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;
- (28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity; and
- (29) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
  - (a)
    - 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
    - 2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission; and
  - (b)
    - 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:

- a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
- b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation;

- 2. For the purposes of this paragraph:
  - a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to the provisions of KRS 141.200; and
  - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and
- (c) The real estate investment trust is not owned by another real estate investment trust.

➔Section 22. KRS 18A.105 is amended to read as follows:

- (1) (a) When a classified or unclassified employee has been finally ordered reinstated by the board without loss of pay, pursuant to the provisions of KRS 18A.095, the executive director of the board shall forward a certified copy of said order to the Personnel Cabinet and the Finance and Administration Cabinet, which

shall process proper payment to the employee for the period of suspension, said payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the "judgments" section of the general fund of the biennial state budget.

- (b) Gross moneys which were earned by the employee from other sources during the period of suspension shall be set-off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the job from which he was dismissed. The Finance and Administration Cabinet shall by regulation provide an administrative procedure for determining reasonable earnings to be so set off.
  - (c) All other deductions shall be deducted as required by law or by Finance and Administration Cabinet regulation.
- (2) (a) Both the employee's and employer's contributions to the Kentucky Employees Retirement System or Public Employees Retirement System shall be based upon the gross amount due the employee, before set off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Public Employees Retirement System, or Kentucky Teachers' Retirement System have been paid.
- (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which he participated prior to his illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement

system in which he participated before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which he would have participated had he not been dismissed.

→Section 23. KRS 18A.225 is amended to read as follows:

(1) (a) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, *the Public Employees Retirement System*, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
2. Any certified or classified employee of a local board of education;
3. Any elected member of a local board of education;
4. Any person who is a present or future recipient of a retirement allowance *or retiree health benefit* from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan

authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
  - (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
  - (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
  - (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of

policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
- (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
- (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a



format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

- (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
- (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive

the state-funded contribution after termination from the state-sponsored employee health insurance program.

- (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
  - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
  - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
  - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.

- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The

secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

- (13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
- (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
- (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
- (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
- (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services,

and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

- (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
- (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
  - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
  - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;

- (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
  - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
- (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section shall comply with the provisions of KRS 304.17A-270 and 304.17A-525.
- (23) Any full insured health benefit plan or self insured plan issued or renewed on or after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641 pertaining to emergency medical care, KRS 304.99-123, and any administrative regulations promulgated thereunder.

➔Section 24. KRS 42.615 is amended to read as follows:

Each retirement fund listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed by the listed fund

during each fiscal year on or before the first day of October after the fiscal year, showing receipts, expenditures, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each listed fund to the Legislative Research Commission. The funds which shall be reported are:

- (1) Kentucky employees' retirement fund;
- (2) State Police retirement fund;
- (3) County employees' retirement fund;
- (4) Kentucky retirement systems insurance fund;
- (5) Funds controlled by the Teachers' Retirement System of the State of Kentucky;
- (6) Judicial retirement fund;
- (7) Legislators retirement fund;~~[- and]~~
- (8) The Kentucky state public employees deferred compensation trust fund; **and**
- (9) The public employees retirement fund.**

➔SECTION 25. A NEW SECTION OF KRS 6.500 TO 6.577 IS CREATED TO READ AS FOLLOWS:

**Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, 78.510 to 78.852, or 161.220 to 161.716 to the contrary:**

**(1) Effective July 1, 2018, the Legislators' Retirement Plan, as provided by KRS 6.500 to 6.577, shall be closed to new members. A legislator who has not contributed to the Legislators' Retirement Plan prior to July 1, 2018:**

**(a) Shall not be eligible to participate in the Legislators' Retirement Plan for his or her service as a member of the General Assembly but shall instead participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and**

**(b) Shall accrue service as a nonhazardous member of the Kentucky Employees Retirement System but only for the purposes of accruing retiree health benefits as specified by Section 102 of this Act and shall contribute**



employee contributions to fund retiree health benefits as specified by Section 102 of this Act;

(2) Effective July 1, 2018, any member who began participating in the Legislators' Retirement Plan on or after January 1, 2014, but prior to July 1, 2018, who has an accumulated account balance in the hybrid cash balance plan as provided by Section 47 of this Act shall:

(a) Have his or her accumulated account balance as of June 30, 2018, transferred to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act, and the member shall not be eligible for any benefits under any provisions of KRS 6.500 to 6.577 or 21.345 to 21.580. Service previously credited in the Legislators' Retirement Plan shall be used for purposes of vesting of employer contributions in the Public Employees Retirement System;

(b) Participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act for any future service to the General Assembly; and

(c) Accrue service as a nonhazardous member of the Kentucky Employees Retirement System but only for the purposes of accruing retiree health benefits as specified by Section 102 of this Act and shall contribute employee contributions to fund retiree health benefits as specified by Section 102 of this Act. Any previous service in the Legislators' Retirement Plan shall be credited in the Kentucky Employees Retirement System nonhazardous plan but only for the purposes of retiree health benefits as specified by Section 102 of this Act. Any assets set aside to fund retiree health benefits for the members described by this subsection in any health funds administered by the Legislators' Retirement Plan shall on July 1, 2018, be transferred into the retiree health funds administered by the

*Kentucky Retirement Systems for nonhazardous employees in the Kentucky Employees Retirement System;*

*(3) Effective July 1, 2018, members of the Legislators' Retirement Plan who began participating in the plan prior to January 1, 2014:*

*(a) Shall not accrue any additional benefits in the Legislators' Retirement Plan on or after July 1, 2018, for their service to the General Assembly, except that he or she may finish paying off any service purchases being made through a payment installment plan with the plan that was executed prior to July 1, 2018; and*

*(b) 1. Who on July 1, 2018, have accrued twenty-seven (27) or more years of service credit or who have met the normal retirement age provisions of KRS 21.380(1) and have accrued at least five (5) years of service credit shall for any future service to the General Assembly:*

*a. Participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and*

*b. Accrue service on or after July 1, 2018, as a nonhazardous member of the Kentucky Employees Retirement System but only for the purposes of retiree health benefits as specified by Section 102 of this Act and shall contribute employee contributions to fund retiree health benefits as specified by Section 102 of this Act; or*

*2. Who on July 1, 2018, have not met the requirements of subparagraph 1. of this paragraph shall accrue service on or after July 1, 2018, as a nonhazardous member of the Kentucky Employees Retirement System, subject to the limitations of KRS 61.510 to 61.705 including Section 59 of this Act;*

*(4) Any person who is receiving a monthly retirement benefit from the Legislators'*

Retirement Plan on July 1, 2018, shall have his or her monthly retirement benefit recalculated on July 1, 2018, so that the monthly retirement allowance he or she will receive after July 1, 2018, is based solely upon creditable compensation reported to the Legislators' Retirement Plan for service as a member of the General Assembly. No creditable compensation credited to the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Judicial Retirement Plan, or the Teachers' Retirement System, shall be used in the recalculation of the benefits payable from the Legislators' Retirement Plan or for any benefits payable by the Legislators' Retirement Plan on or after July 1, 2018, regardless of the member's participation date or retirement date, except for any creditable compensation accrued in the Kentucky Employees Retirement System for service accrued solely as a member of the General Assembly;

(5) Any member with service in the Legislators' Retirement Plan prior July 1, 2018, who is not receiving a monthly benefit from his or her service to the plan as of July 1, 2018, once he or she makes an election to begin receiving monthly benefits from the plan:

(a) Shall not be eligible to use creditable compensation credited to the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, Judicial Retirement Plan, or the Teachers' Retirement System for purposes of calculating the benefits payable from the Legislators' Retirement Plan, except for any creditable compensation accrued in the Kentucky Employees Retirement System for service as a member of the General Assembly; and

(b) Shall be eligible to receive a monthly benefit from the Legislators' Retirement Plan based solely upon the creditable compensation reported for his or her service as a member of the General Assembly as provided by

subsection (2)(a) of Section 37 of this Act;

(6) The General Assembly by legislative action in the biennial budget may appropriate funds and develop a program to provide a lump-sum buyout for any members of the Legislators' Retirement Plan for the benefits payable to them under the provisions of KRS 6.500 to 6.577; and

(7) For purposes of this section, "nonhazardous" means the level of benefits applicable to employees of the Kentucky Employees Retirement System who do not qualify for hazardous duty coverage under Section 82 of this Act.

➔SECTION 26. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, 78.510 to 78.852, or 161.220 to 161.716 to the contrary:

(1) Effective July 1, 2018, the Judicial Retirement Plan, as provided by KRS 21.345 to 21.580, shall be closed to new members. A judge or justice who has not contributed to the Judicial Retirement Plan prior to July 1, 2018:

(a) Shall not be eligible to participate in the Judicial Retirement Plan for his or her service as a judge or justice but shall instead participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and

(b) Shall accrue service as a nonhazardous member of the Kentucky Employees Retirement System but only for the purposes of accruing retiree health benefits as specified by Section 102 of this Act and shall contribute employee contributions to fund retiree health benefits as specified by Section 102 of this Act;

(2) Effective July 1, 2018, any member who began participating in the Judicial Retirement Plan on or after January 1, 2014, but prior to July 1, 2018, who has an accumulated account balance in the hybrid cash balance plan as provided by

Section 47 of this Act shall:

- (a) Have his or her accumulated account balance as of June 30, 2018, transferred to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act, and the member shall not be eligible for any benefits under any provision of KRS 6.500 to 6.577 or 21.345 to 21.580. Service previously credited in the Judicial Retirement Plan shall be used for purposes of vesting of employer contributions in the Public Employees Retirement System;
- (b) Participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act for any future service as a judge or justice; and
- (c) Accrue service as a nonhazardous member of the Kentucky Employees Retirement System but only for the purposes of accruing retiree health benefits as specified by Section 102 of this Act and shall contribute employee contributions to fund retiree health benefits as specified by Section 102 of this Act. Any previous service in the Judicial Retirement Plan shall be credited in the Kentucky Employees Retirement System nonhazardous plan but only for the purposes of retiree health benefits as specified by Section 102 of this Act. Any assets set aside to fund retiree health benefits for the members described by this subsection in any health funds administered by the Judicial Retirement Plan shall on July 1, 2018, be transferred into the retiree health funds administered by the Kentucky Retirement Systems for nonhazardous employees in the Kentucky Employees Retirement System;
- (3) (a) Except as provided by subsection (4) of this section, effective July 1, 2018, no additional service credit or compensation for retirement benefit calculations shall be accrued on or after July 1, 2018, by members who began participating in the Judicial Retirement Plan prior to January 1,

2014, who have accrued twenty-seven (27) or more years of service credit or who have met the normal retirement age provisions of KRS 21.380(1) and have accrued at least five (5) years of service credit. For purposes of this paragraph, service credit shall include years of service credited to the Judicial Retirement Plan or another state-administered retirement system or plan.

(b) Members participating in the Judicial Retirement Plan prior to January 1, 2014, who as of June 30, 2018, have met or exceeded the requirements of paragraph (a) of this subsection, effective July 1, 2018:

1. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and
2. Shall not accrue any additional service credit or compensation for retirement benefit calculations on or after July 1, 2018, for purposes of determining benefits under any provision of KRS 21.345 to 21.580, except as provided by subsection (4) of this section.

(c) Members participating in the Judicial Retirement Plan prior to January 1, 2014, who as of June 30, 2018, have not met or exceeded the requirements of paragraph (a) of this subsection, in the month following the date in which the member meets the requirements of paragraph (a) of this subsection:

1. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and
2. Shall not accrue any additional service credit or compensation for retirement benefit calculations on or after the date in which member meets the requirements of paragraph (a) of this subsection, for purposes of determining benefits under any provision of KRS 21.345 to 21.580, except as provided by subsection (4) of this section;

(4) Members specified by subsection (3) of this section who are contributing to the Public Employees Retirement System and receiving an employer contribution as provided by Sections 2 to 11 of this Act:

(a) Shall continue to:

1. Accrue retiree health benefits specified by Section 52 of this Act and shall contribute the employee contribution to fund retiree health benefits specified by subsection (1) of Section 42 of this Act; and
2. Remain eligible to apply for any disability benefits for disabilities that occur prior to retirement as specified by KRS 21.345 to 21.580; and

(b) May complete the remaining installment payments and earn service for any service purchase being made through an installment of purchase service agreement that was executed prior to July 1, 2018, but shall not be eligible to execute any new service purchases on or after July 1, 2018;

(5) The General Assembly by legislative action in the biennial budget may appropriate funds and develop a program to provide a lump-sum buyout for any members of the Judicial Retirement Plan for the benefits payable to them under the provisions of KRS 21.345 to 21.580; and

(6) For purposes of this section, "nonhazardous" means the level of benefits applicable to employees of the Kentucky Employees Retirement System who do not qualify for hazardous duty coverage under Section 82 of this Act.

➔SECTION 27. A NEW SECTION OF KRS 6.500 TO 6.577 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 2018, the government and control of the Legislators' Retirement Plan shall be transferred to and vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 6.500 to 6.577 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 6.500 to

6.577, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705. The members of the board shall receive no additional compensation when acting on behalf of the Legislators' Retirement Plan.

(2) Expenses incurred by or on behalf of the plan and the board in the administration of the Legislators' Retirement Plan during a fiscal year shall be paid from the administrative account of the Legislators' Retirement Fund. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment-related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(3) The board of trustees and staff of the Judicial Form Retirement System who will be responsible for administering the plan through June 30, 2018, shall provide any and all information and assistance required by Kentucky Retirement Systems to effectuate the transfer of administration of the plan established by this section.

➔SECTION 28. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED

TO READ AS FOLLOWS:

(1) Effective July 1, 2018, the government and control of the Judicial Retirement Plan shall be transferred to and vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 21.345 to 21.580 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 21.345 to 21.580, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705. The members of the board shall receive no additional compensation when acting on behalf of the Judicial Retirement Plan.



(2) Expenses incurred by or on behalf of the plan and the board in the administration of the Judicial Retirement Plan during a fiscal year shall be paid from the administrative account of the Judicial Retirement Fund. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment-related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(3) The board of trustees and staff of the Judicial Form Retirement System who will be responsible for administering the plan through June 30, 2018, shall provide any and all information and assistance required by Kentucky Retirement Systems to effectuate the transfer of administration of the plan established by this section.

➔SECTION 29. A NEW SECTION OF KRS 6.500 TO 6.577 IS CREATED TO READ AS FOLLOWS:

The following matters shall be administered for the Legislators' Retirement Plan in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System:

(1) Statement of member and employer, summary plan description, as provided by KRS 61.540;

(2) Employer's contributions, reset of amortization period, payment of actuarially required contribution rate, as provided by Section 74 of this Act;

(3) Direct deposit of recipient's retirement allowance, as provided for in KRS 61.623;

(4) Board of trustees, powers, members, executive director and other employees, appeals, other duties, financial report, trustee education program, as provided for in Section 99 of this Act;

(5) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(6) Custodian of funds, payments made, when, as provided for by KRS 61.660;

- (7) Employer's administrative duties, as provided for by KRS 61.675;
- (8) Duties of board, actuarial tables, valuations, investigations, and analyses, as provided by KRS 61.670;
- (9) Correction of errors in records, as provided for by KRS 61.685;
- (10) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699; and
- (11) Reemployment after retirement for members who retire on or after July 1, 2018, as provided by subsection (18) of Section 98 of this Act.

➔SECTION 30. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

The following matters shall be administered for the Judicial Retirement Plan in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System:

- (1) Statement of member and employer, summary plan description, as provided by KRS 61.540;
- (2) Employer's contributions, reset of amortization period, payment of actuarially required contribution rate, as provided by Section 74 of this Act;
- (3) Direct deposit of recipient's retirement allowance, as provided for in KRS 61.623;
- (4) Board of trustees, powers, members, executive director and other employees, appeals, other duties, financial report, trustee education program, as provided for in Section 99 of this Act;
- (5) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (6) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (7) Employer's administrative duties, as provided for by KRS 61.675;
- (8) Duties of board, actuarial tables, valuations, investigations, and analyses, as provided by KRS 61.670;
- (9) Correction of errors in records, as provided for by KRS 61.685;

**(10) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699; and**

**(11) Reemployment after retirement for members who retire on or after July 1, 2018, as provided by subsection (18) of Section 98 of this Act.**

→Section 31. KRS 6.500 is amended to read as follows:

There hereby is created a retirement plan for the members of the General Assembly (hereinafter "legislators"). Each legislator in office on July 1, 1980, and each legislator thereafter taking office **prior to July 1, 2018**, may acquire membership in the plan in accordance with the provisions of KRS 6.505. **Effective July 1, 2018, membership in the plan shall cease for those individuals who began participating in the Legislators' Retirement Plan on or after January 1, 2014, who will have their accumulated account balance transferred to the Public Employees Retirement System and will have their service for purposes of retiree health benefits transferred to the Kentucky Employees Retirement System as provided by subsections (1) and (2) of Section 25 of this Act.**

→Section 32. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office **prior to July 1, 2018**, may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13), **or the amount specified by paragraph (d) of this subsection**. The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for

the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.

- (b) 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530, *except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 6.500 to 6.577 on or after the effective date of this Act.*
2. a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount

- of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
  - c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
- (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator **except as provided by Section 25 of this Act**, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
  - (d) Notwithstanding the provisions of this subsection:
    1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount

equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13).

2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
    - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
    - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577, **except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 6.500 to 6.577 on or after the effective date of this Act.**

- (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) The state 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 so picked up shall be treated as employer contributions in determining

tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system 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 state 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 employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of



contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 33. KRS 6.515 is amended to read as follows:

- (1) *As limited by Section 25 of this Act,* service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.
- (2) (a) 1. Any active member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on

assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(4).
- (b) The member, if the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, may purchase all of his military service credit at

one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

- (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (3) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.
- (4) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in *the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System*~~[a retirement system]~~

~~administered by Kentucky Retirement Systems].~~ If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (5) (a) Any active member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who is vested in the Legislators Retirement Plan under KRS 6.525 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be

determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (b) Any active member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (c) Any member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who was in office on June 21, 2001, and who was in active

contributing status to the applicable retirement plan on June 21, 2001, and who has at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan, except that the service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, then upon retirement, death, or written request following termination, the payment shall be refunded. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (d) A member who began participating in the Legislators Retirement Plan prior to January 1, 2014, may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased

by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

➔Section 34. KRS 6.518 is amended to read as follows:

- (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 member in the four (4) years immediately prior to the final five (5) annual years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member 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 in which a legislator participating in the Legislators' Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems.
- (2)
  - (a) For members retiring on or after January 1, 2018, the plan shall, for each of the retiring member's last five (5) annual years of service in the General Assembly or with any employer participating in any of the state-administered retirement systems, identify any annual year in which the creditable compensation used to calculate benefits in the Legislators' Retirement Plan increased at a rate of ten percent (10%) or more annually over the immediately preceding annual year's creditable compensation.
  - (b) Except as limited or excluded by subsections (3) and (4) of this section, any

amount of increase in creditable compensation for an annual year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding annual year shall not be included in the creditable compensation used to calculate the member's monthly pension benefits. If the creditable compensation for a specific annual year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring member's monthly pension benefits, then no reduction in creditable compensation shall occur for that annual year. Reductions to creditable compensation as provided by this paragraph shall include any creditable compensation used to calculate the retiring member's benefits, including creditable compensation earned in another state-administered retirement system.

- (c) If the creditable compensation of the retiring member is reduced as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.
- (3) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.
- (5) The ~~Judicial Form Retirement System~~ board of trustees shall determine whether increases in creditable compensation during the last five (5) annual years of



employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.

- (6) This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.

➔Section 35. KRS 6.520 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation *or the amount specified by subsection (3) of Section 25 of this Act.* For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.
- (3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or

judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation **or the amount specified by subsection (3) of Section 25 of this Act.** For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the three (3) years during which the member had the highest creditable legislative compensation.

- (4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 but prior to January 1, 2014, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation **or the amount specified by subsection (3) of Section 25 of this Act.** For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (5) Subsections (1) to (4) of this section shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.

➔Section 36. KRS 6.521 is amended to read as follows:

- (1) As of July 1 of each year **prior to July 1, 2018,** the board of trustees ~~of the Kentucky Judicial Form Retirement System~~ shall recompute the monthly benefits of persons then receiving benefits under the Legislators' Retirement Plan, provided the person began participating in the plan prior to January 1, 2014, by using the following formula: three and one-half percent (3.5%) times fifty-five percent (55%)

of the final compensation of the office in which the credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed twenty-eight (28) years). In making the recomputation, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing recomputations in accordance with this section.

- (2) Effective August 1, 1998, to July 1, 2008, a recipient of a monthly pension benefit from the Legislators' Retirement Plan who began participating in the plan prior to January 1, 2014, shall have his or her benefit increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the state's appropriation to the Legislators' Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 6.505. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (3) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Legislators' Retirement Plan shall have his or her benefit increased by one and one-half percent (1.5%), if:
1. The funding level of the plan is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this

- subsection; or
2. The General Assembly appropriates sufficient funds to fully prefund the increase described by this subsection in the year the increase is provided.
- (b) The board of trustees ~~of the Kentucky Judicial Form Retirement System~~ shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:
1. Whether the plan has a funding level greater than one hundred percent (100%) and if the plan can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the plan below one hundred percent (100%); and
  2. If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for plan recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.
- (c) For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the plan's actuary in the plan's actuarial valuation.
- (d) The full increase described by this subsection shall only be provided if the recipient has been receiving a retirement benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than twelve (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving a benefit in the twelve (12) months preceding the effective date of the increase.

- (e) In determining the state's appropriation to the Legislators' Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized.
  - (f) The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 6.505. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (4) In addition to the increase to a recipient's retirement allowance as provided by subsection (3) of this section, the General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.

**(5) This section does not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.**

➔Section 37. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by ~~{KRS 21.560 and by }~~provisions identical in terms with those provided in KRS 21.345(1), 21.345(3) to ~~(8){(6), 21.357, 21.360(1)}~~, 21.370 to 21.410, ~~{21.374, }~~21.420, 21.425, ~~{21.450, }~~21.460, 21.470, 21.480, ~~{21.525, }~~21.540, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2) (a) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a), except that the salary used to determine final

compensation, if applicable, shall be based on the creditable compensation in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.

- (b) For members contributing on or after June 20, 2005, **who retired prior to July 1, 2018**~~[ but prior to January 1, 2014 ]~~: Upon retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits as provided in KRS 61.680(2)(a) and in the same manner as for the other retirement systems using the highest salary regardless of the system in which it was earned. **Effective July 1, 2018, members whose retirement occurred prior to July 1, 2018, who were subject to the provisions of this paragraph shall have their retirement allowance recalculated in accordance with subsection (4) of Section 25 of this Act in the manner prescribed by paragraph (a) of this subsection.** For purposes of this paragraph, "retirement" means the month in which the member elects to begin receiving benefits or benefits become payable due to the member's death.
- (c) A member who has an account in the Legislators' Retirement Plan and the Judicial Retirement Plan may combine his service in both plans for purposes of determining:
1. Eligibility and the amount of benefits; and
  2. Final compensation, provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, **and retired prior to July 1, 2018. Effective July 1, 2018, members who retired prior to July 1, 2018, who were subject to the provisions of this paragraph shall have their retirement allowance recalculated in accordance with**

**subsection (4) of Section 25 of this Act.**

(d) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, may retire at the completion of twenty-seven (27) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).

~~{(e) For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan}.~~

(3) Any other statute to the contrary notwithstanding **except as provided by Section 25 of this Act**, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

➔Section 38. KRS 6.577 is amended to read as follows:

(1) The board of trustees ~~{of the Judicial Form Retirement System}~~ shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in

Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed in accordance with Section 74 of this Act~~[by appropriate actuarial method]~~ as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) (a) Depending on the months of service credit on which the retirement allowance was based, provided that there are at least forty-eight (48) months, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan as follows:

Months of Service	Percentage Paid
48 to 119, inclusive	25%
120 to 131, inclusive	50%
132 to 143, inclusive	55%
144 to 155, inclusive	60%
156 to 167, inclusive	65%
168 to 179, inclusive	70%
180 to 191, inclusive	75%
192 to 203, inclusive	80%
204 to 215, inclusive	85%
216 to 227, inclusive	90%
228 to 239, inclusive	95%
240 or more	100%



This paragraph shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.

- (b) For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014:
1. Participation in the health insurance coverage and benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 6.500 to 6.577 or another state-administered retirement system.
  2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall be eligible for a monthly insurance benefit upon retirement of ten dollars (\$10) for each year of service as a participating member of the Legislators' Retirement Plan.
  3. The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the health benefits payable under this subsection as though the member has twenty (20) years of service in the Legislators' Retirement Plan.
  4. The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the health benefits the member would have received if he or she had retired with twenty (20) years of service in the Legislators' Retirement Plan.
  5. The monthly insurance benefit amount provided by this paragraph shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the

member's retirement for as long as a monthly insurance benefit is payable to the retired member.

- (c) The payments for health insurance provided by this subsection shall be made from the fund only if the recipient agrees to pay the remaining amount, if any, from his monthly retirement allowance or by any other method equally insuring payment by him. "Months of service" as used in this section shall not include service added to determine disability benefits.
- (4) Provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member. No payment shall be made under this section to a spouse, dependent, or beneficiary of a member who begins participating in the Legislators' Retirement Plan on or after January 1, 2014, except as authorized by subsection (3)(b)4. of this section.
- (5) The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might

otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

- (7) Notwithstanding any other statute to the contrary, any member with the minimum number of months of legislative service required by subsection (3) of this section who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.
  - (a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. For members who begin participating in the Legislators' Retirement Plan prior to January 1, 2014, the state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.
  - (b) A member who elects hospital and medical benefits under this section shall

lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

**(8) Effective July 1, 2018, notwithstanding any other provision of statute to the contrary, this section does not apply to:**

**(a) Members who began participating in the Legislators' Retirement Plan on or after January 1, 2014; or**

**(b) Members who retire and begin drawing a retirement allowance on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, the Judicial Retirement Plan, the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Teachers' Retirement System, or the Public Employees Retirement System, for a period of more than twenty-four (24) months prior to the date the member retired and began receiving a retirement allowance from the Legislators' Retirement Plan.**

➔Section 39. KRS 21.345 is amended to read as follows:

- (1) For the purposes of KRS 21.350 to ~~21.480~~<sup>21.510</sup>, "retirement" means a voluntary resignation or a failure of reelection, but does not include a removal for cause.
- (2) The word "service" as used in KRS 21.370 to 21.480 means service transferred from the Kentucky Retirement Systems pursuant to KRS 21.370(2), service as a city police judge purchased pursuant to KRS 21.370(3), and service as a Justice of the Supreme Court, as a Judge of the Court of Appeals created by Section 111 of the Constitution of Kentucky, as a regular Circuit Judge, or as a regular Judge of the District Court, including service in one (1) and then another of those capacities, **except as limited by Section 26 of this Act. Except as limited by Section 26 of this Act,** it also includes service as a special Circuit Judge under the conditions described in subsection (3) of this section, as a Judge or commissioner of the former Court of Appeals, or as director of the Administrative Office of the Courts, prior to

January 1, 1976, and service continuing beyond that date, in any capacity in or for the Court of Justice, by any person who held the office of commissioner of the former Court of Appeals, or director of the Administrative Office of the Courts, on December 31, 1975. The word "service" embraces only service performed while a member of the retirement system established by KRS 21.350 to 21.480~~[21.510]~~, except that service in any of the positions mentioned, before the Judicial Retirement System was made applicable to that category of position, and service transferred from the Kentucky Retirement Systems pursuant to KRS 21.370(2), shall be included.

- (3) For the purposes of KRS 21.345 to 21.480~~[21.510]~~, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service for any part of the calendar month in which the member's term of service begins or ends shall be deemed to constitute a month of service.
- (4) The term "accumulated employer credit" as used in KRS 21.345 to 21.580 means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 21.402.
- (5) The term "accumulated contributions" as used in KRS 21.345 to 21.580, means:
  - (a) For a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, the contributions made by the member to the Judicial Retirement Plan; and
  - (b) For a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, in the hybrid cash balance plan, the contributions made by the member to the Judicial Retirement Plan and interest credited on such amounts as provided by KRS 21.402.
- (6) The term "accumulated account balance" as used in KRS 21.345 to 21.580 means:
  - (a) For members who began participating in the Judicial Retirement Plan prior to January 1, 2014, the member's accumulated contributions; or

- (b) For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 21.402, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.
- (7) *The term "active" as used in KRS 21.345 to 21.580 means a member who is currently contributing to the plan except for those members specified by subsections (3) and (4) of Section 26 of this Act.*
- (8) *As used in KRS 21.345 to 21.580, the term "board" or "board of trustees":*
- (a) *Prior to July 1, 2018, means the Judicial Form Retirement System board of trustees; and*
- (b) *Effective on or after July 1, 2018, means the Kentucky Retirement Systems board of trustees as provided by Section 99 of this Act.*
- (9) The provisions of this section shall not apply to any director of the Administrative Office of the Courts appointed after January 1, 1976, nor shall they apply to any commissioner of the Court of Appeals not appointed prior to January 1, 1976. The administrative director of the courts and commissioners of the Court of Appeals appointed prior to January 1, 1976, shall continue to be members of the system so long as they continue to render service in any capacity in or for the Court of Justice.

➔Section 40. KRS 21.347 is amended to read as follows:

The Judicial Retirement System established by KRS 21.345 to ~~21.510~~ 21.480 shall hereafter be designated and known as the Judicial Retirement Plan. There is established within that plan a state fund to be known as the judicial retirement fund, which shall consist of all money and securities of the Judicial Retirement System immediately prior to July 1, 1980; all allotments to be received of moneys theretofore appropriated to or for the Judicial Retirement System or ~~board~~ board and not yet allotted; all state appropriations to the judicial retirement fund or the Judicial Retirement Plan; all earnings from investment of the fund (including insurance benefits); and all contributions

from members of the plan. The fund may have a subordinate administrative account. The benefits provided to be paid by reason of membership in the Judicial Retirement Plan shall not be chargeable to any other retirement fund.

→Section 41. KRS 21.350 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section **and as provided or limited by Section 26 of this Act**, membership in the retirement system established by KRS 21.350 to **21.480**~~[21.510]~~ shall consist of, and be confined to, Justices of the Supreme Court, Judges of the Court of Appeals created by Section 111 of the Constitution of Kentucky, Circuit Judges, and Judges of the District Court, who have elected to participate in accordance with KRS 21.360.
- (2) Any person who was a member on December 31, 1975, by virtue of holding on that date the office of commissioner of the former Court of Appeals or director of the Administrative Office of the Courts shall continue in membership so long as he continues to render service in any capacity in or for the Court of Justice.
- (3) The limitation of membership made by this section does not affect rights to benefits based on service rendered before the 1978 amendment to this section took effect.
- (4) Effective July 1, 2018, individuals subject to the provisions of subsection (1) and (2) of Section 26 of this Act shall not be included in the membership of the Judicial Retirement Plan.**

→Section 42. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, **who**~~[may]~~ within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office **prior to July 1, 2018, who**~~[may]~~ within thirty (30) days after taking office, **elected**~~[elect]~~ to make monthly contributions to the retirement system **shall contribute**~~[in]~~ an amount equal to:
  1. **Eight percent (8%)**~~[Five percent (5%)]~~ of his or her monthly official

salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008,~~[,]~~ which shall be used to fund benefits as follows:

a. Five percent (5%) of the monthly official salary shall be used to provide funding for pension benefits; and

b. Three percent (3%) of the monthly official salary shall be used exclusively to help fund retiree health benefits as provided by Section 52 of this Act and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by Section 53 of this Act. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by Section 52 of this Act;

2. Nine percent (9%)~~[Six percent (6%)]~~ of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, which shall be used to fund benefits as follows:

a. Six percent (6%) of the monthly official salary shall be used to provide funding for pension benefits; and

b. Three percent (3%) of the monthly official salary shall be used exclusively to help fund retiree health benefits as provided by Section 52 of this Act and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by Section 53 of this Act. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by Section 52 of this Act; or



3. **Prior to July 1, 2018,** six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
- a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
  - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation **or the amount specified by subsections (3) and (4) of Section 26 of this Act.** Thereafter employee contributions shall be discontinued, **except for contributions payable under paragraph (a)1.b. and (a)2.b. of this subsection**~~—but~~

~~continued service and retirement benefits shall not be affected thereby].~~

- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to **21.480, except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 21.345 to 21.580 on or after the effective date of this Act**~~[21.510]~~.
- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.
- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected.

Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.

- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement Plan~~[System]~~ in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

- (6) The state 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 so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system 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 state 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 employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, except as provided by Section 26 of this Act, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 43. KRS 21.370 is amended to read as follows:

- (1) (a) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member who began participating in the Judicial Retirement Plan prior to January 1, 2014, or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member.
- (b) No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

- (2) A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who has qualified for benefits under this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in *the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System* ~~[a retirement system administered by Kentucky Retirement Systems]~~, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by transfer, if authorized under subsection (5)(d) of this section, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (3) Any active member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday

in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

- (4) (a) 1. Any active member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial

Retirement Plan, to other service credit earned in the plan.

2. Any active member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a transfer, if authorized under subsection (5)(d) of this section, or by a lump-sum payment or installment payments. The payment shall not be picked up by the employer as provided in KRS 21.360(6).
- (b) The member, if the member began participating in the Judicial Retirement Plan prior to January 1, 2014, may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly

payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

- (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (5) (a) Any active member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this



subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

- (b) Any active member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375 shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (c) Any member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who was in office on June 21, 2001, and who was in active contributing status to the applicable retirement plan on June 21, 2001, and

who has at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan, except that the service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, then upon retirement, death, or written request following termination, the payment shall be refunded. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

- (d) A member of the Judicial Retirement Plan may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31). Service credit may also be purchased by a rollover of funds

pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Judicial Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

➔Section 44. KRS 21.372 is amended to read as follows:

(1) For purposes of this section:

(a) "Bona fide promotion or career advancement":

1. Means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final sixty (60) months preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member, including any circumstance when a member is elected or appointed to another court within the Court of Justice; and
2. Does not include any circumstance where a judge or justice participating in the Judicial Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems; and

(b) "Year" has the same meaning as in KRS 21.345(3).

(2) (a) For members retiring on or after January 1, 2018, the plan shall identify any consecutive year utilized in determining the member's final compensation in which the member's compensation increased at a rate of ten percent (10%) or

more over the member's compensation in the immediately preceding year.

- (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in compensation for a year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's compensation from the immediately preceding year shall not be used in the calculation of the member's final compensation for the purposes of determining the member's monthly pension benefit under KRS 21.400.
  - (c) If the member's final compensation is reduced for the purposes of determining the member's pension benefit under KRS 21.400 as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.
- (3) In order to ensure the prospective application of the potential reduction in pension benefits as provided in subsection (2) of this section, only the compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement or to compensation used in accordance with KRS 61.680(7) in which the member does not have sixty (60) months of service in the Judicial Retirement Plan.
- (5) The  ~~Judicial Form Retirement System~~ board of trustees shall determine whether increases in compensation during the final sixty (60) months preceding retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.

- (6) This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.

➔Section 45. KRS 21.385 is amended to read as follows:

- (1) In a situation in which, by reason of federal tax law, the failure to commence the payment of retirement benefits to a vested member of the Kentucky Judicial Retirement Plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he would have been entitled to had he retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, may, at his option, *except as limited by Section 26 of this Act*, continue to be a participating member of the plan thereafter until he retires, or, may elect to cease to be a participating member of the plan, in which latter event he shall not be required to become a participating member of the Kentucky Employees Retirement System.
- (2) A member drawing benefits from the Kentucky Judicial Retirement Plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he commenced drawing the initial benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if married to the member at the time of his ultimate retirement, shall be considered to be the surviving spouse with

respect to both the additional and the initial benefits.

**(3) Notwithstanding the provisions of this section, the provisions of subsection (18) of Section 98 of this Act shall apply to a member who retires on or after July 1, 2018, and is reemployed with an employer participating in a state-administered retirement system.**

➔Section 46. KRS 21.400 is amended to read as follows:

- (1) A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation **or the level of benefits specified by subsections (3) and (4) of Section 26 of this Act**, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months

of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

- (2) A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
  - (a) The provisions of subsection (1) of this section; or
  - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (3) In lieu of the right provided for in subsection (2) of this section, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

- (4) A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
- (a) The provisions of subsection (1) of this section; or
  - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (5) In lieu of the right provided for in subsection (2) of this section, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection (4) of this section are lower than twenty-seven (27).
- (6) Subsections (1) to (5) of this section shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.
- ➔Section 47. KRS 21.402 is amended to read as follows:
- (1) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement



Plan begins on or after January 1, 2014~~, or a member making an election pursuant to KRS 21.374],~~ shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 6.520 and 21.400. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.

- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
- (a) **Prior to July 1, 2018,** contributions made by the member as provided by KRS 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by KRS 6.505(1)(d)2.b. and 21.360(1)(a)3.b.;
  - (b) **Prior to July 1, 2018,** an employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
  - (c) **Prior to July 1, 2018,** interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the plan.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year **through June 30, 2018,** as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year **through June 30, 2018,** the plan shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall

be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:

1. Four percent (4%); plus
  2. Seventy-five percent (75%) of the plan's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "plan's geometric average net investment return":
1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
  2. Shall be expressed as a percentage and based upon the plan in which the member has an account.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall receive a full refund of his or her accumulated account balance.

- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
- (a) Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system; or
  - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement plan in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
  - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 21.420(8)(b); or
  - (c) Take a refund of his or her accumulated account balance as provided by KRS 21.460.
- (8) The board ~~[of the Judicial Form Retirement System]~~ shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The board ~~[Judicial Form Retirement System]~~ may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.
- (9) The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January

1, 2014~~], except for those members making an election pursuant to KRS 21.374].~~

**(10) Effective July 1, 2018, or as soon as administratively possible, the accumulated account balances for members covered by this section shall be transferred to the Public Employees Retirement System as provided by Sections 25 and 26 of this Act.**

➔Section 48. KRS 21.405 is amended to read as follows:

- (1) As of July 1, 1982, the board of trustees ~~[of the Kentucky Judicial Form Retirement System]~~ shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, provided the person began participating in the plan prior to January 1, 2014, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned for a person retiring as of June 30, 1982.
- (2) As of July 1, 1983, and as of July 1 of each year thereafter **until July 1, 2018**, the board of trustees ~~[of the Kentucky Judicial Form Retirement System]~~ shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, provided the person began participating in the plan prior to January 1, 2014, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).
- (3) In making the recomputations provided for in subsections (1) and (2) of this section for members who began participating in the plan prior to January 1, 2014, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's

benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: Judge of former Court of Appeals - Justice of Supreme Court; any position other than judge or justice that was covered by the Judicial Retirement System - Judge of the present Court of Appeals.

- (4) Effective August 1, 1998, to July 1, 2008, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan who began participating in the plan prior to January 1, 2014, shall have his or her benefit increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (5) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall have his or her benefit increased by one and one-half percent (1.5%), if:
1. The funding level of the plan is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this

- subsection; or
2. The General Assembly appropriates sufficient funds to fully prefund the increase described by this subsection in the year the increase is provided.
- (b) The board of trustees ~~of the Kentucky Judicial Form Retirement System~~ shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:
1. Whether the plan has a funding level greater than one hundred percent (100%) and if the plan can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the plan below one hundred percent (100%); and
  2. If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for plan recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.
- (c) For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the plan's actuary in the plan's actuarial valuation.
- (d) The full increase described by this subsection shall only be provided if the recipient has been receiving a benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving benefits in the twelve (12) months preceding the effective date of the increase.

- (e) In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized.
  - (f) The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (6) In addition to the increase to a recipient's retirement allowance as provided by subsection (5) of this section, the General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.

**(7) Effective July 1, 2018, this section does not apply to members who began participating in the Judicial Retirement Plan on or after January 1, 2014.**

➔Section 49. KRS 21.410 is amended to read as follows:

- (1) (a) If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability.
- (b) 1. A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who retires for disability as provided by this subsection shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement

allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

2. A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, who retires for disability as provided by this subsection shall be entitled to a disability retirement allowance equal to the higher of twenty percent (20%) of the member's monthly official salary or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 21.402.
  3. A member who begins participating in the Legislators' Retirement Plan on or after January 1, 2014, who retires for disability as provided by this subsection shall be entitled to a disability retirement allowance equal to the higher of twenty percent (20%) of the member's monthly creditable compensation or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 21.402.
- (2) (a) A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.
  - (b) A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, must have completed at least five (5) years of service in order to apply and be eligible for the disability benefits provided by this section.
  - (3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or



commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection (2) or (3) of KRS 21.400 or under KRS 21.402 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

- (4) Upon reaching his normal retirement age, a member who began participating in the plan prior to January 1, 2014, and who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

**(5) Effective July 1, 2018, this section does not apply to a member who began participating on or after January 1, 2014.**

➔Section 50. KRS 21.420 is amended to read as follows:

- (1) After the death of a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.
- (2) (a) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time

of death.

- (b) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.
- (3) If a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.
- (4) A member, or a retiree who began participating in the plan prior to January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.400, and who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. A member, or a retiree who began participating in the plan on or after January 1, 2014, who has not commenced drawing retirement benefits pursuant to KRS 21.402, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated account balance of the member. Absent a designation by the member or retiree, the accumulated contributions or accumulated account balance, as applicable based upon the member's participation date, shall be paid to the member's estate.
- (5) A member who began participating in the plan prior to January 1, 2014, who

commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the accumulated contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. A member who began participating in the plan on or after January 1, 2014, who commences drawing retirement benefits pursuant to KRS 21.402 or 21.410, and who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the accumulated account balance of the member, may designate a beneficiary who shall receive the balance of the accumulated account balance of the member. Any benefits received shall be deducted from the accumulated contributions or accumulated account balance. Absent a designation by the member, the balance of the accumulated contributions or accumulated account balance, as applicable based upon the member's participation date, shall be paid to the member's estate.

- (6) A member who begins participating in the Judicial Retirement Plan prior to January 1, 2014, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.
- (7) A member who begins participating in the Judicial Retirement Plan prior to January 1, 2014, may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of

subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

- (a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.
- (b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

(8) For a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014:

- (a) If the member dies prior to drawing a retirement allowance, then the surviving spouse may elect to:
  - 1. Take a refund of the member's accumulated account balance or accumulated contributions as provided by KRS 21.402; or
  - 2. If the member had at least five (5) years of service in the plan at the time of his or her death, have the member's accumulated account balance

annuitized into a monthly benefit payable for life that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided by paragraph (b)1. of this subsection.

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided prescribed by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (4) of this section shall apply to the member.

- (b) If a member dies on or after the date the member begins drawing a retirement allowance, the benefits payable to the surviving spouse shall be based upon whether or not the member elects prior to retirement to receive an optional retirement allowance. The election shall be in writing on the forms prescribed by the Judicial Form Retirement System and shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. The optional retirement allowances shall include:
1. Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse;
  2. Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse; or
  3. Survivorship fifty percent (50%). The member may elect to receive a

decreased retirement allowance during the member's lifetime and have one-half (1/2) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect prior to retirement to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (5) of this section shall apply to the member.

- (c) For purposes of this section a "dependent child" shall mean a child who is less than twenty-one (21) years of age or a disabled child who is eligible for Social Security disability benefits.

**(9) Effective July 1, 2018, this section does not apply to a member who began participating on or after January 1, 2014.**

➔Section 51. KRS 21.425 is amended to read as follows:

- (1) In any circumstances in which a surviving spouse would be entitled to any allowance under KRS 21.420, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of twenty-one (21), or there is a disabled child or children, the monthly allowance that the surviving spouse would have received or was receiving shall be continued, as follows:
- (a) If the member does not have a disabled child or children, the benefit shall continue until there are no children remaining under the age of twenty-one (21); or
- (b) If the member has a disabled child or children, the benefit shall continue until the death of the last remaining disabled child.
- (2) A member may designate his child or children under the age of twenty-one (21), or

his disabled child or children, to receive the death benefit payable under KRS 21.420 instead of his spouse, or he may designate that his spouse shall receive a percentage of the death benefit, and his child or children under the age of twenty-one (21), or his disabled child or children, shall receive the remainder. The member making such a choice shall designate his beneficiary or beneficiaries in writing to the Kentucky Retirement Systems~~[manager of the Judicial Form Retirement System]~~ on a form provided by the Kentucky Retirement Systems~~[manager]~~.

- (3) For purposes of this section, "disabled" means an individual determined by the Social Security Administration to be entitled to total disability benefits.
- (4) Subsections (1) to (3) of this section shall not apply to a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014.

➔Section 52. KRS 21.427 is amended to read as follows:

- (1) (a) The board of trustees ~~[of the Judicial Form Retirement System]~~ shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (3) of this section.
- (b) For the purpose of this section, the "dependent" of a recipient means the

spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

- (2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%
48 to 119, inclusive	25%

This paragraph shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.

- (b) **Prior to July 1, 2018,** for members who begin participating in the Judicial Retirement Plan on or after January 1, 2014:

1. Participation in the health insurance coverage and benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 21.345 to 21.580 or another state-administered retirement system.
2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall be eligible for a monthly insurance benefit upon retirement of ten dollars (\$10) for each year of service as a participating member of the Judicial Retirement Plan.
3. The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who



is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the health benefits payable under this subsection as though the member has twenty (20) years of service in the Judicial Retirement Plan.

4. The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the health benefits the member would have received if he or she had retired with twenty (20) years of service in the Judicial Retirement Plan.
  5. The monthly insurance benefit amount provided by this paragraph shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance benefit is payable to the retired member.
  6. Under no circumstances shall the cost of coverage be paid for the spouse, dependents, or beneficiaries of a member who began participating in the Judicial Retirement Plan on or after January 1, 2014, except as provided by subparagraph 4. of this paragraph.
- (c) The health insurance payments provided by this subsection shall be made by the fund only if the recipient agrees to pay the remaining, if any, amount of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.
  - (d) Notwithstanding any other statute to the contrary, any member with the minimum number of months of judicial service required by paragraph (a) or (b) of this subsection who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the

Commonwealth shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in all the state-administered retirement systems or plans.

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in all the state-administered retirement systems or plans and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014, the state-administered retirement systems or plans shall pay to the Judicial Retirement Plan the applicable percentage of the plan's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement systems or plans divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.
2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.
- (3) The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient

shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.

- (4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

**(5) Effective July 1, 2018, notwithstanding any other provision of statute to the contrary, this section does not apply to:**

**(a) Members who began participating in the Judicial Retirement Plan on or after January 1, 2014; or**

**(b) Members who retire and begin drawing a retirement allowance on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, the Judicial Retirement Plan, the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Teachers' Retirement System, or the Public Employees Retirement System, for a period of more than twenty-four (24) months prior to the date the member retired and began receiving a retirement allowance from the Judicial Retirement Plan.**

➔Section 53. KRS 21.460 is amended to read as follows:

- (1) (a) For members who began participating in the Judicial Retirement Plan prior to January 1, 2014: If any member of the plan ceases, other than by death or by

disability retirement under KRS 21.410, to hold an office qualifying him for membership in the plan established by KRS 21.350 to 21.480, without having met the requirements for vesting, he shall be refunded on demand the amount of his accumulated contributions and any service credit he had in the plan shall be nullified.

- (b) **Prior to July 1, 2018,** a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, **but prior to July 1, 2018,** may, if the member ceases to hold an office qualifying him or her for membership in the plan established by KRS 21.345 to 21.580, elect to take a refund of his or her accumulated account balance subject to the limitations provided by KRS 21.402.
- (2) The member may elect to leave his contributions in the plan, in which event the service credit he had in the plan shall be considered to be service credit for vesting purposes as provided in KRS 21.375 and for service retirement eligibility as provided in KRS 61.680(7), and, in the event he again becomes a member of the Judicial Retirement Plan, shall be counted toward his total service credit in that plan.
- (3) **(a)** If a person who has been refunded his accumulated contributions or accumulated account balance in accordance with subsection (1) of this section subsequently becomes a member of the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or Teachers' Retirement System, he may while holding such membership repurchase the service credit he previously had in the Judicial Retirement Plan by repaying to that plan the amount that was refunded to him with interest at six percent (6%) per annum, in which event such service credit shall have operative effect to the same limited extent as provided in subsection (2) of this section. Service purchased

under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan.

**(b) Members who are required to participate in the Public Employees Retirement System as provided by Sections 25 or 26 of this Act shall not be eligible to purchase the service provided by this subsection on or after the date the member is required to participate in the Public Employees Retirement System.**

- (4) If a person who has been refunded his accumulated contribution or accumulated account balance in accordance with subsection (1) of this section thereafter becomes again the holder of an office qualifying him for membership in the Judicial Retirement Plan, he shall not be entitled to credit for his prior period of service unless he has previously repaid his refunded contributions in accordance with subsection (3) of this section or unless within thirty (30) days after again assuming office he repays to the plan the amount that was refunded to him with interest at six percent (6%) per annum. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan. **Members who are required to participate in the Public Employees Retirement System as provided by Sections 25 or 26 of this Act shall not be eligible to purchase the service provided by this subsection on or after the date the member is required to participate in the Public Employees Retirement System.**
- (5) If the taking of a refund of contributions by a member of the Kentucky Judicial Retirement Plan, when first entitled thereto, would subject the member to a federal excise tax, by reason of the refund's being made before the member has reached an age designated by the federal taxing act, and the member has elected, pursuant to subsection (2) of this section, to defer taking a refund, so much of the contributions as would have been subject to the excise tax shall accrue interest at the rate of six

percent (6%) per annum, from the date the member first could have taken a refund until the date the refund is taken or the date as of which the federal excise tax no longer would apply to a refund, whichever is sooner, the interest to be paid by the plan at the time of the refund. The provisions of this subsection shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.

➔Section 54. KRS 21.470 is amended to read as follows:

All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.480~~[21.510]~~ are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 21.350 to 21.510 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

➔Section 55. KRS 21.480 is amended to read as follows:

(1) For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced judges and commissioners to continue in service, KRS 21.350 to 21.480~~[21.510]~~, except as provided in KRS 6.696, shall constitute an inviolable contract of the Commonwealth, and the rights and benefits provided therein shall, ~~[except as provided in KRS 6.696, ]~~not be subject to reduction or impairment by alteration, amendment or repeal, except:

(a) As provided in KRS 6.696; and

(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 21.345 to 21.580 on or after the effective date of this Act.

- (2) (a) For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 21.345 to 21.580 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 21.345 to 21.580, for members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Judicial Retirement Plan as provided by KRS 21.345 to 21.580 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 56. KRS 21.540 is amended to read as follows:

- (1) **(a) The board of trustees of the Kentucky Retirement Systems shall be the trustee of the several funds created by KRS 6.500 to 6.577 and 21.345 to 21.580, and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion,**

*purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities or investments in which any of these funds have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.*

*(b) All securities acquired under the authority of KRS 6.500 to 6.577 and 21.345 to 21.580 shall be registered in the name Kentucky Retirement Systems or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to the written policies adopted by the board.*

*(c) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.*

*(d) The investment committee established pursuant to Section 100 of this Act shall serve as the investment committee of the funds established by KRS 6.500 to 6.577 and 21.345 to 21.580*~~Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services subject to the limitations of KRS Chapters 45, 45A, 56, and 57. The administrative expenses shall be paid out of an administrative account which~~



~~shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560].~~

- (2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the plan~~[Judicial Form Retirement System]~~ if the order is in compliance with the requirements established by the board~~[retirement system]~~.
- (b) Except in cases involving child support payments, the plan~~[Judicial Form Retirement System]~~ may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees~~[of the retirement system]~~. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
1. Solely by the participant;
  2. Solely by the alternate payee; or
  3. Equally shared by the participant and alternate payee.
- (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
1. Is issued by a court or administrative agency; and
  2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.
- (3)~~[Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the~~

~~qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).~~

~~(4) In order to improve public transparency regarding the administration of the Legislators' Retirement Plan and the Judicial Retirement Plan, the board of trustees of the Judicial Form Retirement System shall adopt a best practices model by posting the following information to the system's Web site and shall make it available to the public:~~

- ~~(a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the system's Web site at least seventy two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;~~
- ~~(b) A list of the members of the board of trustees and membership on each committee established by the board, including any investment committees;~~
- ~~(c) A list of system staff and each staff's salary;~~
- ~~(d) A list of the fund's professional consultants and their respective fees and commissions paid by the system;~~
- ~~(e) A list of the system's expenditures;~~
- ~~(f) The annual financial audit of the system, which shall include but not be limited to a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;~~
- ~~(g) All external audits;~~
- ~~(h) The annual actuarial valuation report of pension and retiree health benefits of~~

~~each retirement plan administered by the system, which shall include a general statistical section and information on contributions, benefit payouts, and retirement plan demographic data;~~

- ~~(i) All board minutes or other materials that require adoption or ratification by the board of trustees or committees of the board. The items listed in this paragraph shall be posted within seventy two (72) hours of adoption or ratification by the board or committees;~~
- ~~(j) All bylaws, policies, or procedures adopted or ratified by the board of trustees or by committees of the board;~~
- ~~(k) The summary plan description for each plan administered by the system;~~
- ~~(l) A document or a link to documents containing an unofficial copy of the statutes governing the plans administered by the Judicial Form Retirement System;~~
- ~~(m) Investment information, including all investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
  - ~~1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;~~
  - ~~2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and~~
  - ~~3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited~~~~

~~Partners Association (ILPA):~~

~~— In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;~~

~~(n) An update of net investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager over a historical period. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;~~

~~(o) All contracts or offering documents for services, goods, or property purchased or utilized by the system. Notwithstanding KRS 61.878, all contracts, including investment contracts, shall be subject to review by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705. If any public record contains material which is not excepted under KRS 61.878, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination; and~~

~~(p) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public.~~

~~— Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.~~

~~(5) No trustee or employee of the board shall:~~

~~(a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;~~

- ~~(b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;~~
  - ~~(c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;~~
  - ~~(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;~~
  - ~~(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;~~
  - ~~(f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person;~~  
~~or~~
  - ~~(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
    - ~~1. A trustee from serving as a judge or member of the General Assembly;~~  
~~or~~
    - ~~2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.~~~~
- ~~(6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement~~

~~Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.~~

~~(7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:~~

- ~~(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;~~
- ~~(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;~~
- ~~(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;~~
- ~~(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;~~
- ~~(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for~~

~~investment management procurement; and~~

~~(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.~~

- ~~(8)~~ (a) 1. Upon request by any person, the board~~[Judicial Form Retirement System]~~ shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or the Judicial Retirement Plan, if the member or retiree is a current or former officeholder in the Kentucky General Assembly:
- a. The first and last name of the member or retiree;
  - b. The plan or plans in which the member has an account or from which the retiree is receiving a monthly retirement allowance;
  - c. The status of the member or retiree, including but not limited to whether he or she is a contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;
  - d. If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
  - e. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.
2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.
- (b) The release of information under paragraph (a) of this subsection shall not

constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

➔Section 57. The following KRS sections are repealed:

21.357 Summary plan description -- Publication -- Recipients.

21.374 Election by member participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, to forgo current benefit eligibility and instead receive benefits and rights of members who began participating in either plan on or after January 1, 2014, including participating in hybrid cash balance plan.

21.440 Duties of investment committee -- Duties of board -- Actuarial valuations, investigations, and analyses -- Audit.

21.510 Appropriation -- Transfer of funds to judicial retirement fund.

21.525 Contributions by state -- Normal contributions -- Past service liability contribution -- Employer costs for hybrid cash balance plan.

21.530 Coordination of Legislators' Retirement and Judicial Retirement Plans -- Board.

21.550 Investments, judicial retirement fund.

21.560 Investments -- Legislative retirement fund.

21.450 Funding of benefits -- Trustee -- Duties of board or investment adviser -- Accrual of benefits.

➔Section 58. KRS 21.565 is amended to read as follows:

(1) The Kentucky Judicial Retirement Plan excess benefit plan established in KRS 21.567 shall be administered by the board of trustees~~[of the Kentucky Judicial Form Retirement System]~~. The board shall have the same authority in its administration as it has in the administration of the Kentucky Judicial Retirement Plan.

(2) The plan shall constitute a qualified governmental excess benefit plan as provided in 26 U.S.C. sec. 415(m).

(3) All retired members and beneficiaries of the Kentucky Judicial Retirement Plan whose effective retirement dates are July 1, 1998, or after, and whose retirement



allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plan. Each member's participation in the plan shall be determined each fiscal year and shall cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.

- (4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the plan prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member for the retirement allowance.
- (5) (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution to pay benefits each fiscal year. The required contribution for each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay any employment taxes on the benefits paid from the plan.
- (b) The required contribution shall be paid from state appropriations.
- (c) The required contribution shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415 (m)(1).
- (d) The benefit liability shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets not used to pay benefits in the current fiscal year shall be paid to the Retirement Plan.
- (6) The benefits payable from the plan shall be treated in accordance with KRS 21.470.

➔SECTION 59. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

**Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to**

21.580, 61.510 to 61.705, 78.510 to 78.852, or 161.220 to 161.716 to the contrary:

(1) (a) Any person who has not participated in the systems administered by the Kentucky Retirement Systems prior to July 1, 2018, who is employed in a nonhazardous position on or after July 1, 2018:

1. Shall not be eligible to participate in the benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except that the individual shall accrue service for purposes of retiree health benefits specified by Section 102 of this Act and shall contribute employee contributions to fund retiree health benefits specified by Section 102 of this Act; and
2. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act.

(b) For purposes of this subsection, service earned in the Legislators' Retirement Plan, Judicial Retirement Plan, or Teachers' Retirement System prior to July 1, 2018, shall be used to determine if a person began participating in the systems administered by Kentucky Retirement Systems prior to July 1, 2018, if the member is not drawing a benefit from such service in another system or plan;

(2) Effective July 1, 2018, any nonhazardous member who began participating in the systems administered by the Kentucky Retirement Systems on or after January 1, 2014, who has an accumulated account balance in the hybrid cash balance plan as provided by Section 76 of this Act:

(a) Shall have his or her accumulated account balance as of June 30, 2018, transferred to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act;

(b) Shall not be eligible for benefits under any provision of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except that the member shall

participate in the retiree health benefits specified by Section 102 of this Act and shall contribute the employee contribution to fund retiree health benefits specified by Section 102 of this Act; and

(c) Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act;

(3) (a) Effective July 1, 2018, no additional service credit or creditable compensation shall be accrued on or after July 1, 2018, for purposes of determining benefits under any provision of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except as provided by subsection (4) of this section, for the following members:

1. Nonhazardous members who began participating in the systems prior to September 1, 2008, who have accrued twenty-seven (27) or more years of service credit or who are at least sixty-five (65) years of age with at least four (4) years of service credit. For purposes of this subparagraph, service credit shall only include years of service credited to the systems administered by the Kentucky Retirement Systems or another state-administered retirement system; and

2. Nonhazardous members who began participating in the systems on or after September 1, 2008, but prior to January 1, 2014, who are at least fifty-seven (57) years of age or older and have an age and years of service total of at least eighty-seven (87) years or who are at least sixty-five (65) years of age with at least five (5) years of service credit. For purposes of this subparagraph, service credit shall only include years of service credited under subsection (1) of Section 78 of this Act, subsection (1) of Section 80 of this Act, or subsection (1) of Section 83 of this Act, or another state-administered retirement system;

(b) Members participating in the systems administered by Kentucky Retirement

Systems prior to January 1, 2014, who as of June 30, 2018, have met or exceeded the requirements of paragraph (a) of this subsection, effective July 1, 2018:

1. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and
2. Shall not accrue any additional service credit or creditable compensation on or after July 1, 2018, for purposes of determining benefits under any provision of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except as provided by subsection (4) of this section.

(c) Members participating in the systems administered by the Kentucky Retirement Systems prior to January 1, 2014, who as of June 30, 2018, have not met or exceeded the requirements of paragraph (a) of this subsection, in the month following the date in which the member meets the requirements of paragraph (a) of this subsection:

1. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act; and
2. Shall not accrue any additional service credit or creditable compensation on or after the date in which the member meets the requirements of paragraph (a) of this subsection, for purposes of determining benefits under any provision of KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, except as provided by subsection (4) of this section;

(4) Members specified by subsection (3) of this section, if they are contributing to the Public Employees Retirement System and receiving an employer contribution as provided by Sections 2 to 11 of this Act, shall continue to:

(a) Accrue service credit solely for the retiree health benefits specified by

Section 102 of this Act and shall contribute the employee contribution to fund retiree health benefits specified by Section 102 of this Act;

(b) Remain eligible to apply for any disability benefits for disabilities that occur prior to retirement;

(c) If they are members subject to subsection (3)(a)1. of this section who retire on or before July 1, 2023, have any lump-sum payments for compensatory time paid out upon termination of employment included in the most recent fiscal year used to calculate their final compensation, and employee and employer contributions shall be paid to the system on the compensatory time;

(d) Be able to complete the remaining installment payments and earn service for any service purchase being made through an installment of purchase service agreement that was executed prior to July 1, 2018, but shall not be able to execute any additional service purchases with the systems; and

(e) Be eligible to receive service credit for accumulated sick leave in accordance with Sections 72 or 73 of this Act; and

(5) The General Assembly by legislative action in the biennial budget may appropriate funds and develop a program to provide a lump-sum buyout for any members of the systems administered by Kentucky Retirement Systems for the benefits payable to them under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

➔Section 60. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its

successor;

- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service, **except as limited by Section 59 of this Act;**
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation":
- (a) **Except as provided by paragraph (b) or (c) of this subsection,** means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips,

other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
3. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
4. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, **uniform and equipment allowances paid on or after July 1, 2018**, lump-sum payments for accrued vacation leave, and other items determined by the board;~~and~~
  2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; **and**
  3. **For fiscal years occurring on or after July 1, 2018, any amount that exceeds maximum taxable earnings subject to taxation under the Old-Age, Survivors and Disability Insurance (OASDI) program, as determined by the Social Security Administration. This maximum shall be adjusted each fiscal year on July 1 and shall be based upon the most recent taxable earnings maximum set by the Social Security Administration for the most recent calendar year. For creditable compensation exceeding the level specified by this subparagraph, employee contributions shall be refunded on the amount paid in excess of this creditable compensation limit, but excess employer contributions shall remain in the fund to help pay down the unfunded liability;**
- (9) "Final compensation" means:
- (a) For a member who begins participating **prior to**~~before~~ September 1, 2008, **who retires prior to July 1, 2018**, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
  - (b) For a member who begins participating on or after September 1, 2008, but



prior to January 1, 2014, or for a member who begins participating prior to September 1, 2008, who retires on or after July 1, 2018, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to

the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
  - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

- (20) "Early retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
  - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate

payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26

U.S.C. sec. 415;

- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583; and
- (40) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.

➔Section 61. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this

section, *except as limited by Section 59 of this Act;*

- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS

61.702(2)(b);

(13) "Creditable compensation":

(a) *Except as provided by paragraph (b) or (c) of this subsection,* means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights,



including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, **uniform and equipment allowances paid on or after July 1, 2018**, lump-sum payments for accrued vacation leave, and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; ~~and~~
3. **For employees participating in a nonhazardous position who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment;**
4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; **and**
5. **For fiscal years occurring on or after July 1, 2018, any amount that**

exceeds maximum taxable earnings subject to taxation under the Old-Age, Survivors and Disability Insurance (OASDI) program, as determined by the Social Security Administration. This maximum shall be adjusted each fiscal year on July 1 and shall be based upon the most recent taxable earnings maximum set by the Social Security Administration for the most recent calendar year. For creditable compensation exceeding the level specified by this subparagraph, employee contributions shall be refunded on the amount paid in excess of this creditable compensation limit, but excess employer contributions shall remain in the fund to help pay down the unfunded liability;

(14) "Final compensation" of a member means:

- (a) For a member who begins participating before September 1, 2008, who is ~~not~~ employed in a nonhazardous~~hazardous~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, except that for members retiring on or after July 1, 2018, the five (5) fiscal years shall be complete fiscal years. If the number of months of service credit during the five (5) year period is less than forty-eight (48) for members retiring prior to July 1, 2018, one (1) or more additional fiscal years shall be used. If a member retiring on or after July 1, 2018, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;

- (b) For a member who is ~~[not]~~ employed in a **nonhazardous**~~[hazardous]~~ position~~[, as provided in KRS 61.592]~~, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, **and who retired prior to July 1, 2018,** the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is ~~[not]~~ employed in a **nonhazardous**~~[hazardous]~~ position~~[, as provided in KRS 61.592]~~, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year

used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;~~[-or]~~

- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position~~[-]~~ as provided in KRS 61.592, *or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in Section 82 of this Act, who retires on or after July 1, 2018,* the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months; *or*

- (f) Notwithstanding the provisions of paragraphs (a) to (e) of this subsection, for purposes of calculating benefits provided for any service accrued on or after July 1, 2018, as a member of the General Assembly, the creditable compensation of the member during all fiscal years of service accrued as a member of the General Assembly on or after July 1, 2018, divided by the number of years of service as a member of the General Assembly on or after July 1, 2018;*

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were

calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative

session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
- (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
- (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
- (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
- (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and

considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level dollar amortization method"~~["Level percentage of payroll amortization method"]~~ means a method of determining the annual amortization payment on the unfunded actuarial accrued liability that is set as an equal dollar amount~~as~~

~~expressed as a percentage of payroll~~ over **the remaining amortization period as of the actuarial valuation date**~~[a set period of years]~~. Under this method, ~~the percentage of payroll shall be projected to remain constant for all years remaining in the set period and~~ the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the **amortization period**~~[set period]~~;

- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;



- (35) "Month" means a calendar month;
- (36) "Membership date" means:
- (a) The date upon which the member began participating in the system as provided in KRS 61.543;~~[-or]~~
  - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b); or
  - (c) *For a member of the General Assembly whose participation in the Legislators' Retirement Plan will cease and who will accrue benefits on or after July 1, 2018, in the Kentucky Employees Retirement System as provided by subsection (3) of Section 25 of this Act, the date upon which the member began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan;*
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
  - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;~~and~~
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection; ***and***
- (44) "Nonhazardous position" means a position that does not meet the requirements of Section 82 of this Act and has not been approved by the board as a hazardous***

**position.**

→Section 62. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or

- elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section, **except as limited by Section 59 of this Act**;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
- (a) **Except as provided by paragraph (b) or (c) of this subsection**, means all

salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
4. Amounts which are not includable in the member's gross income by

virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, *uniform and equipment allowances paid on or after July 1, 2018*, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; ~~and~~
3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279; ~~and~~
4. For employees who begin participating on or after August 1, 2016, ~~creditable compensation shall exclude~~ nominal fees paid for services as a volunteer;
5. *For employees who are employed in a nonhazardous position, who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment; and*
6. *For fiscal years occurring on or after July 1, 2018, any amount that exceeds maximum taxable earnings subject to taxation under the Old-Age, Survivors and Disability Insurance (OASDI) program, as determined by the Social Security Administration. This maximum shall be adjusted each fiscal year on July 1 and shall be based upon*

*the most recent taxable earnings maximum set by the Social Security Administration for the most recent calendar year. For creditable compensation exceeding the level specified by this subparagraph, employee contributions shall be refunded on the amount paid in excess of this creditable compensation limit, but excess employer contributions shall remain in the fund to help pay down the unfunded liability;*

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is ~~[not]~~ employed in a *nonhazardous*~~[hazardous]~~ position~~[, as provided in KRS 61.592]~~, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, *except that for members retiring on or after July 1, 2018, the five (5) fiscal years shall be complete fiscal years.* If the number of months of service credit during the five (5) year period is less than forty-eight (48) *for members retiring prior to July 1, 2018,* one (1) or more additional fiscal years shall be used. *If a member retiring on or after July 1, 2018, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;*
- (b) For a member who is ~~[not]~~ employed in a *nonhazardous*~~[hazardous]~~ position~~[, as provided in KRS 61.592]~~, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at

least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, **and who retired prior to July 1, 2018,** the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is ~~not~~ employed in a **nonhazardous**~~hazardous~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more



additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or

- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position~~[-]~~ as provided in KRS 61.592, **or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in Section 82 of this Act, who retires on or after July 1, 2018,** the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;

- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall

- not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
- (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
  - (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
  - (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or
  - (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system

as provided in KRS 78.615;

- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
  - (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (38) "Accumulated account balance" means:
  - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:
  - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky

Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and

- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date; ~~and~~

- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection; and

**(41) "Nonhazardous position" means a position that does not meet the requirements of Section 82 of this Act and has not been approved by the board as a hazardous position.**

➔Section 63. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation and qualified domestic relations orders, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.599;

- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Member's account, confidential, as provided for by KRS 61.661;
- (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (15) Correction of errors in records, as provided for by KRS 61.685;
- (16) Maximum disability benefit, as provided for by KRS 61.607;
- (17) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (18) Employer contributions, as provided for by KRS 61.565;
- (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (21) Refund of contributions, conditions, as provided by KRS 61.625;
- (22) Hospital and medical insurance plan, as provided by KRS 61.702;
- (23) Death benefit, as provided by KRS 61.705;
- (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (25) Service credit, Armed Forces, as provided by KRS 61.555;
- (26) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (27) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

- (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (31) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (32) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637;
- (33) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610;
- (34) Employer payment of increases in creditable compensation and adjustments to creditable compensation during the last five (5) years of employment as provided by KRS 61.598; ~~and~~
- (35) Benefit election for members of the Kentucky Retirement Systems who began participating prior to January 1, 2014, as provided by KRS 61.5955; and
- (36) Participation in the Public Employees Retirement System, benefit limits, as provided by Section 59 of this Act.**

➔Section 64. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;



- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Members' account, confidential, as provided for by KRS 61.661;

- (30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (31) Maximum disability benefit, as provided for by KRS 61.607;
- (32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (33) Employer contributions, as provided for by KRS 61.565;
- (34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- (36) Death benefit, as provided by KRS 61.705;
- (37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (41) Death or disability from a duty-related injury as provided in KRS 61.621;
- (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (44) Hybrid cash balance plan provided to new members as provided by KRS 61.597;
- (45) Employer payment of increases in creditable compensation and adjustments to creditable compensation during the last five (5) years of employment as provided by KRS 61.598;
- (46) Calculation of retirement allowance, as provided by KRS 61.599;
- (47) Voluntary and involuntary cessation of participation by a participating agency as

provided by KRS 61.522; ~~and~~

(48) Benefit election for members of the Kentucky Retirement Systems who began participating prior to January 1, 2014, as provided by KRS 61.5955; **and**

**(49) Participation in the Public Employees Retirement System, benefit limits, as provided by Section 59 of this Act.**

➔Section 65. KRS 16.520 is amended to read as follows:

~~{(1)} Membership in the system:~~

**(1)** Shall consist of all regular full-time officers of the Department of Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers;~~[-~~

~~(2) Membership in the system]~~

**(2)** Shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems~~[-, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360];~~ **and**

**(3) For a member who began participating in the system on or after January 1, 2014, who makes an election to participate in the Public Employees Retirement System as provided by Section 75 of this Act, shall be solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act and making employee contributions to fund retiree health benefits specified by Section 102 of this Act.**

➔Section 66. KRS 61.525 is amended to read as follows:

Membership in the system~~[shall consist of the following]:~~

(1) **Shall include** all persons who become employees of a participating department after the date such department first participates in the system, **except as otherwise limited by this section;**

(2) (a) **Shall include** all persons who are employees of a department on the date the

department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

**and**

- (b) **Shall include** all persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;
- (3) **Shall include** all persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;
- (4) **Shall include** all persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;
- (5) **Shall include** all persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;
- (6) **Shall include** all persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

- (7) ~~Membership in the system~~ Shall not include persons who are not eligible to participate in the system as provided by KRS 61.522 or those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360;~~and~~
- (8) Effective January 1, 1998, ***shall include*** employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System;
- (9) ***For a member who began participating in the system on or after January 1, 2014, in a nonhazardous position, and who, effective July 1, 2018, is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act, shall be limited solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act and making employee contributions to fund retiree health benefits specified by Section 102 of this Act; and***
- (10) ***For a member in a hazardous duty position as provided in Section 82 of this Act who began participating in the system on or after January 1, 2014, who makes an election to participate in the Public Employees Retirement System as provided by Section 75 of this Act, shall be solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act and making employee contributions***

**to fund retiree health benefits specified by Section 102 of this Act.**

→Section 67. KRS 78.540 is amended to read as follows:

Membership in the system~~[shall consist of the following]:~~

- (1) **Shall include** all persons who become employees of a participating county after the date the county first participates in the system, except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system **and except as otherwise provided by this section;**
- (2) (a) **Shall include** all persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; **and**
- (b) **Shall include** all persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;
- (3) **Shall include** all persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment, provided the person began participating in the system prior to January 1, 2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
- (4) **Shall include** all persons electing coverage in the system under KRS 78.530(3)(d).

- (5) The provisions of subsections (1) and (2) of this section notwithstanding, ***shall not require*** cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to ~~the provisions of~~ KRS 78.530, 95.520, 95.621, or 95.852 ~~shall not be required~~ to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.
- (6) ~~Membership in the system~~ Shall not include persons who are not eligible to participate in the system as provided by KRS 61.522 or those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360;
- (7) For a member who began participating in the system on or after January 1, 2014, in a nonhazardous position and who, effective July 1, 2018, is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act, shall be limited solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act and making employee contributions to fund retiree health benefits specified by Section 102 of this Act;***
- (8) For a member in a hazardous duty position as provided in KRS 61.592 who began participating in the system on or after January 1, 2014, who makes an election to participate in the Public Employees Retirement System as provided by Section 75 of this Act, shall be solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act and making employee contributions to fund retiree health benefits specified by Section 102 of this Act.***

➔Section 68. KRS 61.522 is amended to read as follows:

Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:

- (1) For purposes of this section:
  - (a) "Active member" means a member who is participating in the system;
  - (b) "Employer" means the governing body of a department, as defined by KRS 61.510, or a county as defined by KRS 78.510;
  - (c) "Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems; and
  - (d) "Inactive member" means a member who is not participating with the system;
- (2) Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (6) of this section, may:
  - (a) Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or
  - (b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;
- (3) (a) If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (2)(a) of this section:
  1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;
  2. The cessation of participation in the system shall apply to all employees of the employer;



3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;
4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan **but for effective cessation dates occurring on or after July 1, 2018, shall not include a defined benefit plan which by nature can have an unfunded liability;**
5. If the alternative retirement program established by the employer meets the qualification requirements under 26 U.S.C. sec. 401(a) and is capable of accepting trustee-to-trustee transfers of both pre-tax and post-tax contributions, employees of the employer ceasing participation may seek to transfer his or her account balance to the employer's qualified alternate retirement program within sixty (60) days of the employer's effective cessation date. An employee's election to transfer his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits in the system for the time worked for the employer ceasing participation; and
6. The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a transfer of his or her account balance within sixty (60) days of the employer's effective cessation date as provided by subparagraph 5. of

this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid.

- (b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (2)(b) of this section:
1. The cessation of participation in the system shall apply to all employees of the employer;
  2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and
  3. The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid;

**An employer who is required to involuntarily cease participating in the systems shall not establish or contribute to or on behalf of their employees to a defined benefit plan which by nature can have an unfunded liability.**

- (4) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the

employer that ceased participation for the duration of his or her employment with that employer;

- (5) If an employer has ceased participation in the system as provided by this section:
- (a) The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and
  - (b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:
    1. Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;
    2. Retain his or her vested rights in accordance with paragraph (a) of this subsection; and
    3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible;
- (6) (a) Kentucky Employees Retirement System employers who are county attorney

offices, Commonwealth's attorney offices, local and district health departments governed by KRS Chapter 212, master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, state-supported universities and community colleges **except as provided by paragraph (c) of this subsection**, property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a nonstock nonprofit corporation organized under KRS Chapter 273.

(b) Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System, **except as provided by paragraph (c) of this subsection**.

**(c) State-supported universities and community colleges and any agency participating in the County Employees Retirement System, with the exception of circuit clerks or school boards, may elect to voluntarily discontinue participation in accordance with this section provided the employer's effective cessation date is on or before July 1, 2020;**

(7) For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions and methodology established by the system specifically for determining the full actuarial cost of ceasing participation as of the employer's effective cessation date. For purposes of determining the full actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser of the assumed rate of return utilized in the system's most recent actuarial valuation or the yield on a thirty (30) year United States treasury bond as of the employer's

effective cessation date, but shall in no case be lower than the assumed rate of return utilized in the system's most recent actuarial valuation minus three and one-half percent (3.5%);

- (8) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section; and
- (9) Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.

➔Section 69. KRS 61.520 is amended to read as follows:

- (1) *Except as provided by subsection (5) of this section,* each department determined by the board to be eligible and qualified for participation shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be determined by the board and fixed by the Governor in his executive order.
- (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.
- (b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included

in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

- (3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, board for mental health or individuals with an intellectual disability, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.
- (4) Except as provided by KRS 61.522:
- (a) Once a department participates it shall continue to participate as long as it remains qualified; and
  - (b) Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.
- (5) Effective July 1, 2018, the board shall not approve any new department for participation in the Kentucky Employees Retirement System.**

➔Section 70. KRS 78.530 is amended to read as follows:

- (1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.
- (b) Notwithstanding any statute to the contrary, ~~after April 9, 2002,~~ the systems shall deny the request for participation of any agency:

**1. Seeking to participate in the system on or after July 1, 2018; or**

**2. That on or after April 9, 2002,**~~[which]~~ does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:

**a.**~~[1.]~~ County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement; and

**b.**~~[2.]~~ Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

- (2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.
- (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the

employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

- (b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;
- (c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the



board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 61.522;

- (d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing

employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

- (e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and
- (f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of

the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

- (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no county that elects to participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.
- (4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.
- (5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.
- (6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such

retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

- (b) Notwithstanding any statute to the contrary, ~~after April 9, 2002,~~ the systems shall deny the request for participation of any agency:

**1. Seeking to participate in the system on or after July 1, 2018; or**

**2. That on or after April 9, 2002,** ~~which~~ does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date

with the system prior to April 9, 2002.

- (7) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 71. KRS 61.535 is amended to read as follows:

- (1) The membership of any person in the system shall cease:
- (a) Upon withdrawal of his accumulated account balance at or any time after termination of employment, regardless of length of service, **except for those members specified by subsections (1) and (2) of Section 59 of this Act and those members who make an election to participate in the Public Employees Retirement System as provided by Section 75 of this Act;**
  - (b) Upon disability retirement;
  - (c) Upon service retirement;
  - (d) Upon death;
  - (e) For persons hired prior to August 1, 2000, upon termination of employment with prejudice; or
  - (f) For persons hired on or after August 1, 2000, upon conviction of a felony relating to the person's employment as provided in subsection (3) of this

section.

- (2) For purposes of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.
- (3) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in one (1) of the retirement systems administered by the Kentucky Retirement Systems and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited. The employer shall notify the retirement system when an employee is convicted under the provisions of this subsection.

➔Section 72. KRS 61.546 is amended to read as follows:

- (1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.
- (2) **(a) Each employer shall certify the following to the system for purposes of this section:**
- 1.** Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, ~~the employer shall certify~~ the retiring member's

unused, accumulated sick leave balance to the system; and

**2. On or after July 1, 2018, each member's unused, accumulated sick leave balance as of June 30, 2018, except for those members who began participating in the systems on or after January 1, 2014.**

**(b) Except as provided by subsection (3) of this section,** the member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. **Except as provided by subsection (3) of this section, all of** the member's sick leave balance, expressed in months, shall **upon retirement** be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705~~], except as provided by subsection (3) of this section. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board, except as provided by subsection (3) of this section. All of a state policeman's sick leave balance, expressed in months, except as provided by subsection (3) of this section, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652].~~

**(3) Effective July 1, 2018,** for a member who **retires from**~~[begins participating in]~~ the Kentucky Employees Retirement System or the State Police Retirement System on or after **July 1, 2018**~~[September 1, 2008]~~:

(a) The member shall receive no more **service credit for accumulated sick leave**

under this section than the lesser of the following:

1. The amount of service credit based upon the member's accumulated sick leave upon retirement as certified in accordance with subsection (2)(a)1. of this section; or
2. For members retiring on or after July 1, 2018, the amount of service credit based upon the member's accumulated sick leave balance as of June 30, 2018, as certified in accordance with subsection (2)(a)2. of this section.

For those members who began participating in the Kentucky Employees Retirement System or the State Police Retirement System on or after September 1, 2008, but prior to January 1, 2014, the amount of service credit provided under this paragraph shall not exceed twelve (12) months ~~of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system or systems from which the retirement benefit is to be paid~~;

- (b) The service credited for accumulated unused sick leave as limited by this section and added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.705; and
- (c) For members who began participating in the systems on or after September 1, 2008, and for those members retiring on or after July 1, 2018, the service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705~~;~~ and
- ~~(d) Except as provided by subsection (4) of this section, the value of any accumulated unused sick leave in excess of six (6) months that is added to the~~



~~member's service credit in the Kentucky Employees Retirement System shall be paid to the retirement system by the last participating Kentucky Employees Retirement System employer based upon the formula adopted by the board].~~

- (4) Notwithstanding any other provision of this section to the contrary, the value of any accumulated sick leave that is added to the member's service credit in the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2010, shall be paid to the retirement system by the last participating Kentucky Employees Retirement System or State Police Retirement System employer based upon a formula adopted by the board.
- (5) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency, *except that any agency participating in the Kentucky Employees Retirement System who has not adopted a sick leave program prior to July 1, 2018, shall not be eligible to adopt a sick leave program under this section.*
- (6) This section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

➔Section 73. KRS 78.616 is amended to read as follows:

- (1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee, *not to exceed the amount specified by subsection (8) of this section.*
- (2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms

prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section. **Any employer in the County Employees Retirement System who has not elected to participate in a sick leave program established by this section prior to July 1, 2018, shall not be eligible to elect to participate in a sick leave program established by this section.**

- (3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance **or the amount specified by subsection (8) of this section**, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852, except as provided by ~~paragraphs~~<sup>[paragraph]</sup> (d) **and (e)** of this subsection. **Except as limited by subsection (8) of this section**, accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board, subject to the restrictions provided by paragraph (d) of this subsection.
- (b) **Except as limited by subsection (8) of this section**, the employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account

until both the employer's and employee's payments are received by the retirement system.

- (c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.
- (d) For a member who begins participating in the retirement system on or after September 1, 2008, but prior to January 1, 2014, whose employer has established a sick-leave program under subsections (1) to (4) and (6) of this section:

1. **Upon retirement**, the member shall receive no more than twelve (12) months of service credit **or the amount determined by subsection (8) of this section** ~~[upon retirement]~~ for accumulated unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid;
2. The service added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 78.510 to 78.852;
3. The service added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852; and
4. The cost of the service provided by this paragraph shall be paid by the employer.

**(e) Effective July 1, 2018, for members retiring on or after July 1, 2018, any service added for accumulated sick leave to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.**

- (4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly.

The employer shall remit payment within thirty (30) days from receipt of the bill.

- (5) (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, or as **authorized by**~~provided in~~ KRS 161.155 in the case of school boards, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow.
- (b) The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment.
- (c) The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months, **not to exceed the amount specified by subsection (8) of this section,** shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation. For an employee who begins participating on or after September 1, 2008, but prior to January 1, 2014, the number of months added to the employee's total service credit under this paragraph shall not exceed twelve (12) months, **or the amount specified by subsection (8) of this section,** and the additional service shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.

- (d) Effective July 1, 2018, any service added for accumulated sick leave to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.**
- (6) **Except as limited by subsection (8) of this section,** any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.
- (7) The provisions of this section shall not apply to employees who begin participating in the system on or after January 1, 2014, and no service credit shall be provided for accumulated sick leave balances of those employees who begin participating in the system on or after January 1, 2014.
- (8) (a) Each employer who has adopted a sick leave program prior to July 1, 2018, shall on or after July 1, 2018, certify each member's unused, accumulated sick leave balance as of June 30, 2018, except for those members who began participating in the systems on or after January 1, 2014.**
- (b) Notwithstanding any other provision of this section, the member shall receive no more service credit for accumulated sick leave under this section than the lesser of the following:**
- 1. The amount of service credit based upon the member's accumulated sick leave upon retirement as certified in accordance with subsections (1) to (7) of this section and based upon the employers adopted sick leave program; or**

2. For members retiring on or after July 1, 2018, the amount of service credit based upon the member's accumulated sick leave balance as of June 30, 2018, as certified in accordance with paragraph (a) of this subsection.

For those members who began participating in the system on or after September 1, 2008, but prior to January 1, 2014, the amount of service credit provided for accumulated sick leave under this paragraph shall not exceed twelve (12) months.

→ Section 74. KRS 61.565 is amended to read as follows:

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, ~~each employer participating in~~ the County Employees Retirement System as provided for in KRS 78.510 to 78.852, ~~and each employer participating in~~ the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705, the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577, and the Judicial Retirement Plan as provided by KRS 21.345 to 21.580 shall contribute annually to the respective retirement system or plan an amount determined by the actuarial valuation completed in accordance with KRS 61.670 and as specified by this section. Employer contributions for each respective retirement system or plan shall be equal to the sum of ~~percent, as computed under subsection (2) of this section, of the creditable compensation of its employees to be known as~~ the "normal cost contribution~~contributions,~~" and ~~an additional amount to be known as~~ the "actuarially accrued liability contribution."
- (b) For purposes of this section, the normal cost contribution shall be computed as a percentage of pay and shall be an annual amount that is sufficient when combined with employee contributions to fund benefits

*earned during the year in the respective system or plan. The amount shall be paid as a percent of creditable compensation reported for each employee participating in the system or plan and accruing benefits.*

*(c) For purposes of this section, the actuarially accrued liability contribution*~~[which]~~ shall be *an annual dollar amount that is sufficient to amortize*~~[computed by amortizing]~~ the total unfunded actuarially accrued liability *of each system or plan* over a *closed* period of thirty (30) years using the *level-dollar*~~[level percentage of payroll]~~ amortization method. This method shall be used beginning with the *2017*~~[2007]~~ actuarial valuation *and employer costs for the actuarially accrued liability contribution shall be prorated to each employer as provided by paragraph (f) of this subsection*~~[-~~. ~~The initial thirty (30) year amortization period shall begin with the 2007 actuarial valuation, except as provided by paragraph (b) of this subsection].~~

*(d) The employer contributions computed under this section shall be determined using:*

- 1. The entry age normal cost funding method;*
- 2. An asset smoothing method that smooths investment gains and losses over a five (5) year period; and*
- 3. Other funding methods and assumptions established by the board in accordance with KRS 61.670.*

~~*(e)*~~~~(b)~~ Effective with the *2017*~~[2013]~~ actuarial valuation, the amortization period for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System shall be reset to a new thirty (30) year *closed* period for purposes of calculating the actuarially accrued liability contribution prescribed by this subsection.

*(f) The dollar value of the actuarially accrued liability contribution specified by paragraph (c) of this subsection payable by each individual system or plan*

employer shall be prorated based upon the individual employer's average percentage of the total creditable compensation reported by all employers in the specific system or plan in fiscal year 2014-2015, 2015-2016, and 2016-2017, except that the amount shall:

1. Not apply to any employer who ceases participation and pays the full actuarial cost of ceasing participation as provided by Section 68 of this Act; and
2. Be adjusted for each remaining employer of a system to reflect any employer who ceases participation and who pays the full actuarial cost of ceasing participation as provided by Section 68 of this Act.

~~[(c) Any significant increase in the actuarially accrued liability due to benefit improvements after the 2007 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.]~~

~~(2) [The normal contribution rate shall be determined by the entry age normal cost funding method. The actuarially accrued liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the actuarially accrued liability contribution shall be determined on actuarial bases adopted by the board.]~~

~~(3) (a) Normal cost contribution rates and the actuarially accrued liability contribution[rates] shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.~~

~~(b) The board may amend contribution rates as of July 1 of the second year of a biennium[ for the County Employees Retirement System], if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of [subsections (1) and (2)] of~~



}]this section.}

~~(c) Effective for employer contribution rates payable on or after July 1, 2014, the board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.~~

~~(3)~~~~(4)~~ The system shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium ~~for employers participating in the County Employees Retirement System~~, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under ~~subsections (1) to (3) of }~~this section.

~~(4)~~~~(5)~~ The General Assembly shall pay the full actuarially required contribution rate, as prescribed by this section, to the Kentucky Employees Retirement System and the State Police Retirement System in fiscal years occurring on or after July 1, 2014.

~~(5)~~~~(6)~~ Notwithstanding any other provision of KRS Chapter 61 to the contrary, the board shall establish employer contribution rates for the County Employees Retirement System that will phase in to the full actuarially required contribution for the ***pension and*** health insurance fund over a ***four (4)***~~ten (10)~~ year period using the ~~2017-2018~~~~2007-2008~~ fiscal year employer contribution for the ***pension and*** health insurance fund as a base employer rate, ***setting the employer rate as a percentage of payroll for the 2018-2019 fiscal year at the same level as the 2017-2018 fiscal year employer contribution,*** and ***then*** incrementally increasing the employer ***contribution over a three (3) year period above that amount***~~rate~~ from fiscal year ~~2019-2020~~~~2008-2009~~ through fiscal year ***2021-2022, so that one-third (1/3) of the additional employer contribution is paid in fiscal year 2019-2020, two-thirds (2/3) of the additional employer contribution is paid in fiscal year 2020-2021, and the full amount is payable in fiscal year 2021-2022 and for each***

*fiscal year thereafter. In any case of doubt, the board shall determine if a phase-in schedule meets the requirements of this subsection*~~[2017-2018]~~.

➔Section 75. KRS 61.5955 is amended to read as follows:

Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852:

- (1) Subject to the provisions of this section, any *participating* member who began participating in the Kentucky Employees Retirement System ~~or~~ the County Employees Retirement System *under hazardous duty coverage as provided by Section 82 of this Act*, or the State Police Retirement System, *on or after*~~[prior to]~~ January 1, 2014, may in lieu of the benefits he or she is currently eligible to receive from the systems, elect to receive the benefits and rights provided to *nonhazardous* members who began participating in the systems on or after *July 1, 2018*~~[January 1, 2014]~~, including participating in the *Public Employees Retirement System*~~[hybrid cash balance plan]~~ created ~~[pursuant to KRS 61.597 for members in nonhazardous duty positions or]~~ pursuant to *Sections 2 to 11 of this Act*~~[KRS 16.583]~~ for members in *nonhazardous*~~[hazardous duty]~~ positions~~[, as applicable]~~;
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Kentucky Retirement Systems board;
- (3) For each member who makes an election provided by this section:
  - (a) Any service credit the member has accrued *on or after*~~[prior to]~~ January 1, 2014, shall be considered as service credit earned on or after *July 1, 2018*~~[January 1, 2014]~~, *and the member shall accrue service solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act*~~[for purposes of determining benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852]~~;
  - (b) On the member's effective election date, the value of the member's accumulated *account balance*~~[contributions, less any interest]~~, shall be deposited into the member's ~~[hybrid cash balance]~~ account *in the Public*

Employees Retirement System as provided by Sections 2 to 11 of this Act~~[KRS 16.583 or 61.597, as applicable, and considered part of the member's accumulated account balance;~~

- ~~(c) On the member's effective election date, an employer pay credit as provided by KRS 16.583 or 61.597, as applicable, shall be added to the member's accumulated account balance for each month the member contributed to the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to his or her effective election date; and~~
- ~~(d) Interest credits as provided by KRS 16.583[ or 61.597], as applicable, shall only be applied for periods occurring on or after the member's effective election date];~~
- (4) Before accepting an election provided by this section, the Kentucky Retirement Systems board shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable;
- (6) (a) A member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall not be eligible to make an election prescribed by this section until the Kentucky Retirement Systems receive a favorable private letter ruling from the Internal Revenue Service regarding this section.
- (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
- (c) The Kentucky Retirement Systems may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section; and
- (7) This section shall not apply to retirees who were reemployed on or after September 1, 2008, and who are not eligible to participate in the systems during reemployment.

➔Section 76. KRS 61.597 is amended to read as follows:

- (1) A member of the Kentucky Employees Retirement System or County Employees Retirement System who is not participating in a nonhazardous~~[hazardous-duty]~~ position~~[as provided by KRS 61.592]~~, whose participation in the systems begins on or after January 1, 2014, **but prior to July 1, 2018,**~~[or a member making an election pursuant to KRS 61.5955, ]~~ shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 61.559 and 61.595. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Kentucky Employees Retirement System and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
  - (a) **Prior to July 1, 2018,** contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
  - (b) **Prior to July 1, 2018,** an employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
  - (c) **Prior to July 1, 2018,** interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
  - (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year **through to June 30, 2018,** as determined by subsection (4) of this section.

- (4) (a) On June 30 of each fiscal year *through to June 30, 2018*, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
1. Four percent (4%); plus
  2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "system's geometric average net investment return":
1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
  2. Shall be expressed as a percentage and based upon the system in which the member has an account.
- (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years

of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.

- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
- (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or
  - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
  - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
  - (c) Take a refund of his or her account balance as provided by KRS 61.625.

- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System or the County Employees Retirement System prior to January 1, 2014, or on or after July 1, 2018, ~~except for those members making an election pursuant to KRS 61.5955~~.

**(9) Effective July 1, 2018, the accumulated account balances for members covered by this section shall be transferred to the Public Employees Retirement System as provided by Section 59 of this Act.**

➔Section 77. KRS 16.583 is amended to read as follows:

- (1) A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System in a hazardous duty position covered by this section, or a member of the County Employees Retirement System in a hazardous duty position covered by this section, whose participation begins on or after January 1, 2014, ~~for a member making an election pursuant to KRS 61.5955,~~ shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 16.576 and 16.577. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
- (a) Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
  - (b) An employer pay credit of seven and one-half percent (7.5%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
  - (c) Interest credits added annually to the member's accumulated account balance

as provided by this section.

- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
1. Four percent (4%); plus
  2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "system's geometric average net investment return":
1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and



2. Shall be expressed as a percentage and based upon the system in which the member has an account.
- (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
  - (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another state-administered retirement system; or
  - (b) At any age, provided he or she has earned twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
  - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by

- the board and in effect on the member's retirement date;
- (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
- (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to January 1, 2014, ~~except for those~~ Members making an election pursuant to KRS 61.5955 **shall not participate in the benefits provided by this section but shall instead participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act.**

➔Section 78. KRS 16.543 is amended to read as follows:

- (1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the Department of Kentucky State Police of the Justice and Public Safety Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month, **except that a member who makes an election pursuant to Section 75 of this Act shall accrue service credit solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act.** If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he or she receives creditable compensation for one hundred (100) hours of work.
- (2) Contributions shall not be made and no service will be earned while on authorized leave except:

- (a) A member shall be entitled to service credit in accordance with KRS 61.555; and
  - (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his or her employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.
- (3) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 16.560.

➔Section 79. KRS 16.545 is amended to read as follows:

- (1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1998, contribute for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation, **except that a member who makes an election as provided by Section 75 of this Act shall cease making the contributions provided by this subsection on the effective election date and shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act.**
- (2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.
- (3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the

period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

- (4) Each employer 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 so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). 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 system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer 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 employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 80. KRS 61.543 is amended to read as follows:

- (1) (a) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee:
1. Did not elect to become a member as provided by subsection (2) of KRS 61.525;
  2. Did not elect membership pursuant to KRS 61.545(3); ~~for~~
  3. Is not eligible to participate in the system as provided by KRS 61.522;

**4. Is required to participate in the Public Employees Retirement System as provided Section 59 of this Act, in which case the employee shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act; or**

**5. Makes an election as provided by Section 75 of this Act, in which case the employee shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act.**

(b) After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year, if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month, **except that a member who makes an election pursuant to Section 75 of this Act or a member who is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act, shall accrue service credit solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act.** If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance

with KRS 61.555;

- (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and
  - (c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.
- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 61.575.
  - (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one

hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

➔Section 81. KRS 61.560 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding except as provided by subsection (5) of this section, any reemployed retiree, as described in KRS 61.637, who became reemployed prior to September 1, 2008, and began participating in another retirement account shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- (2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.
- (3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any

benefits provided by KRS 61.515 to 61.705.

- (4) Each employer 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 so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). 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 system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer 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 employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (5) **Notwithstanding the provisions of this section:**

**(a) A member who makes an election as provided by Section 75 of this Act shall cease making the contributions provided by this section on the effective election date and shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act; and**

**(b) On and after the date a member is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act, he or she shall not make the contributions required by this section, but shall instead make contributions to the Public Employees Retirement System as**



*provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act.*

(c) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 82. KRS 61.592 is amended to read as follows:

(1) (a) "Hazardous position" for employees participating in the Kentucky Employees Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:

1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and
3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.

(b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:

1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
  2. The employee's duties are not primarily clerical or administrative.
- (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) (a) **Except as provided by subsection (7) of this section,** each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.
- (b) **Except as provided by subsection (7) of this section,** each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in

subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.

- (3) (a) **1. Except as provided by subparagraph 2. of this paragraph,** an employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. **Except as provided by subparagraph 2. of this paragraph,** an employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives

compensation, eight percent (8%) of his creditable compensation.

**2. A member who makes an election as provided by Section 75 of this Act shall cease making the contributions provided by this subsection on the effective election date and shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act.**

- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
- (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may pay the cost of converting the service and provide payment for the cost as provided by KRS 61.552(14). Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous. The

provisions of this paragraph shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

- (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.
- (7) Effective July 1, 2018, any employer who has not elected to participate in hazardous duty coverage under this section shall not be able to classify employees for hazardous duty coverage. This subsection does not preclude an employer who has elected to cover positions under hazardous duty coverage prior to July 1, 2018, from petitioning the board for hazardous duty coverage for any new or amended hazardous duty positions.**

➔Section 83. KRS 78.615 is amended to read as follows:

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person: did not elect to become a member as provided by KRS 78.540(2); or is not eligible to

participate in the system as provided by KRS 61.522; *or is required or elects to participate in the Public Employees Retirement System as provided by Section 59 of this Act or Section 75 of this Act, in which case the employee shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act.* After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

- (a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year, *except that a member who makes an election pursuant to Section 75 of this Act or a member who is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act shall accrue service credit solely for the purposes of accruing retiree health benefits specified by Section 102 of this Act.* If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.
- (b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of calendar days worked, the rate of pay, and

the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars (\$1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars (\$250) for each additional thirty (30) day period the information is reported late.

1. If the employee works fewer than the number of contracted calendar days, the employee shall receive service credit determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
  2. If the employee works fewer than the number of contracted calendar days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
  3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.
- (c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each employee who made contributions to his or her account during the year. Employees shall be entitled to a full year of service credit if their total paid calendar days were not less than one hundred eighty (180) calendar days for a regular school or fiscal year. In the event an employee is paid for less than one hundred eighty (180) calendar days, the employee may purchase credit according to administrative regulations

promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Employees who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Employees who are employed and paid for less than the number of calendar days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of calendar days employed and the number of calendar days in the employee's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the employee is employed during that year, *and service credit for a member who makes an election pursuant to Section 75 of this Act or who is required to participate in the Public Employees Retirement System as provided by Section 59 of this Act shall be limited solely to accruing retiree health benefits specified by Section 102 of this Act.*

- (d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable.
- (2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.
- (3) Contributions shall not be made or picked up by the employer and no service credit



shall be earned by a member while on leave except:

- (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and
  - (b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.
- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

➔Section 84. KRS 78.610 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation.
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.
- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to

the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.

- (4) Each employer 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). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer 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 employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

- (5) **Notwithstanding the provisions of this section:**

**(a) A member who makes an election as provided by Section 75 of this Act shall cease making the contributions provided by this section on the effective election date and shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act;**

**(b) On and after the date a member is required to participate in the Public**

**Employees Retirement System as provided by Section 59 of this Act, he or she shall not make the contributions required by this section, but shall instead make contributions to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act and the contributions specified by Section 102 of this Act; and**

**(c)** ~~[The provisions of ]~~This section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 85. KRS 16.560 is amended to read as follows:

- (1) The member account shall be the account to which:
  - (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 16.505 to 16.652 shall be credited, except as provided by KRS 61.702(2)(b); and
  - (b) For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by KRS 16.583 shall be credited.

Only funds from this account shall be used to return accumulated contributions or accumulated account balances of a member when required by reason of any provision of KRS 16.505 to 16.652. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member's account. **This subsection does not prohibit an election provided by Section 75 of this Act.**

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) (a) Each member shall have his individual account credited with interest on June 30 of each fiscal year.
- (b) For members who begin participating before September 1, 2008, interest shall

- be credited to their individual account at a rate determined by the board but not less than two and one-half percent (2.5%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
- (c) For members who begin participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to their individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
  - (d) For members who begin participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited to their individual account in accordance with KRS 16.583.
  - (e) The amounts of interest credited to a member's account under this subsection and KRS 16.583 and the employer pay credit as provided by KRS 16.583 shall be transferred from the retirement allowance account.
- (4) (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his or her accumulated account balance shall be transferred from the member's account to the retirement allowance account.
- (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by KRS 16.583(7)(a) or (b), the member's accumulated account balance shall be transferred to the retirement allowance account.
- (5) Included as a part of such member's account shall be his accumulated account balance in the Kentucky Employees Retirement System, if any, transferred to this system.

➔Section 86. KRS 61.575 is amended to read as follows:

- (1) The members' account shall be the account to which:
  - (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692

shall be credited, except as provided by KRS 61.702(2)(b); and

- (b) For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by KRS 16.583 and 61.597 shall be credited.

Only funds from this account shall be used to return the accumulated contributions or accumulated account balances of a member when required by reason of any provision of KRS 61.510 to 61.705. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member account. **This subsection does not prohibit an election provided by Section 75 of this Act or a transfer of the accumulated account balance as provided by Section 59 of this Act.**

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3)
  - (a) Each member shall have his individual account credited with interest on June 30 of each fiscal year.
  - (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
  - (c) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to his individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
  - (d) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with KRS 16.583 and 61.597.

- (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4) (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his or her accumulated account balance shall be transferred from the members' account to the retirement allowance account.
- (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by KRS 16.583(7)(a) or (b) or 61.597(7)(a) or (b), the member's accumulated account balance shall be transferred to the retirement allowance account.

➔Section 87. KRS 78.640 is amended to read as follows:

- (1) The members' account shall be the account to which:
  - (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited, except as provided by KRS 61.702(2)(b); and
  - (b) For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by KRS 16.583 and 61.597 shall be credited.

Only funds from this account shall be used to return the accumulated contributions or accumulated account balances of a member when required to be returned to him by reason of any provision of KRS 78.510 to 78.852. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member account. **This subsection does not prohibit an election provided by Section 75 of this Act or a transfer of the accumulated account balance as provided by Section 59 of this Act.**

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided

by KRS 61.702(2)(b).

- (3) (a) Each member shall have his individual account credited with interest on June 30 of each year.
- (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
- (c) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to his or her individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
- (d) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with KRS 16.583 and 61.597.
- (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4) (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his accumulated account balance shall be transferred from the members' account to the retirement allowance account.
- (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by KRS 16.583(7)(a) or (b) or 61.597(7)(a) or (b), the member's accumulated account balance shall be transferred to the retirement allowance account.

➔Section 88. KRS 16.578 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would

have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:

- (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);
  - (b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date; or
  - (c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:
- (a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);
  - (b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
  - (c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
  - (d) A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of



this subsection;

- (e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for a period of one hundred twenty (120) months that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
  - (f) The higher of a refund of the member's accumulated account balance and interest as described in KRS 61.625(1) or a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.
- (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of the member's accumulated account balance and interest as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.
- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.
- (6) This section does not apply to a member who makes an election as provided by**

**Section 75 of this Act.**

→Section 89. KRS 16.582 is amended to read as follows:

- (1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
  - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
  - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
  - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
- (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
  - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;

- (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
  - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
  - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
- (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (b) The incapacity is deemed to be permanent; and
  - (c) The incapacity does not result directly or indirectly from:
    - 1. Injury intentionally self-inflicted while sane or insane; or
    - 2. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
      - a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
      - b. The person has at least sixteen (16) years' current or prior service

for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

- (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.
2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the

following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or

carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years.
- (b) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 16.583.
- (6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as

follows:

- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
  - (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
- (7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.
- (8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.
- (9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

**(10) This section does not apply to a member who makes an election as provided by Section 75 of this Act.**

➔Section 90. KRS 16.601 is amended to read as follows:

- (1) If ~~the death of~~ a member ***dies*** ~~in service occurs on or after August 1, 1992,~~ as a direct result of an ~~act~~ act in line of duty ~~as defined in KRS 16.505(19) and is~~ **as defined in KRS 16.505(19) and is**

~~survived by a spouse: [and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary, who is his or her spouse, the beneficiary.]~~

(a) The surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased member's retirement account; and

(b) The surviving spouse may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.

- (2) If ~~[the death of] a member dies [in service occurs on or after July 1, 1968,]~~ as a direct result of an ~~[ ]~~ act in line of duty~~[ ]~~ as defined in KRS 16.505(19) and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary other than his or her spouse who has not been superseded by the surviving spouse as provided by subsection (1)(a) of this section and~~[ ]~~ who is a dependent receiving at least one-half (1/2) of his or her support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).
- (3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a surviving spouse or



beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

- (4) A **surviving spouse or** beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.
- (5) (a) A **surviving spouse or** beneficiary applying for benefits under subsection (1) or (2) of this section who is also eligible for benefits under KRS 16.578 may elect to receive benefits under KRS 16.578(2)(a) or (b) while the application for benefits under subsection (1) or (2) of this section is pending.
- (b) If a final determination results in a finding of eligibility for benefits under subsection (1) or (2) of this section, the system shall recalculate the benefits due the **surviving spouse or** beneficiary in accordance with this subsection.
- (c) If the **surviving spouse or** beneficiary has been paid less than the amount of benefits to which the beneficiary was entitled to receive under this section, the system shall pay the additional funds due to the **surviving spouse or** beneficiary.
- (d) If the **surviving spouse or** beneficiary has been paid more than the amount of benefits to which the **surviving spouse or** beneficiary was entitled to receive under this section, the system shall deduct the amount overpaid to the **surviving spouse or** beneficiary from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

**(6) This section does not apply to a member who makes an election as provided by Section 75 of this Act.**

➔Section 91. KRS 61.552 is amended to read as follows:

- (1) (a) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated account balance under the provisions of KRS 16.645(21), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.
- (b) Service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least six (6) months of service credit in a state-administered retirement system, excluding the service purchased under this subsection. If the member does not accrue at least six (6) months of service credit in a state-administered retirement system, excluding service purchased under this subsection, then the payment plus interest as provided in KRS 61.575 shall be refunded upon retirement, death, or written request following termination of employment. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582, 61.600, or 61.621.
- (c) Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the system.
- (d) Members who are required or elect to participate in the Public Employees Retirement System as provided by Section 59 or 75 of this Act shall not be eligible to purchase the service provided by this subsection on or after the date the member is required or elects to participate in the Public Employees Retirement System.**
- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did

not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may purchase service credit in the County Employees Retirement System for the service he would have received had he elected membership.

- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may purchase service credit in the Kentucky Employees Retirement System for the service he would have received had he elected membership.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may purchase service credit in the Kentucky Employees Retirement System for service between July 1, 1956, and the effective date of participation of his department.
- (5)
  - (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may purchase service credit in the County Employees Retirement System for service between July 1, 1958, and the effective date of participation of his county.
  - (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under

age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

- (6) The member shall not receive service credit for the same period of time in which the member has service credit in one (1) of the systems administered by Kentucky Retirement Systems or another public defined benefit retirement fund.
- (7) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a nonteaching position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit retirement program at the university, may purchase service credit in any of the systems administered by Kentucky Retirement Systems in which the employee is a member for the service he would have received had his period of university employment been covered by the County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System.
- (8) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have

- obtained coverage under KRS 78.540(2).
- (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2).
  - (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.
  - (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640.
  - (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- (9) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this

section or other similar statutes under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 prior to June 19, 1976, shall be credited to the individual member's account in the appropriate retirement system and considered as accumulated contributions of the member.

- (10) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960.
- (11) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, temporary, probationary, or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) or more hours of work.
- (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit in the County Employees Retirement System for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or

fiscal year basis. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed to purchase service credit only for those months he received creditable compensation for eighty (80) or more hours of work.

- (12) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System. The employee may also purchase service credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.
- (13) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for any period of authorized maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of authorized sick leave without pay.
- (14) (a) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, or as otherwise required by 38 U.S.C. ch. 43, by:

1. Making a lump-sum payment on a before-tax basis as provided in subparagraph 3. of this paragraph, or on an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection;
  2. Entering into an agreement to purchase service credit through an installment purchase of service agreement with the systems as provided by paragraph (c) of this subsection:
    - a. On a before-tax basis in which the service is purchased pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
    - b. On an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection; or
  3. Transferring funds to the systems through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder, or through a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. secs. 402(c) and 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder.
- (b) For purposes of this subsection, "grandfathered service" means service



purchases for which a member, whose membership date in the system is prior to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that were available for all members of the system to purchase on August 5, 1997.

- (c) 1. For service purchased under a before-tax or after-tax installment purchase of service agreement as provided by paragraph (a)2. of this subsection, the cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal, except that interest compounded annually at the actuarial rate in effect at the time the member elects to make the purchase shall be added for the period that the installments are to be made.
2. Multiple service purchases may be combined under a single installment agreement, except that no employee may make more than one (1) installment purchase at the same time.
3. For after-tax installment purchase of service agreements, the employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining principal.
4. Before-tax installment purchase of service agreements shall be irrevocable, and the employee shall not be able to stop installment payments or to pay off the remaining balance of the purchase of service agreement, except upon termination of employment or death.
5. One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

6. The employee shall pay the installments by payroll deduction for after-tax purchase of service agreements, and the employer shall pick up installments for before-tax purchase of service agreements. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board.
7. The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
8. If the employee utilizing an installment purchase of service agreement dies, retires, does not continue employment in a position required to participate in the retirement system, or elects to stop an after-tax installment purchase of service agreement, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the installment purchase of service agreement by lump sum, subject to the restrictions of paragraph (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of this subsection, except that payment by the member shall be filed with the system prior to the member's effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the

payment, payments, or portion of a payment that does not represent a full month of service purchased, except as provided by subsection (22) of this section.

9. If the employer does not report installment payments on an employee for sixty (60) days for an after-tax installment purchase of service agreement, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.
  10. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
  11. If payments have ceased under subparagraph 8. or 9. of this paragraph and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments, subject to the restrictions of this subsection. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection.
- (d) Except as provided by paragraph (a)2.a. of this subsection, the cost of purchasing service shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer.
  - (e) The cost of purchasing service credit under any provision of this section, except as provided by subsections (1) and (20) of this section, shall be determined by the delayed contribution method as provided by KRS 61.5525.

- (f) Member payments, including interest, properly received pursuant to this subsection shall be deposited to the member's account and considered as accumulated contributions of the individual member.
- (15) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase service credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.
- (16) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase service credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.
- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five

- (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-720, may purchase service credit for the time served in the corps.
- (18) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community services program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may purchase service credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability.
- (19) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System.
- (20) **Except as limited by Section 59 of this Act:**
- (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account

until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions and any interest or penalties on the delinquent employer contributions are received by the retirement system.

- (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions and any interest or penalties on the delinquent employer contributions are received by the retirement system.
- (c) Service purchased under this subsection by employees who begin participating on or after September 1, 2008, shall be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
- (d) Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by KRS 16.583 and 61.597 shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.
- (e) Employer contributions payable under this subsection shall be considered delinquent and the employer shall be required to pay interest and any other

penalties on the delinquent contributions in accordance with KRS 61.675(3)(b) and 78.625(2)(a) from the date the employee should have been reported and received service credit in accordance with KRS 16.543, 61.543, and 78.615.

- (21) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county.
- (22) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The purchase shall be made in any of the systems administered by Kentucky Retirement Systems in which the employee is a member. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two

hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

- (23) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system.
- (24) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1). Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- (a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
  - (b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
  - (c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (25) An employee participating in one (1) of the retirement systems administered by the



Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given.

- (26) An employee participating in a hazardous position in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for service in a regular full-time position in an urban-county government that would qualify for hazardous duty coverage under KRS 61.592.
- (27) Subsections (2) to (5), (7) to (13), (15) to (19), and (21) to (26) of this section shall:
- (a) Not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014; or
- (b) *Effective July 1, 2018, not be available to be purchased by members who are required or who elect to participate in the Public Employees Retirement System as provided by Section 59 or 75 of this Act.*
- (28) Service purchases made pursuant to subsections (2) to (5), (7), (10) to (13), (15) to (19), (21) to (23), (25), and (26) of this section shall be purchased by the entire amount of service available pursuant to that subsection or by increments. Service purchases made pursuant to subsections (1), (20), and (24) of this section shall be purchased by the entire amount of service available.

➔Section 92. KRS 61.555 is amended to read as follows:

- (1) (a) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated account balance, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if:
1. The member's military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304; and
  2. The member returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.
- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and 61.597, as though the member were employed during the member's period of active military duty described by this subsection.
- (c) The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.
- (2) (a) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and

within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304.

- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and 61.597, as though the member were employed during the member's period of active military duty described by this subsection.
  - (c) The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.
- (3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.
- (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a

maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304 and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

- (5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.
- (6) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304 and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment in accordance with the payment options and

restrictions established by KRS 61.552(14). Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments.

- (7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14). The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments.
- (8) ~~For members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, in the hybrid cash balance plan prescribed by KRS 16.583 and 61.597,~~ The provisions of subsections (4) to (7) of this section shall:
- (a) Not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, in the hybrid cash balance plan prescribed by KRS 16.583 and Section 76 of this Act; or**
- (b) Effective July 1, 2018, not be available to be purchased by members who are required or who elect to participate in the Public Employees Retirement System as provided by Section 59 or 75 of this Act.**

➔Section 93. KRS 61.595 is amended to read as follows:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent

thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

- (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one (1) of the state-administered retirement systems and who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;
- (b) For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of

service credit and shall be payable monthly during his lifetime;

- (c) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;
- (d) For a member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, the annual retirement allowance upon retirement shall be equal to:
  - 1. a. One and one-tenth percent (1.1%) of final compensation for each year of service if the member has earned ten (10) or less years of service at retirement;
  - b. One and three-tenths percent (1.3%) of final compensation for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
  - c. One and one-half percent (1.5%) of final compensation for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
  - d. One and three-quarters percent (1.75%) of final compensation for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
- 2. Two percent (2.0%) of final compensation for each year of service earned in excess of thirty (30) years of service at retirement;
- (e) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the

1972 General Assembly for legislative service prior to January 1, 1974;

- (f) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication; and
  - (g) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512).
- (2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined



as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced at an amount determined by the board's actuary to reflect the earlier commencement of benefits.

- (b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating before September 1, 2008, who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who begins participating before September 1, 2008, who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).
- (c) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, may retire with no reduction in benefits if the member is fifty-seven (57) years of age or older and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for an unreduced retirement allowance under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or

another state-administered retirement system.

(3) **Notwithstanding the provisions of this section:**

**(a)** Subsections (1) and (2) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefits prescribed by KRS 61.597;

**(b)** **Effective July 1, 2018, the maximum amount of service credit that may be used to compute benefits under this section shall be limited to the amounts specified by subsections (3) and (4) of Section 59 of this Act.**

➔Section 94. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1);

(b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510, **in the system, including the Public Employees Retirement System for those members subject to subsections (3) and (4) of Section 59 of this Act;** and

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665.

(2) A person's disability reapplication based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The reapplication shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
- (a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;
  - (b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (c) The incapacity is deemed to be permanent; and
  - (d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.
- (4) Paragraph (d) of subsection (3) of this section shall not apply if:
- (a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
  - (b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.
- (5) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less

than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
  2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up

to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

**(6) This section does not apply to nonhazardous members who are required by subsections (1) and (2) of Section 59 of this Act to participate in the Public Employees Retirement System.**

➔Section 95. KRS 61.605 is amended to read as follows:

- (1) Upon disability retirement, an employee may receive an annual retirement

allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the person's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the person had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, a person has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

- (2) (a) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (b) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 61.597, the disability retirement allowance, **except as provided by subsection (3) of this section,** shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 61.597.
- (3) Effective July 1, 2018, this section does not apply to nonhazardous members who are required by subsections (1) and (2) of Section 59 of this Act to participate in the Public Employees Retirement System.**

→Section 96. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

- (1) Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.
- (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employee's actual total service.
- (3) The system may pay estimated benefits to a disabled employee, upon qualification

for disability retirement, based on an estimate of his Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

- (4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.
- (5) Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the system if his payments under the Federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.

**(6) Effective July 1, 2018, this section does not apply to nonhazardous members who are required by subsections (1) and (2) of Section 59 of this Act to participate in the Public Employees Retirement System.**

➔Section 97. KRS 61.621 is amended to read as follows:

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, **except as provided by subsection (7) of this section,** any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the



employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.

- (2) (a) For purposes of this section, "duty-related injury" means:
1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or
  - b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and
  2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
- (b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.
- (3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.
- (b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.
- (4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits

determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.

- (5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.
- (6) (a) A spouse applying for benefits under this section who is also eligible for benefits under KRS 61.640 may elect to receive benefits under KRS 61.640(2)(a) or (b) while the application for benefits under this section is pending.
- (b) If a final determination results in a finding of eligibility for benefits under this section, the system shall recalculate the benefits due the spouse in accordance with this subsection.

- (c) If the spouse has been paid less than the amount of benefits to which the spouse was entitled to receive under this section, the system shall pay the additional funds due to the spouse.
  - (d) If the spouse has been paid more than the benefit the spouse was eligible to receive under this section, then the system shall deduct the amount owed by the spouse from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.
- (7) **Effective July 1, 2018, this section does not apply to nonhazardous members who are required by subsections (1) and (2) of Section 59 of this Act to participate in the Public Employees Retirement System.**
- (8)** This section shall be known as "The Fred Capps Memorial Act."
- ➔Section 98. KRS 61.637 is amended to read as follows:
- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
  - (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with

additional service credit.

- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
  - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
  - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
  - (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
    1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
    2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
    3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS

61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and
  5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
- (b) A retired member who has been ordered reinstated by the Personnel Board

under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

- (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates

in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
- (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

- (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.
- (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
- (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
- (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;
- (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;
- (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account



established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

- (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- (14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members **who retired prior to July 1, 2018, and** who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

- (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's

initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;
2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the

retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702

on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
  2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
  3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
  4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a

period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:
1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or
  2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

**(18) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (17) of this section, Sections 2 to 11 of this Act, or any provision of KRS Chapter 6, 16, 21, 61, 78, or 161 to the contrary, the following shall apply to retired members of the systems or plans administered by the Kentucky Retirement Systems and annuitants of the Teachers' Retirement System, who retire on or after July 1, 2018, and are reemployed on or after July 1, 2018, by an agency participating in the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System:**

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree is receiving a retirement allowance from the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, regardless of whether or not the position is considered regular full-time or fulltime under KRS 61.510(21), 78.510(21), 161.220(21), or paragraph (g) of this subsection, within a six (6) months period following the member's initial retirement date from the system or plan, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a regular full-time position in the systems administered by Kentucky Retirement Systems or the Teachers' Retirement System as defined KRS 61.510(21), 78.510(21), or 161.220(21), as applicable:

1. The member shall contribute to a member account established for him or her in one (1) of the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, except that an individual subject to the limitations of Sections 25, 26, 59, or 110 of this Act, shall contribute to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act or the plan established as provided by Section 109 of this Act, as applicable;
2. Employer contributions required for a member described by subparagraph 1. of this paragraph shall be paid by the employer in the system in which the member participates; and
3. Upon subsequent retirement, the member shall be eligible for a



retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided, subject to the limitations of Sections 25, 26, 59, or 110 of this Act;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree receiving a retirement allowance from the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, and is reemployed with an agency participating in the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, after a six (6) month period following the member's initial retirement date from the system or plan:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;
2. The retired member, annuitant, or retiree shall agree to have his or her retirement allowance suspended for the duration of reemployment if the period of reemployment is considered regular full-time as

defined by paragraph (g) of this subsection. If the period of reemployment is not considered regular full-time as defined by paragraph (g) of this subsection, then the retirement allowance shall not be suspended as provided by this subparagraph. A retired member, annuitant, or retiree who is reemployed as an employee by a participating agency by means of an election, or an appointment by the Governor, shall not be subject to suspension of retirement payments under this subparagraph;

3. No employer contributions shall be payable on the employee's behalf for the period of reemployment; and

4. The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment, including any employer contributions payable under the Public Employees Retirement System as provided by Sections 2 to 11 of this Act;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, regardless of whether or not the position is considered regular full-time or fulltime under KRS 61.510(21), 78.510(21), 161.220(21), or paragraph (g) of this subsection, within a one (1) month period following the member's initial retirement date from the system or plan, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's

retirement is voided as provided by this paragraph and the member has returned to work in a regular full-time position in the systems administered by the Kentucky Retirement Systems or the Teachers' Retirement System as defined KRS 61.510(21), 78.510(21), or 161.220(21), as applicable:

1. The member shall contribute to a member account established for him or her in one the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, except that an individual subject to the limitations of Sections 25, 26, 59, or 110 of this Act, shall contribute to the Public Employees Retirement System as provided by Sections 2 to 11 of this Act or the plan established as provided by Section 109 of this Act, as applicable;
2. Employer contributions required for a member described by subparagraph 1. of this paragraph shall be paid by the employer in the system in which the member participates; and
3. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided, subject to the limitations of Sections 25, 26, 59, or 110 of this Act;

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is reemployed with an agency participating in the systems or plans administered by the Kentucky Retirement Systems or the Teachers' Retirement System, after a one (1) month period following the member's initial retirement date from the system or plan, the member may continue to receive his or her retirement allowance during the period of

reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
2. The member shall contribute to the system from which he or she retired and shall not earn any additional benefits for any work performed during the period of reemployment. If a member retired from more than one (1) system administered by Kentucky Retirement Systems, then he or she shall contribute to the system in which the member last participated prior to retirement based upon his or her participation date in the system. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems and shall be payable by members covered by this section until the unfunded liability of the system receiving the contributions no longer has an unfunded liability; and
3. The employer shall pay employer normal cost contributions as specified by subsection (1)(b) of Section 74 of this Act and Section 102 of this Act or as specified by Section 126 of this Act on all creditable

compensation earned by the employee during the period of reemployment, based upon the system in which the member last participated prior to retirement. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems and shall be payable by employers covered by this section until the unfunded liability of the system receiving the contributions no longer has an unfunded liability;

(e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
4. Other than the status of volunteer, the retired member does not

become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

(f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:

1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or
2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body; and

(g) For purposes of this section, "regular full-time" shall mean any position that requires an average of one hundred (100) or more hours per month over a calendar or fiscal year basis, except in the case of classified or certified school board employees it shall be more than one hundred (100) days of work during the fiscal year.

➔Section 99. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, ~~and~~ State Police Retirement System, **Legislators' Retirement Plan, and the Judicial Retirement Plan**, shall be administered by the board of trustees of the Kentucky Retirement Systems composed of **nineteen (19)**~~seventeen (17)~~ members, who shall be selected as follows:
- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
  - (b) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
  - (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
  - (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
  - (e) **Twelve (12)**~~Ten (10)~~ trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the **twelve (12)**~~ten (10)~~ trustees appointed by the Governor:
    - 1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;
    - 2. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
    - 3. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;

4. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; ~~and~~
  5. Six (6) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
    - a. A portfolio manager acting in a fiduciary capacity;
    - b. A professional securities analyst or investment consultant;
    - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
    - d. A chartered financial analyst in good standing as determined by the CFA Institute; or
    - e. A university professor, teaching investment-related studies;
  - 6. One (1) trustee shall be a retired Kentucky state legislator who shall be appointed from a list of four (4) applicants, of which two (2) applicants shall be submitted by the Kentucky Speaker of the House of Representatives and two (2) applicants shall be submitted by the Kentucky Senate President; and**
  - 7. One (1) trustee who shall be a retired justice or retired judge who shall be appointed from a list of three (3) applicants submitted by the Chief Justice of the Kentucky Supreme Court.**
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
  - (b) To make bylaws not inconsistent with the law;



- (c) To conduct the business and promote the purposes for which it was formed;
  - (d) Except as provided in KRS 61.650(6), to contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57;
  - (e) To purchase fiduciary liability insurance;
  - (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
  - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to

trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.

- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
- (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.
- (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.
- (d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.
- (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty

(30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

- (g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
  - (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
  - (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
    1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
    2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
    3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor;

however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.

- (6)
  - (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.
  - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
  - (c) A current or former employee of Kentucky Retirement Systems shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8)
  - (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director.
  - (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.
  - (c) A majority of the trustees shall constitute a quorum and all actions taken by

the board shall be by affirmative vote of a majority of the trustees present.

- (9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and KRS 64.640. The executive director shall be the chief administrative officer of the board.
- (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. All employees of the systems, except for the executive director, shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.
- (c) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (d) The board shall establish a system of accounting.
- (e) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, and 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, and 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 6.500 to 6.577,

16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.

- (10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (12) (a) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at

his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:
1. In good faith;

2. On an informed basis; and
  3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
  2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
  3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
  2. In the case of an action for monetary damages, the breach or failure to



perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
  - (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
  - (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:

- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
1. Benefits and benefits administration;
  2. Investment concepts, policies, and current composition and administration of retirement systems investments;
  3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
  4. Actuarial and financial concepts pertaining to the retirement systems.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the trustee has completed the orientation program;

- (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the board member has met the annual training requirements; and
- (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.

(19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the retirement systems' Web site and shall make available to the public:

- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement systems' Web site at least seventy-

two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

- (b) The Comprehensive Annual Financial Report with the information as follows:
  - 1. A general overview and update on the retirement systems by the executive director;
  - 2. A listing of the board of trustees;
  - 3. A listing of key staff;
  - 4. An organizational chart;
  - 5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
  - 6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net of fees return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
  - 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
  - 8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;
- (c) All external audits;
- (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
- (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- (f) The retirement systems' summary plan description;

- (g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;
- (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
- (i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The systems shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
  - 1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;
  - 2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
  - 3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

In addition to the requirements of this paragraph, the systems shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;

- (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;

- (k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the systems' Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;
  - (l) All contracts or offering documents for services, goods, or property purchased or utilized by the systems; and
  - (m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.
- (20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.
- (21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For

purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

➔Section 100. KRS 61.650 is amended to read as follows:

- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
- (b)
  1. The board shall establish an investment committee whose membership shall be composed of the following:
    - a. The six (6) trustees appointed by the Governor pursuant to KRS 61.645(1)(e)5.; and
    - b. ***Four (4)***~~Three (3)~~ trustees appointed by the board chair.
  2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee, officer, employee, or other fiduciary shall discharge duties with respect to the retirement system:
  1. Solely in the interest of the members and beneficiaries;
  2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
  3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and

- purpose;
4. Impartially, taking into account any differing interests of members and beneficiaries;
  5. Incurring any costs that are appropriate and reasonable; and
  6. In accordance with a good-faith interpretation of the law governing the retirement system.
- (d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection, all individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, board members, or staff employees, shall adhere to the Code of Ethics and Standards of Professional Conduct, the Asset Manager Code of Professional Conduct if the individual is managing retirement system assets, and the Code of Conduct for Members of a Pension Scheme Governing Body if the individual is a board member. All codes cited in this paragraph are promulgated by the CFA Institute.
- (2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.
  - (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
  - (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to

inspection only upon order of a court of competent jurisdiction.

- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) All contracts for the investment or management of assets of the systems shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:
  - (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
  - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
  - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
  - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
  - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
  - (f) Any amendments to the investment procurement policy shall adhere to the



requirements set forth by paragraphs (b) to (e) of this subsection.

→Section 101. KRS 61.680 is amended to read as follows:

**Except as limited by Sections 25, 26, 59, or 110 of this Act:**

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:
  1. Upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, including those members who participate in the hybrid cash balance plan within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System on or after January 1, 2014;
  2. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits;

3. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under subsection (9) of Section 112 of this Act~~[KRS 161.155(10)]~~, shall be determined as if all service were in one (1) system;
  4. If the member has prior service in more than one (1) system administered by Kentucky Retirement Systems, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this subsection; and
  5. Upon the determination of benefits, each system shall pay the applicable amount of benefits due the member.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
1. Notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System; or
  2. Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.
- (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) (a) A member with service credit in the Kentucky Employees Retirement System,

State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership.

- (b) Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.
- (c) A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency

participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in

KRS 6.505(5).

- (5) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (7) (a) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits

shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

- (b) Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky Retirement Systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

➔Section 102. KRS 61.702 is amended to read as follows:

- (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, ~~and~~ State Police Retirement System, except as provided in subsection (8) of this section. The board

shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.

2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.
  3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
    - a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
    - b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
    - c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.
- (b) The board may authorize present and future recipients of a retirement

allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
  - (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.
- (2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed *in accordance with*



**Section 74 of this Act and KRS 61.670**~~[by appropriate actuarial method]~~ as a part of the determination of each respective employer contribution rate to each respective retirement system~~[determined under KRS 61.565]~~.

- (b) 1. **Effective July 1, 2018**, each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member~~[having a membership date on or after September 1, 2008]~~, an amount equal to:
- a. Three percent (3%)**~~[One percent (1%)]~~ of the member's creditable compensation, **if the member had a membership date prior to September 1, 2008**. The deducted amounts shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520; **or**
- b. Four percent (4%) of the member's creditable compensation, if the member had a membership date on or after September 1, 2008. The deducted amounts shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520.**
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
3. Each employer shall submit payroll reports, contributions lists, and other

data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.

4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 through the use of separate accounts.

- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
  2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
  3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
  4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
  5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems

insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or

6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid

from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (b) 1. For a member electing insurance coverage through the Kentucky

Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one (1) of the other state-administered retirement plans.

2. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance trust fund accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance trust fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
3. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
4. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
5. The premium paid by the Kentucky Retirement Systems insurance trust

fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not exceed one hundred percent (100%) of the monthly contribution rate toward hospital and medical insurance coverage approved by the board of trustees of the Kentucky Retirement Systems.

- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.
- (b) The other provisions of this section notwithstanding, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a

hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as



provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8) (a) 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits

provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.

2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.

**In addition to the requirements specified by this paragraph, a member described by subsections (1) and (2) of Section 59 of this Act, who is a participant in the Public Employees Retirement System shall also be at least fifty-nine and one-half (59 and 1/2) years of age and shall terminate employment with any participating employer before participating in the insurance benefits provided by this section. Notwithstanding the provisions of subsections (1) to (7) of this section, a member described by subsections (1) and (2) of Section 59 of this Act, who is a participant in the Public Employees Retirement System who is at least fifty-nine and one-half (59 and 1/2) years of age, and who has terminated employment with a participating employer, shall be eligible to participate in the health benefits provided by this section for as long as the individual is drawing a monthly distribution from the Public Employees Retirement System or from an annuity offered through a vendor of the Public Employees Retirement System.**

- (b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:
  1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a

participating employee.

2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.
- (c)
1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19), and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
  2. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.
  3. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of

service in a hazardous position.

- (d) The monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- (e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

**(9) Effective July 1, 2018, notwithstanding any other provision of statute to the contrary, this section does not apply to:**

- (a) Members who retire and begin drawing a retirement allowance on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, Judicial Retirement Plan, Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Teachers' Retirement System, or Public Employees Retirement System, for a period of more than twenty-four (24) months prior to the date the member retired and began receiving a retirement allowance from the systems and plans administered by the Kentucky Retirement Systems; and**

**(b) Members who are participants in the Public Employees Retirement System on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, Judicial Retirement Plan, Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Teachers' Retirement System, or Public Employees Retirement System, for a period of more than twenty-four (24) months prior to the date the member applied for health benefits as provided by this section.**

➔Section 103. KRS 61.705 is amended to read as follows:

- (1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who was receiving a monthly retirement allowance based on a minimum of forty-eight (48) months of service or whose retirement allowance based on a minimum of forty-eight (48) months was suspended in accordance with KRS 61.637, a death benefit of five thousand dollars (\$5,000) shall be paid. If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar (\$5,000) death benefit. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.
- (2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, a person, the retired member's estate, a trust or trustee, or a licensed funeral home, as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary

designated under this section is a person and that person dies prior to the member, or if the beneficiary was the retired member's spouse and they were divorced on the date of the retired member's death, then the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation. If a licensed funeral home is designated as beneficiary and the licensed funeral home cannot be reasonably identified or located by Kentucky Retirement Systems at the time of the retired member's death, then the retired member's estate shall become the beneficiary of the death benefit.

- (3) If, at the time of the retired member's death, a debt to the Kentucky Retirement Systems remains on his or her account, the balance owed shall be deducted from the five thousand dollars (\$5,000) death benefit.
- (4) Upon the death of a retired member, the death benefit provided pursuant to this section may be assigned by the designated beneficiary to a bank or licensed funeral home.
- (5) Effective July 1, 2018, this section does not apply to nonhazardous members who are required by subsections (1) and (2) of Section 59 of this Act to participate in the Public Employees Retirement System or to members who make an election to participate in the Public Employees Retirement System as provided by Section 75 of this Act.**

➔Section 104. KRS 78.625 is amended to read as follows:

- (1) The agency reporting official of the county shall file the following at the retirement office on or before the tenth day of the month following the period being reported:
- (a) The employee and employer contributions required under KRS 78.610, 61.565, and 61.702;
- (b) The employer contributions and reimbursements for retiree health insurance premiums required under KRS 61.637; and
- (c) A record of all contributions to the system on the forms prescribed by the

systems.

- (2) (a) If the agency reporting official fails to file at the retirement office all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars (\$1,000), shall be added to the amount due the system.
- (b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.
- (3) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, **for a period of greater than twelve (12) months**, refunds and retirement allowance payments to members of this agency **shall**~~may~~ be suspended until the delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties have been paid to the system.

➔Section 105. KRS 61.545 is amended to read as follows:

- (1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.
- (2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS

Chapter 167, a participating community action agency, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14). Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14).

- (b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.
- (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.



(d) This subsection shall:

1. Not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014; and

2. *Effective July 1, 2018, not be available to be purchased by members who are required or who elect to participate in the Public Employees Retirement System as provided by Section 59 or 75 of this Act.*

(3) (a) If an employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(b) If an employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

➔Section 106. KRS 16.652 is amended to read as follows:

(1) For members who begin participating in the State Police Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, KRS 16.510 to 16.645~~[, except as provided in KRS 6.696 effective September 16, 1993,]~~ shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall~~[, except as provided in KRS 6.696,]~~ not be subject to reduction or impairment by alteration, amendment or repeal, except:

(a) As provided in KRS 6.696; and

(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 16.505 to 16.652 on or after the effective date of this Act.

- (2) (a) For members who begin participating in the State Police Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 16.505 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 16.505 to 16.652, for members who begin participating in the State Police Retirement System on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the State Police Retirement System as provided by KRS 16.505 to 16.652 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 107. KRS 61.692 is amended to read as follows:

- (1) For members who begin participating in the Kentucky Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the

contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to 61.705 shall ~~not, except as provided in KRS 6.696 effective September 16, 1993,~~ constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall ~~not, except as provided in KRS 6.696,~~ not be subject to reduction or impairment by alteration, amendment, or repeal, **except:**

**(a) As provided in KRS 6.696; and**

**(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 61.510 to 61.705 on or after the effective date of this Act.**

- (2) (a) For members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 61.510 to 61.705, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the

Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 108. KRS 78.852 is amended to read as follows:

- (1) For members who begin participating in the County Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall~~[-, except as provided in KRS 6.696 effective September 16, 1993,]~~ constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall~~[-, except as provided in KRS 6.696,]~~ not be subject to reduction or impairment by alteration, amendment, or repeal, **except:**

**(a) As provided in KRS 6.696; and**

**(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 78.510 to 78.852 on or after the effective date of this Act.**

- (2) (a) For members who begin participating in the County Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General

Assembly's authority to change any other benefit or right specified by KRS 78.510 to 78.852, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the County Employees Retirement System on or after January 1, 2014.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the County Employees Retirement System as provided by KRS 78.510 to 78.852 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔SECTION 109. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

**Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, 78.510 to 78.852, or 161.220 to 161.716 to the contrary:**

**(1) The board of trustees of the Teachers' Retirement System shall establish the defined contribution plan set forth in this section which shall be known as the 401(a) money purchase plan. Nonuniversity members who are required or eligible to elect to participate in the 401(a) money purchase plan under Section 110 of this Act shall participate in the 401(a) money purchase plan;**

**(2) The 401(a) money purchase plan shall be a defined contribution plan that provides for an individual account for each employee and in which benefits are based solely on the mandatory employee and employer contributions credited to the member's account as adjusted by any applicable investment earnings and losses on those contributions in the investment program established by subsection (4) of this section;**

**(3) Contributions to the account shall include:**

**(a) The mandatory employee contribution paid by contributing nonuniversity members under subsection (1)(e)1. of Section 120 of this Act. Employee**

contributions shall be deposited into an individual account in the 401(a) money purchase plan employee fund; and

(b) A mandatory employer contribution of:

1. Six percent (6%) of a contributing nonuniversity member's annual compensation if the member is participating in the plan in accordance with subsections (1)(a), (2)(c), and (6) of Section 110 of this Act, which shall be funded from the state accumulation fund; and

2. Eight percent (8%) of a contributing nonuniversity member's annual compensation if the member is participating in the plan in accordance with subsection (2)(b) of Section 110 of this Act, which shall be funded from the state accumulation fund;

(4) The Public Employees Retirement System established by Sections 2 to 11 of this Act shall:

(a) On behalf of the Teachers' Retirement System administer the individual accounts, beneficiary designations, and investment and distribution functions of the 401(a) money purchase plan established by this section and shall retain sole power and authority over the investment fund options of the 401(a) money purchase plan; and

(b) Provide members covered by this section with the same investment, beneficiary, and distribution options provided to participants in the Public Employees Retirement System;

(5) (a) A member covered by this section shall at all times have a nonforfeitable interest in his or her employee contributions as adjusted by any applicable investment earnings or losses on those employee contributions; and

(b) A member covered by this section shall be one hundred percent (100%) vested for employer contributions made under subsection (3) of this section, as adjusted by any applicable investment earnings and losses on those

employer contributions, upon attaining five (5) years of contributing service, except that the five (5) year vesting period shall:

1. Be waived for any participant who dies, becomes disabled, or who has attained at least sixty-five (65) years of age; and
2. Include service a participant has as a member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, the Teachers' Retirement System, or the Public Employees Retirement System, provided the member is not drawing a retirement allowance from such system or fund; and

(6) The board of trustees of the Teachers' Retirement System shall not annuitize or offer to annuitize any account balance of a member's 401(a) money purchase plan account balance established by this section.

(7) The Teachers' Retirement System shall:

- (a) Pay the reasonable costs and expenses of the Public Employees Retirement System for the investment and distribution administration of the 401(a) money purchase plan and, to the extent not paid, the Public Employees Retirement System may assess plan assets and income for payment of such costs in accordance with subsection (5) of Section 10 of this Act; and
- (b) Not make any amendments to the provisions of the 401(a) money purchase plan without the consent of the board of the Public Employees Retirement System.

(8) The Kentucky Employees Deferred Compensation Authority and the Public Employees Retirement System shall have no obligation to collect contributions required under the 401(a) money purchase plan. The Kentucky Employees Deferred Compensation Authority and the Public Employees Retirement System

shall not be responsible for collection, administration, payment of benefits, or tax compliance with respect to any retiree health benefit provided to members covered by the 401(a) money purchase plan.

→SECTION 110. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 6.500 to 6.577, 16.505 to 16.652, 21.345 to 21.580, 61.510 to 61.705, 78.510 to 78.852, or 161.220 to 161.716 to the contrary:

(1) (a) Any member who has not participated in the Teachers' Retirement System prior to July 1, 2018, who is employed in a full-time position on or after July 1, 2018, in a contributing nonuniversity position shall not be eligible to participate in the benefits provided by KRS 161.220 to 161.716, except that the person shall:

1. Participate in the 401(a) money purchase plan provided by Section 109 of this Act; and
2. Accrue service for purposes of retiree health benefits specified by Section 132 of this Act and shall contribute employee contributions to fund retiree health benefits as specified Section 120 of this Act.

(b) Any person who has not participated in the Teachers' Retirement System prior to July 1, 2018, who is employed in a fulltime position on or after July 1, 2018, in a contributing university position, who has not elected to participate in the optional retirement program provided by KRS 161.567:

1. Shall not be eligible to participate in the benefits provided by KRS 161.220 to 161.716, except that the individual shall accrue service solely for purposes of the retiree health benefits specified by Section 132 of this Act and shall contribute employee contributions to fund retiree health benefits specified by Section 120 of this Act; and
2. Shall participate in the Public Employees Retirement System as



provided by Sections 2 to 11 of this Act.

- (c) For purposes of this subsection, service earned in the Legislators' Retirement Plan, Judicial Retirement Plan, or the systems administered by Kentucky Retirement Systems prior to July 1, 2018, shall be used to determine if a person began participating in the Teachers' Retirement System prior to July 1, 2018, provided the member is not drawing a benefit from such service in another system or plan;
- (2) (a) Effective July 1, 2018, no additional service credit or annual compensation shall be accrued on or after July 1, 2018, for purposes of determining benefits under any provision of KRS 161.220 to 161.716, except as provided by subsection (3) of this section and paragraph (b)1.a. of this subsection, for those members who began participating in the system prior to July 1, 2018, who have accrued twenty-seven (27) or more years of service credit or who are at least sixty (60) years of age with at least five (5) years of service credit. For purposes of this paragraph, service credit shall only include years of service credited to the Teachers' Retirement System or another state-administered retirement system.
- (b) Members participating in the Teachers' Retirement System, who as of June 30, 2018, have met or exceeded the requirements of paragraph (a) of this subsection, effective July 1, 2018:
1. a. Shall participate in the 401(a) money purchase plan provided by Section 109 of this Act if the person is employed in a contributing nonuniversity position, except that the member may in lieu of participating in the 401(a) money purchase plan elect to continue accruing service in the Teachers' Retirement System defined benefit plan until June 30, 2021, after which he or shall participate in the 401(a) money purchase plan provided by

Section 109 of this Act; or

b. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act if the person is employed in a contributing university position; and

2. Shall not accrue any additional service credit or annual compensation on or after July 1, 2018, for purposes of determining benefits under any provision of KRS 161.220 to 161.716, except as provided by subsection (3) of this section or if they elect to continue participating in the defined benefit plan as provided by subparagraph 1.a. of this paragraph.

(c) Members participating in the Teachers' Retirement System, who as of June 30, 2018, have not met or exceeded the requirements of paragraph (a) of this subsection, in the month following the date in which the member meets the requirements of paragraph (a) of this subsection:

1. a. Shall participate in the 401(a) money purchase plan provided by Section 109 of this Act if the person is employed in a contributing nonuniversity position; or

b. Shall participate in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act if the person is employed in a contributing university position; and

2. Shall not accrue any additional service credit or annual compensation on or after the date in which the member meets the requirements of paragraph (a) of this subsection, for purposes of determining benefits under any provision of KRS 161.220 to 161.716, except as provided by subsection (3) of this section;

(3) Members specified by subsection (2) of this section, if they are contributing to and eligible for employer contributions paid on their behalf from the Public

Employees Retirement System established by Sections 2 to 11 of this Act or the 401(a) money purchase plan established by Section 109 of this Act, shall continue to:

- (a) Accrue service credit solely for the retiree health benefits specified by Section 132 of this Act and shall contribute the employee contribution to fund retiree health benefits specified by Section 120 of this Act;
- (b) Remain eligible to apply for any disability benefits for disabilities that occur prior to retirement;
- (c) If he or she is a member subject to subsection (2)(a) of this section who retires on or before July 1, 2023, have any lump-sum payment for sick leave that is paid out upon termination of employment under Section 112 of this Act included in the most recent fiscal year used to calculate their final average salary, or have any service credit awarded for accumulated sick leave under Section 131 of this Act added to his or her service credit total; and
- (d) Be able to complete the remaining installment payments and earn service for any service purchase being made through an installment of purchase service agreement that was executed prior to July 1, 2018, but shall not be able to execute any additional service purchases with the system;
- (5) The General Assembly by legislative action in the biennial budget may appropriate funds and develop a program to provide a lump-sum buyout for any members of the systems administered by the Teachers' Retirement System for the benefits payable to them under the provisions of KRS 161.220 to 161.716; and
- (6) (a) Subject to the provisions of this subsection, any contributing member who began participating in the Teachers' Retirement System prior to July 1, 2018, who has less than five (5) years of service in the system may, in lieu of the benefits he or she is currently eligible to receive from the Teachers'

- Retirement System, elect to receive the benefits and rights provided to members who began participating in the system on or after July 1, 2018, as provided by subsection (1) of this section, including participating in the Public Employees Retirement System created pursuant to Sections 2 to 11 of this Act for members in university positions or participating in the 401(a) money purchase plan created pursuant to Section 109 of this Act for members in nonuniversity positions.
- (b) The election provided by this subsection shall be made in writing and on a form prescribed by the Teachers' Retirement System board.
- (c) For each member who makes an election provided by this subsection:
1. Any service credit the member has accrued prior to July 1, 2018, shall be considered as service credit earned on or after July 1, 2018, and the member shall accrue service solely for the purposes of accruing retiree health benefits specified by Section 132 of this Act; and
  2. On the member's effective election date, the value of the member's accumulated contributions, shall be deposited into the member's account in the Public Employees Retirement System as provided by Sections 2 to 11 of this Act or the 401(a) money purchase plan as provided by Section 109 of this Act, as applicable.
- (d) Before accepting an election provided by this subsection, the Teachers' Retirement System board shall provide the member with information detailing the potential results of the member's election.
- (e) An election made pursuant to this subsection shall be irrevocable.
- (f) 1. A member of the Teachers' Retirement System shall not be eligible to make an election prescribed by this subsection until the board receives a favorable private letter ruling from the Internal Revenue Service regarding this subsection.

2. If the Internal Revenue Service denies the request for a private letter ruling as provided by subparagraph 1. of this paragraph, this subsection shall be void.
3. The system may promulgate administrative regulations under KRS Chapter 13A in order to carry out this subsection.
- (g) This subsection does not apply to annuitants who retired on or after July 1, 2018, and who were reemployed on or after July 1, 2018, and who are not eligible to participate in the system during reemployment.

➔SECTION 111. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary:

(1) For purposes of this section:

- (a) "Active member" means a member who is contributing to the system;
- (b) "Employer" means the governing body of the agencies employing members of the system who are described in subsection (4)(b),(f), (g), (j), and (n) of Section 113 of this Act;
- (c) "Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the system sufficient notice as provided by administrative regulations promulgated by the system; and
- (d) "Inactive member" means a member who is not contributing to the system;

(2) Any employer who is participating in the Teachers' Retirement System on July 1, 2018, may:

- (a) Voluntarily cease participation in the system subject to the requirements and restrictions of this section, provided the employer's effective cessation date is on or before July 1, 2020; or

- (b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 161.220 to 161.716;
- (3) (a) If an employer desires to voluntarily cease participation in the Teachers' Retirement System as provided by subsection (2)(a) of this section:
1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;
  2. The cessation of participation in the system shall apply to all employees of the employer;
  3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Teachers' Retirement System's consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;
  4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan, but shall not include a defined benefit plan which by nature can have an unfunded liability;
  5. If the alternative retirement program established by the employer meets the qualification requirements under 26 U.S.C. sec. 401(a) and is capable of accepting trustee-to-trustee transfers of both pre-tax and post-tax contributions, employees of the employer ceasing participation may seek to transfer their account balances to the employer's qualified alternate retirement program within sixty (60) days of the employer's effective cessation date. An employee's election

to transfer his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits in the system for the time worked for the employer ceasing participation; and

6. The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund, life insurance fund, and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a transfer of his or her account balance within sixty (60) days of the employer's effective cessation date as provided by subparagraph 5. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid.

(b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (2)(b) of this section:

1. The cessation of participation in the system shall apply to all employees of the employer;
2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Teachers' Retirement System consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and
3. The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund, life insurance fund, and the insurance fund by the actuarial study required by

subparagraph 2. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid;

An employer who is required to involuntarily cease participating shall not establish or contribute on behalf of its employees to a defined benefit plan which by nature can have an unfunded liability;

(4) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her date of participation in the Teachers' Retirement System, be eligible to participate in the Teachers' Retirement System through the employer that ceased participation for the duration of his or her employment with that employer;

(5) If an employer has ceased participation in the system as provided by this section:

(a) The rights of annuitants and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and

(b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Teachers' Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. On the day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 161.220 to 161.716, shall:



1. Retain his or her accounts with the Teachers' Retirement System and have those accounts credited with interest, if applicable, in accordance with KRS 161.220 to 161.716;
  2. Retain his or her vested rights in accordance with paragraph (a) of this subsection; and
  3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 161.460 or any other available distribution if eligible;
- (6) For purposes of this section, the full actuarial cost shall be determined by the Teachers' Retirement System's consulting actuary separately for the pension fund, life insurance fund, and the medical insurance fund using the assumptions and methodology established by the system specifically for determining the full actuarial cost of ceasing participation as of the employer's effective cessation date. For purposes of determining the full actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser of the assumed rate of return utilized in the system's most recent actuarial valuation or the yield on a thirty (30) year United States treasury bond as of the employer's effective cessation date, but shall in no case be lower than the assumed rate of return utilized in the system's most recent actuarial valuation minus three and one-half percent (3.5%);
- (7) The Teachers' Retirement System shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section; and
- (8) Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees, and costs from legal claims for any cause of action brought by any member or annuitant of the departing employer.

→Section 112. KRS 161.155 is amended to read as follows:

- (1) As used in this section:
  - (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
  - (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
  - (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;
  - (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days; and
  - (e) "Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.
- (2) Each district board of education ~~may~~shall allow to each teacher and full-time employee in its common school system~~[not less than ten (10)]~~ days of sick leave during each school year **as determined by policy and procedures adopted by the board of education**, without deduction of salary. Sick leave shall be granted **under the board policy** to a teacher or employee if he or she presents a personal affidavit or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his

or her immediate family. The ~~ten (10) days~~ of sick leave accumulated under the board's policy as authorized~~granted~~ in this subsection may be taken by a teacher or employee on any day~~ten (10) days~~ of the school year ~~and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4) of this section~~.

- (3) A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:
- (a) The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;
  - (b) The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;

- (c) The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;
- (d) The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system ***or plan*** in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and
- (e) Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and 78.545 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.
- (4) ~~Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year.~~ Any district board of education may, in its discretion, allow ~~employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow~~ school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher ***may***~~shall~~ remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district, ***if the new place of employment accepts the sick leave days.***

- (5) Accumulated days of sick leave may by board policy~~[shall]~~ be granted to a teacher or employee if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
- (6) ~~[Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.~~
- ~~(7)~~ A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- ~~(7)~~~~(8)~~ (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher or employee may receive donations of sick leave if:

1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
  - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
  2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
  3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
  4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- ~~(8)~~~~(9)~~ A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the

need is verified by a physician's statement.

- ~~(9)~~~~(10)~~ (a) After July 1, 1982, a district board of education may ***by board policy*** compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). ***For an employee or teacher who retires on or before July 1, 2023,*** payment for unused sick leave days shall be incorporated into the ***annual compensation***~~[annual salary]~~ of the final year of service for inclusion in the calculation of the employee's or teacher's retirement allowance only at the time of his or her initial retirement; provided that the member ***who retired on or before July 1, 2023,*** makes the regular retirement contribution for members on the sick leave payment.~~[The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.]~~
- (b) For a teacher or employee who begins employment with a local school district on or after July 1, 2008, the maximum amount of unused sick leave days a district board of education may recognize in calculating the payment of compensation to the teacher or employee under this subsection shall not exceed three hundred (300) days.
- (c) Notwithstanding any other provision of KRS Chapter 78 or 161 to the contrary, any payments for accumulated sick leave authorized by this section or established by board policy shall not be used to determine the eligibility or amount of retirement benefits payable to a member who retires after July 1, 2023, from the Teachers' Retirement System and shall not be***

*used to determine the eligibility for retirement benefits from the County Employees Retirement System for those members who retire after July 1, 2018.*

~~[(11) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (10) of this section.]~~

(10)~~[(12)]~~ The death benefit provided in subsection (9)~~[(10)]~~ of this section may be cited as the Baughn Benefit.

➔ Section 113. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who, except as provided by Section 111 of this Act, is employed by public boards, institutions, or agencies as follows:
  - (a) Local boards of education;



- (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
- (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- (d) The Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
- (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
- (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included, *except as limited by Section 135 of this Act.* The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

- (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
- (h) The Office of Career and Technical Education, except that the executive director shall not be a member;
- (i) The Office of Vocational Rehabilitation;
- (j) The Kentucky Educational Collaborative for State Agency Children;
- (k) The Governor's Scholars Program;
- (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, *except that any person who retires on or after July 1, 2018, shall upon reemployment after retirement not earn a second retirement account and shall be subject to the provisions of subsection (18) of Section 98 of this Act;*
- (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System, *except as limited by Section 110 of this Act;*
- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement

System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540, ~~and~~ 161.620, and Section 110 of this Act;

- (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;
  - (p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department; and
  - (q) The Governor's School for Entrepreneurs Program.
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July

1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

- (6) "New teacher" means any member not a present teacher;
- (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
- (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
- (9) "Final average salary" means the average of the five (5) highest years of annual compensation~~[annual salaries]~~ which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of annual compensation~~[highest salaries]~~ as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who retire on or before July 1, 2023, who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest years of annual compensation~~[annual salaries]~~ used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of annual compensation~~[salary]~~ to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:
- (a) The member's actual salary; or
  - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage

increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, **and retires on or before July 1, 2023**, or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service **for those members who retire on or before July 1, 2023**;

(10) "Annual compensation":

**(a)** Means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, **except as limited by paragraph (b) of this subsection**. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this

section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, or who retires after July 1, 2023, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave; and

(b) For fiscal years occurring on or after July 1, 2018, shall exclude any amount that exceeds maximum taxable earnings subject to taxation under the Old-Age, Survivors and Disability Insurance (OASDI) program, as determined by the Social Security Administration. This maximum shall be adjusted each fiscal year on July 1 and shall be based upon the most recent taxable earnings maximum set by the Social Security Administration for the most recent calendar year. For annual compensation exceeding the level specified by this paragraph, employee contributions shall be refunded on the amount paid in excess of this annual compensation limit but excess employer contributions shall remain in the fund to help pay down the unfunded liability;

- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;
- (13) "Regular interest" means interest at three percent (3%) per annum, except for an individual who becomes a member on or after July 1, 2008, "regular interest" means interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support

from the member for maintenance, including board, lodging, medical care, and related costs;

- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;
- (23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment. For an individual who becomes a member on or after July 1, 2008, payments for annual or compensatory leave shall not be included in determining the member's last annual compensation;
- (24) "Participant" means a member, as defined by subsection (4) of this section, or an



annuitant, as defined by subsection (15) of this section;

(25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;~~and~~

(26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

**(27) "University member" means an individual who becomes a member through employment with an employer specified in subsection (4)(b) and (n) of this section; and**

**(28) "Nonuniversity member" means an individual who becomes a member through employment with an employer specified under subsection (4) of this section, except for those members employed by an employer specified in subsection (4)(b) and (n) of this section.**

➔Section 114. KRS 161.400 is amended to read as follows:

(1) (a) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.

(b) At least once in each five (5) year period, the actuary shall make an actuarial investigation into the actuarial assumptions and funding methods used, including but not limited to mortality, investment rate of return, and service and compensation of the members and beneficiaries of the retirement system, relative to the actuarial assumptions and funding methods previously adopted

by the board. The actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.

- (c) At least annually the actuary shall make an actuarial valuation of the retirement system. The valuation shall include:
1. A description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience;
  2. A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;
  3. A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;
  4. The actuarially recommended contribution rate for employers for the upcoming budget periods;
  5. A twenty (20) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and
  6. A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation rates, on employer contribution rates, funding levels, and unfunded liabilities.
- (d) On the basis of the results of the valuations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall establish~~recommend~~ the contributions payable by employers and the

state ~~[within the limits]~~ specified in KRS 161.550.

- (e) For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigation required by paragraph (b) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.
- (2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation. ~~[The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value.]~~
- (3) A copy of each five (5) year actuarial investigation, actuarial analysis, and valuation required by subsection (1) of this section shall be forwarded electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board, and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Teachers' Retirement System. The actuarial valuation required by subsection (1)(c) of this section shall be submitted no later than November 15 following the close of the fiscal year.

➔Section 115. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall

have full power and responsibility for administering the funds. ~~[It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal.]~~ All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

- (1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;
- (2) *(a) Except for contributions paid by members who are participating in the 401(a) money purchase plan as provided by Section 109 of this Act,* the teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund.
  - (b)* A member may not borrow any amount of his or her accumulated contributions to *the teachers' savings*~~[this]~~ fund, or any interest earned thereon.
  - (c)* The accumulated contributions of a member *covered by this subsection which are* returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund.
  - (d)* Any accumulated contributions *in the teachers' savings fund* forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from ~~*this*~~~~[the teachers' savings]~~ fund to the guarantee fund. The accumulated contributions of a member *in the teachers' savings fund* shall be

transferred from ~~this~~~~[the teachers' savings]~~ fund to the allowance reserve fund in the event of retirement by reason of service or disability;

- (3) The state accumulation fund shall consist of funds *paid by employers and* appropriated by the state for the purpose of providing annuities and survivor benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 and 161.525. *There shall also be transferred from the state accumulation fund to the 401(a) money purchase plan employer fund, the amount needed to fund the employer contribution required by Section 109 of this Act;*
- (4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 and 161.525. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;
- (5) (a) *Effective July 1, 2018,* the medical insurance fund, which is an account established according to 26 U.S.C. sec. 401(h), shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675, including:
1. *The member contributions required by subsection (1)(a)2., (1)(b)2., and (1)(e)2. of Section 120 of this Act;*~~For individuals who become members before July 1, 2008, one and one-half percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. Of~~

~~this amount, three quarters of a percent (0.75%) shall derive from member contributions as provided by KRS 161.540 and three quarters of a percent (0.75%) from a state appropriation];~~

2. **The employer contribution required by subsection (1)(a)1.b. and (1)(a)2.b. of Section 126 of this Act**

~~[For individuals who become members on or after July 1, 2008, two and one half percent (2.5%) of the gross annual payroll of all members shall be deposited to this fund. Of this amount, one and three quarters percent (1.75%) shall derive from member contributions as provided by KRS 161.540 and three quarters of a percent (0.75%) from a state appropriation;~~

3. ~~Effective July 1, 2010, the member contributions required under KRS 161.540(1)(c);~~

4. ~~Effective July 1, 2010, local board of education, agency, and organization contributions required under KRS 161.550(3), unless the board of trustees establishes a trust fund under 26 U.S.C. sec. 115 for health care purposes, in which case the board may direct those contributions to that trust fund];~~

3.[5.] Employer medical insurance fund stabilization contributions as set forth in KRS 161.550, unless the contributions are made to a trust fund under 26 U.S.C. sec. 115 established by the board for this purpose; and

4.[6.] Interest income from the investments of the fund from contributions received by the fund under subparagraphs 1. to 3.[5.] of this paragraph, and from income earned on those investments.

- (b) All claims for benefits under KRS 161.675 shall be paid from this fund or from any trust fund under 26 U.S.C. sec. 115 as established by the board for this purpose. Any amounts deposited to the fund that are not required to meet current costs shall be maintained as a reserve in the fund for these benefits.

The board shall take the necessary and appropriate steps, including promulgating administrative regulations and procedures to maintain the status of the medical insurance fund as an account subject to 26 U.S.C. sec. 401(h);

- (6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, 401(a) money purchase plan employee fund, and 401(a) money purchase plan employer fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund;
- (7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of Section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program;

- (8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program; and
- (9) The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655.

**(10) The 401(a) money purchase plan employee fund shall consist of the required contributions paid into this fund by members of the Teachers' Retirement System who are required to participate in the money purchase plan established by Section 109 of this Act as a reporting account for remittance to the Public Employees Retirement System for investment.**

**(11) The 401(a) money purchase plan employer fund shall consist of the required contributions paid into this fund by the state and employers participating in the Teachers' Retirement System who are required to participate in the money purchase plan established by Section 109 of this Act as a reporting account for remittance to the Public Employees Retirement System for investment.**

➔Section 116. KRS 161.500 is amended to read as follows:

- (1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185)



day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member, *unless the member is required or elects to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act,* may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

- (2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.
- (3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.
- (4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

➔Section 117. KRS 161.507 is amended to read as follows:

- (1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services

that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

- (2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.
- (3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.
- (4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving

advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22). These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service. *Effective July 1, 2018, the service provided by this paragraph shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.*

- (b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.
- (5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves

service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2). **Effective July 1, 2018, the service provided by this subsection shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

➔Section 118. KRS 161.515 is amended to read as follows:

- (1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.
- (2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. All members who elect to purchase this service shall pay to the retirement system the full actuarial cost as provided under KRS 161.220(22). For each year of which the retirement system shall accept payment, one (1) year of service credit shall be given. For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005, this credit may not be used to meet the service requirements of KRS 161.525,

161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

- (b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit.
  - (c) A member having service referred to in subsection (2)(a) or (2)(b) of this section who purchased this service under the cost formula as it existed under those subsections on June 30, 2005, may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.
- (3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser

number.

- (4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.1-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.
- (5) Service purchased under this section by members who at the time of purchase are employed by employers other than those described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2.0%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a), with a retirement factor of two percent (2.0%) for each year of service, regardless of when the service was performed.
- (6) *Effective July 1, 2018, the service provided by this section shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.***

➔Section 119. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
  - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
  - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
  - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision;
- (2) (a) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits

which may be payable under subsections (1) and (3) of this section.

- (b) Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary and:
  - 1. Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or
  - 2. Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.
- (c) To elect a lump-sum refund of the member's account under paragraph (b) of this subsection, the surviving spouse who is designated as the primary beneficiary must sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection;
- (3) (a) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. The mental or physical condition of the adult child shall be



revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

- (b) Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:
1. The surviving spouse is designated as the primary beneficiary;
  2. The surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and
  3. Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf as attested to by two (2) physicians' statements consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.
- (c) If eligible to elect a lump-sum refund of the member's account, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsections (1) and (2) of this section;
- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a

parent shall be established as of the date of the death of the member;

- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period;
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency;
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary;
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable;
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, or in the event that the surviving spouse elects not to receive

survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section, the board of trustees shall pay to the estate or the designated beneficiaries of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or designated beneficiaries of the deceased member the balance of the accumulated contributions;

- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits; and
- (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to July 15, 2008.

**(12) Effective July 1, 2018, the benefits provided by this section shall not be available to members who:**

- (a) Become a contributing member in the Teachers' Retirement System on or after July 1, 2018, who are required to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (1) of Section 110 of this Act; or**

**(b) Elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (6) of Section 110 of this Act.**

→ Section 120. KRS 161.540 is amended to read as follows:

- (1) (a) Effective July 1, ~~2018~~<sup>[1988]</sup>, **and except as provided by paragraph (e) of this subsection,** each individual who **is a contributing nonuniversity**~~[first becomes a]~~ member, ~~[before July 1, 2008]~~, shall contribute to the retirement system **fifteen and eight hundred fifty-five thousandths percent (15.855%)**~~[nine and eight hundred fifty five thousandths percent (9.855%)]~~ of annual compensation, **of which:**
- 1. Nine and one hundred five thousandths percent (9.105%) of annual compensation shall be used to fund pension benefits; and**
  - 2. Six and three-quarters percent (6.75%) of annual compensation shall be used to fund retiree health benefits**~~[, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute eight and three hundred seventy five thousandths percent (8.375%) of annual compensation].~~
- (b) **Effective July 1, 2018, and except as provided by paragraph (f) of this section, each individual who is a contributing university member, shall contribute to the retirement system thirteen and four-tenths percent (13.4%) of annual compensation, of which:**
- 1. Seven and six hundred twenty-five thousandths percent (7.625%) of annual compensation shall be used to fund pension benefits; and**
  - 2. Five and seven hundred seventy-five thousandths percent (5.775%) of annual compensation shall be used to fund retiree health benefits.**~~[~~  
Each individual who first becomes a member on or after July 1, 2008, shall contribute to the retirement system ten and eight hundred fifty-five

~~thousandths percent (10.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute nine and three hundred seventy five thousandths percent (9.375%) of annual compensation.]~~

(c) ~~[1. Effective July 1, 2010, members shall, in addition to those contributions required under paragraphs (a) and (b) of this subsection, make a contribution to the medical insurance fund established under KRS 161.420(5) according to the following schedule:~~

~~a. For each individual who first became a member of the retirement system before July 1, 2008, a total amount of annual compensation equal to and effective on:~~

- ~~July 1, 2010.....Twenty five hundredths percent (.25%)~~
- ~~July 1, 2011.....One half percent (0.50%)~~
- ~~July 1, 2012.....One percent (1.0%)~~
- ~~July 1, 2013.....One and one half percent (1.5%)~~
- ~~July 1, 2014.....Two and twenty five hundredths percent (2.25%)~~
- ~~July 1, 2015,~~
- ~~and thereafter.....Three percent (3.0%) for a total of three and~~
- ~~seventy five hundredths percent (3.75%)~~
- ~~when added to the contributions required~~
- ~~under KRS 161.420(5)(a); or~~

~~b. For each individual who first becomes a member of the retirement system on or after July 1, 2008, a total amount of annual compensation equal to and effective on:~~

- ~~July 1, 2013.....One half percent (0.50%)~~
- ~~July 1, 2014.....One and twenty five hundredths percent (1.25%)~~
- ~~July 1, 2015,~~

~~\_\_\_\_\_ and thereafter.....Two percent (2.0%) for a total of three and  
 \_\_\_\_\_ seventy five hundredths percent (3.75%)  
 \_\_\_\_\_ when added to the contributions required  
 \_\_\_\_\_ under KRS 161.420(5)(a)~~

~~2. Notwithstanding subparagraph 1. of this paragraph, members employed by any employer identified in KRS 161.220(4)(b) or (n) shall contribute, as a percentage of their total annual compensation, the actuarial equivalent of the percentage contributed by members under subparagraph 1. of this paragraph, not to exceed the percentages established under the schedules set forth in subparagraph 1. of this paragraph. The actuarial equivalent to be contributed under this subsection shall be determined by the retirement system's actuary. These contributions shall be in lieu of those contributions required under subparagraph 1. of this paragraph.~~

~~3. ]When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under paragraphs[subparagraphs] (a)2. and (b)2. of this subsection[1. and 2. of this paragraph] shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.~~

(d) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, and who retire on or before July 1, 2023, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on

annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

**(e) Notwithstanding the provisions of this subsection, a contributing nonuniversity member who is required or makes an election to participate in the 401(a) money purchase plan established by Section 109 of this Act, shall contribute:**

- 1. Nine percent (9%) of annual compensation to the 401(a) money purchase plan, except that a member who is covered by subsection (2)(b)1.a. of Section 110 of this Act shall contribute ten percent (10%) of annual compensation to the 401(a) money purchase plan; and**
- 2. The amount specified by subsection (1)(a)2. of this section to fund retiree health benefits.**

**(f) Notwithstanding the provisions of this section, a contributing university member who is required or makes an election to participate in the Public Employees Retirement System as provided by Section 110 of this Act, he or she shall not make the contributions required by this section, except for the amount specified by subsection (1)(b)2. of this section to fund retiree health benefits.**

- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all

compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 121. KRS 161.545 is amended to read as follows:

- (1) **(a)** Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. **This paragraph does not apply to:**
- 1. Members who retired on or after July 1, 2018, and are reemployed on or after July 1, 2018; and**
  - 2. Those individuals who become contributing members in the Teachers' Retirement System on or after July 1, 2018, who are required to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (1) of Section 110 of this Act.**
- (b)** Members placed on leave of absence during a period of full-time employment as defined in KRS 161.220(21) may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year



next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

- (2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence during a period of full-time employment as defined in KRS 161.220(21) since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not purchase the leave of absence as provided in subsection (1) of this section may obtain credit for the leave of absence as provided under the administrative regulations of the board of trustees and under the following conditions:
  - (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and
  - (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.
  - (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.
- (3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(4) Notwithstanding any other provisions of this section to the contrary, purchase of service credit under subsection (2) of this section:

**(a)** For individuals who become members on or after July 1, 2008, **but prior to July 1, 2018,** shall be purchasable only at the full actuarial cost; **and**

**(b)** **Effective July 1, 2018, shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

➔Section 122. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.220 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as provided in KRS 161.220(22). The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597. Notwithstanding any other statute to the contrary, the Kentucky Teachers' Retirement System shall recognize nonqualified service credit purchased with another retirement system only to the extent that the member had an equivalent number of full months of active employment in the position covered by the other retirement system during the period that the nonqualified service was purchased. This section shall not apply to:

**(1)** Individuals who become members on or after July 1, 2008, **but prior to July 1, 2018,** except that a teacher of a local school board may purchase up to ten (10)

months of service under this section if the teacher is retiring and has completed the prior school year with at least twenty-six (26) years and two (2) months of service but less than twenty-seven (27) years of service; and

**(2) Effective July 1, 2018, members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

→Section 123. KRS 161.547 is amended to read as follows:

A member of the retirement system having service as a Kentucky legislator which is not credited by any retirement system administered by the Commonwealth of Kentucky may present such service, not to exceed four (4) years, for credit in the retirement system by paying the full actuarial cost of the service as determined by the system actuary. The member may purchase all or part of his service as a legislator, but no less than one (1) year of service. The entire payment shall be placed in the teachers' saving fund. **Effective July 1, 2018, the service purchase provided by this section shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

→Section 124. KRS 161.548 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed in a regional community service program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability by paying to the Teachers' Retirement System the full actuarial cost of the service credit purchased, as provided in KRS 161.220(22). The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or

161.661(1). The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund. **Effective July 1, 2018, the service purchase provided by this section shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

→Section 125. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by purchasing this service credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund. **Effective July 1, 2018, the service purchase provided by this section shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

→Section 126. KRS 161.550 is amended to read as follows:

- (1) (a) ~~{Beginning with July 1,}~~ **Effective July 1, 2018, and for each fiscal year occurring thereafter,** each employer, except as provided under KRS 161.555, shall contribute annually to the ~~{Kentucky}~~ Teachers' Retirement System a **base permanent employer contribution** ~~{amount}~~ equal to:
- 1. Thirteen and one hundred five thousandths percent (13.105%) of the**

*total annual compensation of nonuniversity members it employs, of which:*

*a. Twelve and three hundred fifty-five thousandths percent (12.355%) of the total annual compensation shall be used to fund pension and life insurance benefits;*~~[that contributed by members of the retirement system it employs less the amount contributed by employees under KRS 161.540(1)(c), plus an additional three and one fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state] and~~

*b. Three-quarters of a percent (0.75%) of annual compensation shall be used* to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution *provided in this subparagraph*~~[dedicated to retiree health] in that trust fund[-.]; and~~

*2. Thirteen and sixty-five hundredths percent (13.65%) of the total annual compensation of university members of the retirement system it employs, of which:*

*a. Twelve and nine-tenths percent (12.9%) of the total annual compensation shall be used to fund pension and life insurance benefits; and*

*b. Three quarters of a percent (0.75%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may*

deposit the employer contribution provided in this subparagraph in that trust fund.

(b) Effective July 1, 2018, and for each year thereafter, each employer shall pay the additional contributions needed to fund the Teachers' Retirement System pension fund and life insurance fund on an actuarially sound basis as determined by the system's actuarial valuation completed in accordance with KRS 161.400 and as specified by this section. The amount payable under the provisions of this paragraph shall:

1. Be in addition to the amounts provided under paragraph (a)1.a. and (a)2.a. of this subsection;
2. Not include the cost or funding of benefits established by KRS 161.553; and
3. Shall be prorated to each employer based upon the individual employer's average percent of the total compensation reported by all employers in the system in fiscal years 2014-2015, 2015-2016, and 2016-2017, except that the amount shall:
  - a. Not apply to any employer who ceases participation and pays the full actuarial cost of ceasing participation as provided by Section 111 of this Act;
  - b. Be adjusted for each remaining employer of a system to reflect any employer who ceases participation and who pays the full actuarial cost of ceasing participation as provided by Section 111 of this Act; and
  - c. Be paid by state appropriation only for those employers who cover memberships specified by subsection (4)(a) of Section 113 of this Act.

(c) The contributions payable under paragraphs (a)1.a., (a)2.a., and (b) of this

subsection by employers and the state shall be equal to the sum of the "normal cost" contribution, and the "actuarially accrued liability contribution," except that the minimum contribution to fund pension and life insurance benefits shall not be less than the combined employer contribution specified by paragraph (a) of this subsection and subsection (3) of this section.

(d) For purposes of this subsection, the normal cost contribution shall be computed as a percentage of payroll and shall be an annual amount that is sufficient when combined with employee contributions to fund pension and life insurance benefits earned during the year.

(e) For purposes of this subsection, the actuarially accrued liability contribution shall be an annual amount that is sufficient to amortize the total unfunded actuarially accrued liability over a closed period of thirty (30) years using the level-dollar amortization method. This method shall be used beginning with the 2017 actuarial valuation. The initial thirty (30) year amortization period shall begin with the 2017 actuarial valuation.

(f) Effective with the 2017 actuarial valuation, the employer contributions computed under this section shall be determined using:

1. The entry age normal cost funding method;
2. An asset smoothing method that smooths gains and losses over a five (5) year period;
3. Resetting the amortization period to a new thirty (30) year closed period for purposes of calculating the actuarially accrued liability contribution; and
4. Other funding methods and assumptions established by the board in accordance with KRS 161.460.

(2) In addition to the required contributions in subsection (1) of this section, the state

shall contribute annually to the Kentucky Teachers' Retirement System a percentage of the total salaries of the state-funded and federally funded members it employs to pay the cost of health insurance coverage for retirees who are not eligible for Medicare and who retire on or after July 1, 2010, less the amounts that are otherwise required to be paid by the retirees under KRS 161.675. The Kentucky Teachers' Retirement System may also request an additional amount necessary to ensure payment of medical insurance costs through fiscal year 2015-2016 which shall not be subject to the limitations of paragraph (c) of this subsection. The board shall deposit funds in the medical insurance fund unless the board of trustees has established a trust fund under 26 U.S.C. sec. 115 for this purpose. In this case, the board may deposit the employer contribution in that trust fund. This contribution shall be known as the state medical insurance fund stabilization contribution. The percentage to be contributed by the state under this subsection:

- (a) Shall be determined by the retirement system's actuary for each biennial budget period;
  - (b) May be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands; and
  - (c) Shall not exceed the lesser of the actual benefit cost for retirees not eligible for Medicare who retire on or after July 1, 2010, or the amount contributed by employers under subsection (3) of this section.
- (3) ~~[Effective July 1, 2010, ]~~**Effective July 1, 2018,** all **employers who employ nonuniversity members**~~[local boards of education, agencies, and organizations identified in KRS 161.220(4), with the exception of those institutions identified under paragraphs (b) and (n) of KRS 161.220(4),]~~ shall make a contribution for each payroll on behalf of their active employees who participate in the ~~[Kentucky]~~ Teachers' Retirement System in an amount equal to:
- (a) Three percent (3%)**~~[the percentage]~~ of payroll of those active employees.



Effective July 1, 2018, the contribution specified by this paragraph that is paid on or after July 1, 2018, shall be used to fund pension benefits and shall offset the contribution payable by the state under subsection (1)(b) of this section; and

(b) Two percent (2%) of payroll those members who participate in the 401(a) money purchase plan as provided by subsections (1)(a) and (2)(c) of Section 109 of this Act.], according to the schedule as follows:

July 1, 2010.....	Twenty five hundredths percent (.25%)
July 1, 2011.....	One half percent (.50%)
July 1, 2012.....	One percent (1.0%)
July 1, 2013.....	One and one half percent (1.5%)
July 1, 2014.....	Two and twenty five hundredths percent (2.25%)
July 1, 2015, and thereafter.....	Three percent (3.0%)

(4) ~~Institutions identified under KRS 161.220(4)(b) and (n) shall make a contribution for each payroll on behalf of their active employees who participate in the Kentucky Teachers' Retirement System of an amount equal to a percentage of these employees' payroll that is actuarially equivalent to the percentage contributed by local boards of education, agencies, and organizations identified under subsection (3) of this section, not to exceed the percentages established under the schedule set forth in subsection (3) of this section. The actuarial equivalent to be contributed under this subsection shall be determined by the Kentucky Teachers' Retirement System's actuary.~~

(5) ~~When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the Kentucky Teachers' Retirement System's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subsections (3) and (4) of this section shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.~~

~~(6) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.168; 161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7).]~~ In the event an annual appropriation **for the amounts specified by subsection (1)(a)1. of this section** is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

➔Section 127. KRS 161.595 is amended to read as follows:

- (1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of the full actuarial cost of the service credit purchased as defined in KRS 161.220(22). Such payments shall not be picked up, as described in KRS 161.540(2).
- (2) The amount paid under this section shall be considered as accumulated contributions of the individual member.
- (3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.
- (4) Effective July 1, 2018, the service purchase provided by this section shall not be available to be purchased by members who are required or who elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by Section 110 of this Act.**

➔Section 128. KRS 161.600 is amended to read as follows:

- (1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:
  - (a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;
  - (b)
    1. For an individual who becomes a member before July 1, 2008, attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; and
    2. For an individual who becomes a member on or after July 1, 2008, attainment of age fifty-five (55) years and completion of a minimum of ten (10) years of Kentucky service with an actuarial reduction of the basic retirement allowance of six percent (6%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;
  - (c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or
  - (d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is

less than twenty-seven (27).

- (2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.
- (3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.
- (4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative

regulations of the board of trustees. A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if these elections are made no later than the fifteenth day of the month in which the member has made application for retirement.

- (5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

**(6) Effective July 1, 2018, this section does not apply to members who:**

**(a) Become contributing members in the Teachers' Retirement System on or after July 1, 2018, who are required to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (1) of Section 110 of this Act; or**

**(b) Elects to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (6) of Section 110 of this Act.**

➔Section 129. KRS 161.615 is amended to read as follows:

- (1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in KRS 161.605.
- (2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.
- (3) The provisions of this section apply only to those retired members who were permitted to return to work under the critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002. The provisions of this section shall not

apply to any retired member returning to work on or after July 1, 2002.

- (4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in KRS 161.605.
- (5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump-sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.
- (6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

**(7) Notwithstanding the provisions of subsections (1) to (6) of this section, any plan established pursuant to this section shall, effective July 1, 2018, be closed to any future employee or employer contributions.**

➔Section 130. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall, **except as limited by Section 110 of this Act,** be calculated as follows:
  - (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary

for service performed after July 1, 1983, for all **nonuniversity** members~~[not employed by a state college or university]~~. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are **university** members~~[under the provisions of KRS 161.220(4)(b) or (n)]~~ shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

- (b) For individuals who become **nonuniversity** members of the ~~[Kentucky ]~~Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, ~~[except those persons who become members under KRS 161.220(4)(b) or (n), and ]~~who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become **nonuniversity** members of the ~~[Kentucky ]~~Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008~~[, except those persons who become members under KRS 161.220(4)(b) or (n)]~~, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary;
- (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, and who become **nonuniversity** members before July 1, 2008~~[, except those persons who are members under KRS 161.220(4)(b) or (n)]~~, a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of

this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714. **The provisions of this paragraph shall not apply to service earned on or after July 1, 2018, except for those members who make an election to continue participating in the defined benefit plan until June 30, 2021, pursuant to subsection (2)(b)1.a. of Section 110 of this Act;**

(d) For individuals who become **nonuniversity** members of the  ~~Kentucky Teachers' Retirement System on or after July 1, 2008~~, ~~except those persons who become members under KRS 161.220(4)(b) or (n)~~, the retirement allowance shall be:

1. a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
- b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
- c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
- d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
2. Three percent (3%) of the member's final average salary for each year of



service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c) of this subsection **The provisions of this subparagraph shall not apply to service earned on or after July 1, 2018;**

- (e) For individuals who become **university** members of the  ~~Kentucky~~ Teachers' Retirement System on or after July 1, 2008~~, who are members under KRS 161.220(4)(b) or (n)~~, the retirement allowance shall be:
1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
  2. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
  3. One and eighty-five hundredths percent (1.85%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but less than twenty-seven (27) years of service at retirement; or
  4. Two percent (2%) of the member's final average salary for each year of service if the member has earned twenty-seven (27) or more years of service at retirement; and
- (f) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).

(2) **(a)** Effective July 1, ~~2018~~~~[2002]~~, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least **five (5) years, except as provided by paragraph (b) of this subsection**~~[the full twelve (12) months]~~ immediately preceding the date that the increase is effective.~~[In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro-rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.]~~

**(b) For retired members and beneficiaries receiving benefits based upon a retirement date prior to July 1, 2018, the increase in retirement allowance provided by paragraph (a) of this subsection that is awarded annually on July 1 of each year shall not be provided for July 1, 2018, July 1, 2019, July 1, 2020, July 1, 2021, and July 1, 2022.**

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection, except the following:

- (a) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008; or
- (b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic relations

order or any other provision permitted under KRS 161.700.

- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
- (5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding

the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.

- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.
- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

**(10) Effective July 1, 2018, subsections (1) to (7) of this section do not apply to members who:**

- (a) Become contributing members in the Teachers' Retirement System on or after July 1, 2018, who are required to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by**

**subsection (1) of Section 110 of this Act; or**  
**(b) Elect to participate in the 401(a) money purchase plan or the Public Employees Retirement System as provided by subsection (6) of Section 110 of this Act.**

➔Section 131. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620, **subject to the limitation of subsection (9)(a) of this section.** Notwithstanding any statute to the contrary, sick-leave credit that is accredited under this section or by one (1) of the other state-administered retirement systems shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance from the Kentucky Teachers' Retirement System.
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall not be eligible

to receive compensation for accrued sick leave under subsection (9) of Section 112 of this Act~~[KRS 161.155(10)]~~ or any other statutory provision.

- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under subsection (9) of Section 112 of this Act~~[KRS 161.155(10)]~~ shall be based on the full actuarial cost as defined in KRS 161.220(22).
- (8) For an individual who becomes a member on or after July 1, 2008, the maximum amount of unused accumulated sick leave that may be considered for addition to the member's retirement account for purposes of determining the retirement allowance under KRS 161.620 shall not exceed three hundred (300) days or the amount specified by subsection (9)(a) of this section.

**(9) Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary:**

**(a) The maximum amount of sick leave converted to additional service credit under the provisions of this section shall not exceed the service credit based upon the level of sick leave accumulated on June 30, 2018, by a member whose employer participates in the sick leave authorized by this section.**

**(b) On or after the effective date of this Act, no employers may opt to participate in the sick leave program authorized by this section.**

➔Section 132. KRS 161.675 is amended to read as follows:

- (1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and

future eligible recipients of a retirement allowance from the Teachers' Retirement System *and for those members receiving a monthly distribution in the 401(a) money purchase plan established by Section 109 of this Act and for those members who are participants in the Public Employees Retirement System.* The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.

- (2) (a) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and, when necessary, to contain the expenses of the insurance program within the funds available to finance the insurance program, except as provided by paragraph (b) of this subsection. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS

61.680 and 61.702. An annuitant shall not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

- (b) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, shall not be eligible for benefits under this section unless the member has at least fifteen (15) or more years of service credited under KRS 161.500 or another state-administered retirement system.

**(c) In addition to the requirements of paragraph (b) of this subsection, and in order to be eligible for the benefits described by this section, individuals who become a member on or after July 1, 2018, as provided by subsection (1) of Section 110 of this Act, and members who make an election as provided by subsection (6) of Section 110 of this Act, shall:**

- 1. Be at least fifty-nine and one-half (59 and 1/2) years of age;**
- 2. Terminate employment with any participating employer; and**
- 3. Be receiving a monthly distribution from the 401(a) money purchase plan or the Public Employees Retirement System or from an annuity offered through a vendor of the Public Employees Retirement System.**

**Nothing in this paragraph shall limit the board's authority to change the levels of coverage, eligibility conditions, or levels of health insurance supplement for retirees in order to contain costs within available funding.**

- (3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), from a trust fund established by the board under 26 U.S.C. sec. 115, premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.



(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund and any trust fund established by the board for this purpose under 26 U.S.C. sec. 115. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the Kentucky Teachers' Retirement System for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements, the annuitant must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board shall, effective July 1, 2010, have the authority to charge retired members who are not paying the Standard Medicare Part B premium an amount equal to the Standard Medicare Part B premium in addition to any other payments determined by the board to be necessary to contain costs within the available funding. If the board determines that retired members who are not paying the Standard Medicare Part B premium should pay the equivalent of the Standard Medicare Part B premium, the board shall phase in the premium according to the following schedule:

July 1, 2010.....	Thirty-three percent (33%)
July 1, 2011.....	Sixty-seven percent (67%)

July 1, 2012, and thereafter..... One hundred percent (100%)  
Nothing in this paragraph shall limit the board's authority to change the levels of coverage, eligibility conditions, or levels of health insurance supplement for retirees in order to contain costs within available funding.

- (c) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.
- (d) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.
- (5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from any trust fund established by the board for this purpose under 26 U.S.C. sec. 115, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

- (6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.
- (7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system or any trust fund established for this purpose by the board.
- (8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.
- (9) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the medical insurance fund or another trust fund established by the board for this purpose shall not constitute taxable income to an insured recipient.
- (10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata

basis for the time that the member was employed by the active employer.

**(11) Effective July 1, 2018, notwithstanding any other provision of statute to the contrary, this section does not apply to:**

**(a) Members who retire and begin drawing a retirement allowance on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, Judicial Retirement Plan, Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Teachers' Retirement System, or Public Employees Retirement System, for a period of more than twenty-four (24) months prior to the date the member retired and began receiving a retirement allowance from the systems and plans administered by the Teachers' Retirement System; and**

**(b) Members who first become participants in the Public Employees Retirement System or first become members in the 401(a) money purchase plan on or after July 1, 2018, who have not contributed to the Legislators' Retirement Plan, Judicial Retirement Plan, Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, Teachers' Retirement System, Public Employees Retirement System, or 401(a) money purchase plan for a period of more than twenty-four (24) months prior to the date the member applied for health benefits as provided by this section.**

➔Section 133. KRS 161.430 is amended to read as follows:

- (1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system, **except as provided by subsection (4) of Section 109 of this Act.** The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment

counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors, board members, or staff employees, shall adhere to the Code of Ethics and Standards of Professional Conduct, the Asset Manager Code of Professional Conduct if the individual is managing retirement system assets, and the Code of Conduct for Members of a Pension Scheme Governing Body if the individual is a board member, promulgated by the CFA Institute. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first

report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

- (2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:
  - (a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;
  - (b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;
  - (c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
  - (d) In accordance with the laws, administrative regulations, and other instruments governing the system.
- (3)
  - (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.
  - (b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for

appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or
  2. A bank as defined by that Act; or
  3. An insurance company qualified to perform investment services under the laws of more than one (1) state.
- (4) **Except as provided by subsection (4) of Section 109 of this Act,** no investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.
- (5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Kentucky Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.
- (7) **Except as provided by subsection (4) of Section 109 of this Act,** all contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective

contracts for the investment or management of assets of the system shall comply:

- (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
- (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
- (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
- (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
- (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
- (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

➔Section 134. KRS 161.605 is amended to read as follows:

**Except as provided by subsection (15) of this section,** any member retired by reason of service **prior to July 1, 2018,** may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

- (1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers'



Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Nonqualified service credit purchased under the provisions of KRS 161.5465 or elsewhere with any state-administered retirement system shall not be used to meet the thirty (30) year requirement set forth in this subsection. Out-of state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system;

- (2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered;
- (3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be

permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis;

- (4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of

Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year;

- (5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account, or any other account from which the member is eligible to draw a retirement allowance. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The new account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this new account shall be calculated pursuant to KRS 161.620(1)(b). This new account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7) or 161.675, nor shall this new account provide the benefits offered by KRS 161.520, 161.525, 161.620(3), 161.655, 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section

shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470;

- (6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. Notwithstanding any other provision of law to the contrary, a member retiring from a local school district who returns to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to his or her retirement allowance or any other retirement benefit, to earn a minimum amount equal to one hundred seventy dollars (\$170) per day;
- (7) (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A

retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

- (b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.
- (c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service;

- (8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.
- (b) The Department of Education may employ retired members in full-time or

part-time teaching or nonteaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School, and to serve on audit teams. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection, except the Kentucky Teachers' Retirement System shall determine the maximum number of employees that may be employed under this paragraph;

- (9) The return to work limitations set forth in this section shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or a position described in KRS 161.046 or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection;
- (10) The provisions of subsections (1) to (8) of this section are not subject to KRS 161.714;
- (11) Any member retired by reason of service may waive his or her annuity and return to full-time employment in a position covered by the Kentucky Teachers' Retirement System under the following conditions:
- (a) The member shall receive no annuity payments while employed in a covered position, shall waive his or her medical insurance coverage with the Kentucky Teachers' Retirement System during the period of reemployment, and shall

receive the medical insurance coverage that is generally offered by the member's active employer to the other members of the retirement system employed by the active employer. The member's estate or, if there is a beneficiary applicably designated by the member, then the beneficiary, shall continue to be eligible for life insurance benefits as provided in KRS 161.655. Service subsequent to retirement shall not be used to improve an annuity, except as provided in paragraphs (b) and (c) of this subsection;

- (b) Any member who waives regular annuity benefits and returns to teaching or covered employment shall be entitled to make contributions on the salaries received for this service and have his retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1), less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by postretirement employment, and dependents and spouses of the members shall not become eligible for benefits under KRS 161.520, 161.525, or 161.661 because of postretirement employment;
- (c) When a member returns to full-time teaching or covered employment as provided in subsection (b) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member shall be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service or age may be reduced or eliminated due to additional employment if full-time employment is for one (1)



consecutive contract year or longer; and

- (d) A member retired by reason of service who has been employed the equivalent of twenty-five (25) days or more during a school year under KRS 161.605 may waive the member's retirement annuity and return to regular employment covered by the Kentucky Teachers' Retirement System during that school year a maximum of one (1) time during any five (5) year period, beginning with that school year;
- (12) Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to (8) of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis

for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined;

- (13) When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (12) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (12) of this section; and
- (14) For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

**(15) Members retiring on or after July 1, 2018, shall be subject to the provisions of subsection (18) of Section 98 of this Act for any reemployment occurring on or after July 1, 2018 in any system or plan administered by the Kentucky Retirement Systems or the Teachers' Retirement System.**

➔Section 135. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions and only to the extent set forth in this section, if the individual is

employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

- (1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620, except that the provisions of KRS 161.620(3) shall not apply. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may permit members providing part-time or substitute services to participate in other benefits offered by the retirement system by promulgating administrative

regulations that establish eligibility conditions for participation in these benefits. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness;

- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services;
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less;
- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees;
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take

whatever action that may be necessary to correct any error relating to membership;{  
and}

(7) **Effective July 1, 2018, this section does not apply to:**

**1. Any person who has not become a member of the Teachers' Retirement System prior to July 1, 2018; and**

**2. Any individual who retires on or after July 1, 2018, and is reemployed on or after July 1, 2018; and**

(8) The provisions of this section are not subject to KRS 161.714.

➔Section 136. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. All elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer institution. Persons who originally elected to participate in the optional retirement plan may later change their elections only as follows:

(a) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time during his or her

lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System, **if the person makes an election prior to July 1, 2018**. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. Any person exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary education institution employer;

- (b) **If the election is made prior to July 1, 2018**, any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in KRS 161.220(4)(b), to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System **under this paragraph** may purchase service credit only for their prior years of service for a postsecondary education institution identified in KRS 161.220(4)(b) during which they participated in the optional

retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and six (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement System had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary education institution as provided by KRS 161.569(5), or KRS 161.569(5)(a)2. as it existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in KRS 161.540(2). Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which time they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461, or by rolling over or transferring other plan funds as permitted by the rules set forth in the Internal Revenue Code, or by making an after-tax lump-sum cash payment;

- (c) Effective July 1, 2008, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky

Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2008. Persons who change their election prior to July 1, 2008, to prospectively participate in the Kentucky Teachers' Retirement System may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this paragraph shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the election to purchase service credit shall be on file with the Kentucky Teachers' Retirement System no later than December 31, 2008; and

- (d) Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement System shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their elections.
- (2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date



of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, the employee shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

➔Section 137. KRS 161.655 is amended to read as follows:

- (1) Effective July 1, 2000, the Teachers' Retirement System shall ***for those members who became members prior to July 1, 2018:***
  - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
  - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the

member on forms prescribed by the retirement system, except in the event of subsequent marriage or divorce. A valid marriage license shall terminate any previously designated beneficiary, even that of a trust, and establish the spouse as beneficiary unless, subsequent proof of the marriage, the member or retired member redesignates someone other than the new spouse as the beneficiary. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
- (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.
- (5) Upon the death of a member of the Teachers' Retirement System, the life insurance provided pursuant to subsection (1) of this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 138. KRS 161.661 is amended to read as follows:

**The Teachers' Retirement System shall provide the following disability benefits to individuals who became members prior to July 1, 2018:**

- (1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last

contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only.

- (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.
- (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.
- (4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit. The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600 and 161.620.

- (5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- (6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.
- (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).
- (8) Any member retired by reason of disability may voluntarily waive disability benefits

and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

- (9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.
- (10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.
- (11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.
- (12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars (\$40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does

not exceed forty thousand dollars (\$40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars (\$40,000). The board of trustees may annually increase the forty thousand dollar (\$40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%).

- (13) All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002, until July 1, 2006. Effective July 1, 2006, the twenty-seven thousand dollar (\$27,000) limitation shall be increased to forty thousand dollars (\$40,000) and may be adjusted by the board of trustees by the consumer price index in the manner described in subsection (12) of this section. The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.
- (14) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and

161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).

- (15) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.
- (16) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.
- (17) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.
- (18) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum

shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

➔Section 139. KRS 161.470 is amended to read as follows:

- (1) **Except as limited by Sections 109, 110, and 111 of this Act,** the membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.
- (2) **Except as provided by subsection (6) of Section 110 of this Act,** service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and reestablish his service credit as provided in subsection (3) of this section.
- (3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.
- (4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for



any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

- (5) Membership in the retirement system shall be terminated:
- (a) By retirement for service;
  - (b) By death;
  - (c) By withdrawal of the member's accumulated contributions, **except as provided by subsection (6) of Section 110 of this Act;**
  - (d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or
  - (e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment as provided in subparagraphs 1. and 2. of this paragraph.
    1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.
    2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event

that the member returns to active contributing service.

- (6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his accumulated contributions with regular interest, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. A member may not withdraw any part of his or her contributions to the retirement system except as provided by this subsection.
- (7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary, all of his accumulated contributions, with regular interest, including any payments made by the member to the state accumulation fund, but the estate or beneficiary shall have no claim on any contributions made by the state with a view to the retirement of the member or to contributions made to the medical insurance fund.
- (8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for

the purpose of meeting the service requirement of subsections (3) and (4) of this section.

➔Section 140. KRS 161.525 is amended to read as follows:

- (1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as the primary beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as the primary beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.
- (2) A spouse qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.
- (3) Upon death of a member in active contributing status at the time of his death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the primary beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

**(4) This section does not apply to account balances in the 401(a) money purchase plan or the Public Employees Retirement System.**

➔Section 141. KRS 161.630 is amended to read as follows:

- (1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).
- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:
  - (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
  - (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.
- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance or the predetermined years certain and life thereafter option. A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the

member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.

- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

**(5) This section does not apply to account balances in the 401(a) money purchase plan or the Public Employees Retirement System.**

➔Section 142. KRS 161.650 is amended to read as follows:

- (1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.
- (2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. Cobeneficiaries shall be composed of a single class of individuals, or trusts where permitted, who will share in equal proportions in any payment that may become available under this section. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall

terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary or all designated beneficiaries predecease the member, any remaining accumulated member contributions shall be payable to the member's estate.

**(3) This section does not apply to account balances in the 401(a) money purchase plan or the Public Employees Retirement System.**

➔Section 143. KRS 161.714 is amended to read as follows:

**(1) For persons who became members in the Teachers' Retirement System prior to July 1, 2018,** it is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 to 161.710 shall constitute~~[-, except as provided in KRS 6.696,]~~ an inviolable contract of the Commonwealth, and the benefits provided herein shall~~[-, except as provided in KRS 6.696,]~~ not be subject to reduction or impairment by alteration, amendment, or repeal, **except:**

**(a) As provided in KRS 6.696; and**

**(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes made to the provisions of KRS 161.220 to 161.716 on or after the effective date of this Act.**

**(2) (a) For persons who become members in the Teachers' Retirement System on or after July 1, 2018, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 161.220 to 161.716 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits a member has accrued in the 401(a) money purchase plan established by Section 109 of this Act at the time of amendment, suspension, or reduction shall not be affected.**

**(b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the account balance the member has accrued in the 401(a) money purchase plan established by Section 109 of this Act at the time of amendment, suspension, or reduction.**

**(c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 161.220 to 161.716, except the benefits specified by paragraph (b) of this subsection for members who begin participating in the Teachers' Retirement System on or after July 1, 2018.**

**(3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Teachers' Retirement System as provided by KRS 161.220 to 161.716 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2018.**

➔Section 144. KRS 48.315 is amended to read as follows:

- (1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 21.347; 21.540; ~~21.560~~; 42.500; 47.010; 48.010(15)(g); 56.100; 61.470; 64.345; 64.350; 64.355; 95A.220; 136.392; 138.510; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 248.540; 248.550; 278.130; 278.150; 286.1-485; 304.35-030; 311.450; 311.610; 312.019; 313.022; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

- (2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.
- (3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

➔Section 145. KRS 67A.655 is amended to read as follows:

**Prior to July 1, 2018,** the legislative body in an urban-county government may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen and firefighters in the County Employees Retirement System. All new employees who would have been granted membership in the policemen's and firefighter's retirement fund of the urban-county government shall be members of the County Employees Retirement System. All active members of the policemen's and firefighter's retirement fund of the urban-county government at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local retirement fund, but the legislative body may withdraw its order prior to the effective date if the number of active members choosing to transfer is not sufficient to fully fund the balance of the cost of transition after available local pension assets are included. The urban-county government shall elect the alternate participation plan, pursuant to KRS 78.530(3), for active members who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the urban-county government may, at its option, extend the payment period for the cost of alternate participation to a maximum of thirty (30) years with the interest at the rate actuarially assumed by the County Employees Retirement System board. The urban-county government shall have the right to use assets in the local pension fund, other than those assets, as determined by actuarial valuation, necessary to pay benefits to the remaining active members of the local retirement fund and retirees and their



survivors, to assist in the payment of the annual installment cost of alternate participation. The County Employees Retirement System employee contribution shall be made as a deduction from salary, and payment to the member of salary less this deduction shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the member during the period covered by the payment. All policemen and firefighters who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

➔Section 146. KRS 79.080 is amended to read as follows:

- (1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.
- (2) Cities of all classes, counties, and urban-county governments and the agencies of cities, counties, charter county, and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. The plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, charter county, urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, charter county, urban-county government, or agency into a fund from which coverage or benefits are paid, or it

may take any form desired by the city, county, charter county, urban-county government, or agency. Each city, county, charter county, urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of the plan.

- (3) Cities of all classes, counties, charter counties, urban-county governments, the agencies of cities, counties, charter counties, and urban-county governments, and all other political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase the coverages.
- (4) Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3) year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. If a city, county, charter county, or urban-county government, or one (1) of its agencies, terminates participation of its active employees in the state health insurance coverage program and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the unit of government, or its agency, nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program. The three (3) year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government

changes its participation status.

- (5) Any city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside; except that if any city, county, charter county, urban-county government, or agencies of any city, county, charter county, urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the city, county, charter county, urban-county government, or agencies of the city, county, charter county, urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons for any other hospitalization benefit shall be paid by the employee.
- (6) If an employee moves his place of residence or employment out of the service area

of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

- (7) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if the member passed an entrance physical examination and was found to be in good health as required.
- (8) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.
- (9) After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan 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, county, charter county, urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System, **except as limited by Section 59 of this Act**. The city, county, charter county, urban-county, or agency thereof 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.

➔Section 147. KRS 90.400 is amended to read as follows:

- (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-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 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, except as limited by Section 59 of this Act. 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 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.

➔Section 148. KRS 90.410 is amended to read as follows:

- (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 (1/2) of the monthly salary of any employee at the time of his 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, **except as limited by Section 59 of this Act**. 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 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.

➔Section 149. KRS 95.290 is amended to read as follows:

- (1) The city legislative body in cities of the first class may enact ordinances providing for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the firefighters' pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess, and collect contributions from the members for the benefit of the fund.
- (2) (a) There shall be a governing body of the policemen's pension fund, and a governing body of the firefighters' pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform

investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be composed of persons receiving pension benefits from the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the firefighters' pension fund, except if there are fewer than six (6) active and retired members of the policemen's or the firefighters' pension fund, the governing body of the pension fund shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor from the city's respective police department or fire department. To be effective, an action of the governing body of a fund shall require only a simple majority of the votes cast at a properly convened meeting of the governing body where a quorum is present, with a quorum being a majority of the members of a governing body.

- (b) If all liabilities to all individuals entitled to benefits from the policemen's pension fund or firefighters' pension fund have been satisfied, the ordinances establishing the fund may be repealed by the majority vote of the duly elected members of the entire legislative body. If repealed, the governing body of the policemen's or firefighters' pension 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 paragraph shall be distributed by the governing body to the city's general fund provided 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, for retention by the city clerk the same as for other city records, of the actions taken to dissolve the fund and liquidate residual assets of the fund.

- (3) Any policemen's pension fund or any firefighters' pension fund established under the provisions of this section shall be held or distributed for, and only for, any of the following purposes of the respective fund as applicable:
- (a) Paying pensions, and any bonus payments under applicable ordinances;
  - (b) Making payments to the city for transfer to the County Employees Retirement System for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2) or for the distribution of residual assets in the event the fund is dissolved pursuant to subsection (2)(b) of this section;
  - (c) Transferring pension assets through investment contract or other financial instrument for the purpose of amortizing unfunded service liabilities; and
  - (d) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565.

Pursuant to the terms of this section, if policemen of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed to the city for use by the city for any other purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (d) of this subsection. The governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal services, the amount such governing board deems proper.

- (e) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565. Pursuant to the terms of this section, if firefighters of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and

- (c) of this subsection, these excess funds shall be distributed according to the terms of an agreement negotiated between the city and the union organization representing the firefighters. The city may use its share of the distributed excess funds for any purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (e) of this subsection.
- (4) (a) The governing body of each pension fund shall insure that all of the assets in the fund are distributed for the purposes in subsection (3) of this section, and only for these purposes. If in any calendar year the assets in either fund exceed those needed for the actuarial liability for payment of pension benefits and any anticipated liabilities under subsection (3)(b) and (c) of this section, the legislative body of the city establishing the pension system shall insure by pension bonus ordinance that a portion of these excess funds be distributed in an equitable manner to all eligible pension recipients. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.
- (b) The governing board of either fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal or other professional services, the amount such governing board deems proper.
- (5) Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.
- (6) To assure equal protection for the beneficiaries of either fund, any action taken by the city executive or legislative body in cities of the first class that affects a policemen's pension fund or a firefighters' pension fund established under this section shall, to the maximum extent permitted by law, treat each fund in a uniform manner and shall not cause any change to be made to the structure or operation of

either fund, whether through legislation, litigation, compromise, settlement, or otherwise, unless any proposed change is offered to the other fund before it takes effect. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.

- (7) The legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the County Employees Retirement System. All new employees who would have been granted membership in the local policemen's pension system shall be members of the County Employees Retirement System, *except as limited by Section 59 of this Act.* All active members of the local policemen's pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city 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 policemen's pension system and to retirees and their survivors as determined by actuarial valuation, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage, and the city may, at its option, purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.
- (8) The legislative body in a city of the first class may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for firefighters in the County

Employees Retirement System. In the event that the legislative body in a city of the first class issues such an order, then all new employees who would have been granted membership in the local firefighters' pension system shall be members of the County Employees Retirement System. All active members of the local firefighters' pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for firefighters who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local firefighters' pension fund, other than assets necessary to pay benefits to the remaining active members of the local firefighters' pension system and to retirees and their survivors as determined by actuarial valuation, to assist in the payment of the annual installment cost of alternate participation. After certification by the County Employees Retirement System of eligibility for hazardous duty coverage, each firefighter who becomes a member of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

- (9) Notwithstanding the provisions of KRS 61.565, which relate to the contributions required of participating employers, any city of the first class participating in the County Employees Retirement System hazardous duty pension plan which has in effect a collective bargaining agreement with a group of employees who participate in said plan, shall have the right to enter into agreement with its employees or with their respective collective bargaining representatives. This agreement may include, but is not limited to, specifications of what portion of the required employer contribution shall be borne by the participating employer and what portion shall be

borne by the participating employee. This provision in no way modifies the employer's obligation to remit the contributions required by the County Employees Retirement System pursuant to KRS 61.565, whether such contributions are borne by the city or by its participating employees.

- (10) With regard to the employer participation or employer contributions pursuant to KRS 61.565 as it relates to future pension contribution requirements or as it relates to payback period or interest charge for service liability cost under alternate participation, if any statute or any resolution of the appropriate state board of trustees having authority over employer participation or employer contribution grants any terms or conditions to any city of the home rule class, or to any county, or to any urban-county government, which are more favorable in terms of participation than terms or conditions granted to any city of the first class, then said provisions for employer participation or contribution shall be available to the city of the first class, at its option and effective upon adoption by the city of the first class and notification to the County Employees Retirement System.

➔Section 150. KRS 212.792 is amended to read as follows:

- (1) The board shall establish a compensation plan for all employees of the department.
- (2) The employees of the department shall be employed and governed in accordance with the board's merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles. The systems shall include a personnel board of at least five (5) members appointed by the board for two (2) year terms. The personnel board shall establish rules and regulations governing the administration of the personnel system. The district director of health shall function as the appointing authority for personnel matters of the board. The board shall have one (1) year from the implementation of KRS 212.780 to 212.794 to provide for a

merit system.

- (3) Notwithstanding the provisions of KRS 61.510 to 61.692 and 78.510 to 78.852 all regular full-time, present and future public health employees of an independent district department of health shall be included within the provisions of the Kentucky Retirement System, **except as limited by Section 59 of this Act.**
- (4) When a personnel board is organized as provided in this section, all health department employees shall be transferred to and continued in the service of the department created under KRS 212.782. Any health department employee who is in classified service at the time of the establishment of a personnel system shall be continued in the classified service of the newly created department with the same status held in the district department of health.

➔Section 151. The Public Employees Retirement System, Kentucky Retirement Systems, and Teachers' Retirement System shall provide an update on the development of the system, including any issues as it relates to state or federal law, to the Public Pension Oversight Board no later than February 28, 2018.

➔Section 152. Notwithstanding any other provision of statute to the contrary, the board of trustees of the Kentucky Retirement Systems, Teachers' Retirement System, and the Judicial Form Retirement System shall, on or before January 1, 2018, recompute the 2017 actuarial valuations and provide an updated actuarially required contribution or actuarially determined employer contribution based upon the benefit and funding provisions contained in this Act. For purposes of this section, the Judicial Form Retirement System shall complete the actuarial valuation using the provisions of Section 74 of this Act.

➔Section 153. Notwithstanding KRS 16.500 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 161.220 to 161.716, or any provision of Sections 1 to 152 of this Act to the contrary, in the month following the effective date of this section, a surviving spouse who was married to the deceased member at the time of death but who was ineligible for



monthly benefits payable to the surviving spouse under KRS 16.601 as codified prior to the effective date of this section, shall receive the monthly benefit payable to the surviving spouse in Section 90 of this Act, provided the member's death occurred on or after January 1, 2017.

➔Section 154. If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions of this Act.

➔Section 155. Sections 1 to 150 of this Act shall take effect July 1, 2018