

1 AN ACT relating to the Kentucky Retirement Systems.

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

3 ➔Section 1. KRS 16.578 is amended to read as follows:

- 4 (1) If a member dies prior to the first day of the month in which the member would
5 have received his or her first retirement allowance, the member's beneficiary shall
6 be eligible for the benefits provided by this section if the member had on file a
7 written designation of a beneficiary with the retirement office as provided by KRS
8 61.542 and the member met the following conditions at the date of his or her death:
- 9 (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);
 - 10 (b) The member was in active employment or on authorized leave of absence with
11 five (5) or more years of service credit and died prior to his or her normal
12 retirement date; or
 - 13 (c) The member was not in active employment or on authorized leave of absence
14 with twelve (12) or more years of service credit and died prior to his or her
15 normal retirement date.
- 16 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
17 a single person, then the beneficiary may elect to receive:
- 18 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
19 benefit that would have been paid had the member retired immediately prior
20 to his or her date of death and elected to receive benefits payable under the
21 survivorship one hundred percent (100%) option as provided in KRS
22 61.635(2);
 - 23 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
24 Social Security adjustment option as provided in KRS 61.635(9) that is the
25 actuarial equivalent to the amount computed under paragraph (a) of this
26 subsection;
 - 27 (c) A monthly benefit payable for a period of sixty (60) months that is the

1 actuarial equivalent to the amount computed under paragraph (a) of this
2 subsection;

3 (d) A monthly benefit payable for a period of one hundred twenty (120) months
4 that is the actuarial equivalent to the amount computed under paragraph (a) of
5 this subsection;

6 (e) If the member began participating in the system prior to January 1, 2014, a
7 monthly benefit payable for:

8 1. Sixty (60) months certain;~~[a period of]~~

9 2. One hundred twenty (120) months *certain*;

10 3. *The actuarial equivalent refund; or*

11 4. *The Social Security adjustment option;*

12 that is equivalent to the benefit the member would have been entitled to
13 receive based on his or her years of service and final compensation at the date
14 of his or her death reduced by the survivorship fifty percent (50%) factor as
15 provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that
16 is the actuarial equivalent to the amount computed under paragraph (a) of this
17 subsection; or

18 (f) The higher of a refund of the member's accumulated account balance and
19 interest as described in KRS 61.625(1) or a one (1) time lump-sum payment
20 which shall be the actuarial equivalent of the amount payable under paragraph
21 (a) of this subsection for a period of sixty (60) months.

22 (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section
23 are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or
24 the trustee may elect to receive the actuarial equivalent amounts payable under
25 subsection (2)(c), (d), (e), or (f) of this section using the assumption that the
26 beneficiary's age is the same as the member's age.

27 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is

1 the member's estate, then the beneficiary shall receive the higher of a refund of the
2 member's accumulated account balance and interest as described in KRS 61.625(1)
3 or the one (1) time lump-sum payment payable under subsection (2)(f) of this
4 section, using the assumption that the beneficiary's age is the same as the member's
5 age.

6 (5) Payments of taxable distributions made pursuant to this section shall be subject to
7 state and federal tax as appropriate.

8 ➔Section 2. KRS 61.540 is amended to read as follows:

9 (1) Under administrative regulations promulgated by the board, each member and each
10 employer ~~may~~~~shall have on~~ file at the retirement office, in the form the board may
11 prescribe~~prescribes~~, a statement of the facts pertaining to the member and other
12 information the system may require~~requires. Until the statement is filed, no~~
13 ~~member shall be eligible to receive any benefits under KRS 61.510 to 61.705 and~~
14 ~~78.510 to 78.852~~.

15 (2) The system shall prepare and make available upon request to all members a
16 summary plan description, written in a manner that can be understood by the
17 average member or beneficiary, and sufficiently accurate and comprehensive to
18 reasonably apprise them of their rights and obligations under the provisions of KRS
19 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.

20 (3) The summary plan description shall include:

21 (a) The name of the retirement system, the name and address of the executive
22 director, and the name, address and title of each member of the board of
23 trustees;

24 (b) The name and address of the person designated for the service of legal
25 process;

26 (c) The system's requirements for participation and benefits;

27 (d) A description of retirement formulas for normal, early and disability

- 1 retirement, and survivor benefits;
- 2 (e) A description of the requirements for vesting of pension benefits;
- 3 (f) A reasonable list of circumstances which would result in disqualification,
4 ineligibility, or denial or loss of benefits;
- 5 (g) The sources of financing retirement benefits, and statutory requirements for
6 funding;
- 7 (h) A statement after each actuarial valuation as to whether funding requirements
8 are being met; and
- 9 (i) The procedures to be followed in presenting claims for benefits under the
10 plan, and the remedies available under the plan for the redress of claims which
11 are denied in whole or in part.
- 12 (4) The system may publish the summary plan description in the form of a
13 comprehensive pamphlet or booklet, or in the form of periodic newsletters which
14 shall incorporate all the information required in the summary plan description
15 within a period of two (2) years. Any changes in statutory requirements or
16 administrative practices which alter the provisions of the plan as described in the
17 summary plan description shall be summarized as required in subsection (2) of this
18 section and shall be made available upon request to members in the form of a
19 supplement to a comprehensive booklet, or reported in the periodic newsletter.
- 20 (5) The system shall make available upon request to retirees and beneficiaries the
21 summary plan description.
- 22 ➔Section 3. KRS 61.598 is amended to read as follows:
- 23 (1) For purposes of this section, "bona fide promotion or career advancement":
- 24 (a) Means a professional advancement in substantially the same line of work held
25 by the employee in the four (4) years immediately prior to the final five (5)
26 fiscal years preceding retirement or a change in employment position based on
27 the training, skills, education, or expertise of the employee that imposes a

1 significant change in job duties and responsibilities to clearly justify the
2 increased compensation to the member; and

3 (b) Does not include any circumstance where an elected official participating in
4 the Kentucky Employees Retirement System or the County Employees
5 Retirement System takes a position of employment with a different employer
6 participating in any of the state-administered retirement systems.

7 (2) (a) For employees retiring from the Kentucky Employees Retirement System, the
8 County Employees Retirement System, or the State Police Retirement System
9 on or after January 1, 2018, the systems shall, for each of the retiring
10 employee's last five (5) fiscal years of employment, identify any fiscal year in
11 which the creditable compensation increased at a rate of ten percent (10%) or
12 more annually over the immediately preceding fiscal year's creditable
13 compensation. The employee's creditable compensation in the fiscal year
14 immediately prior to the employee's last five (5) fiscal years of employment
15 shall be utilized to compare the initial fiscal year in the five (5) fiscal year
16 period.

17 (b) Except as limited or excluded by subsections (3) and (4) of this section, any
18 amount of increase in creditable compensation for a fiscal year identified
19 under paragraph (a) of this subsection that exceeds ten percent (10%) more
20 than the employee's creditable compensation from the immediately preceding
21 fiscal year shall not be included in the creditable compensation used to
22 calculate the retiring employee's monthly retirement allowance. If the
23 creditable compensation for a specific fiscal year identified under paragraph
24 (a) of this subsection as exceeding the ten percent (10%) increase limitation is
25 not used to calculate the retiring employee's monthly retirement allowance,
26 then no reduction in creditable compensation shall occur for that fiscal year.

27 (c) If the creditable compensation of the retiring employee is reduced as provided

1 by paragraph (b) of this subsection, the retirement systems:

- 2 1. Shall refund the employee contributions and interest attributable to the
3 reduction in creditable compensation; and
- 4 2. Shall not refund the employer contributions paid but shall utilize those
5 funds to pay down the unfunded liability of the pension fund in which
6 the retiring employee participated.

7 (3) (a) In order to ensure the prospective application of the limitations on increases in
8 creditable compensation contained in subsection (2) of this section, only the
9 creditable compensation earned by the retiring employee on or after July 1,
10 2017, shall be subject to reduction under subsection (2) of this section.
11 Creditable compensation earned by the retiring employee prior to July 1,
12 2017, shall not be subject to reduction under subsection (2) of this section.

13 (b) If the reductions in creditable compensation during a retiring member's
14 entire last five (5) years of employment results in a reduction in his or her
15 monthly retirement allowance of less than twenty-five dollars (\$25) per
16 month or an actuarially equivalent value under the various payment
17 options, then no reduction in creditable compensation or retirement
18 allowances shall occur under subsection (2) of this section.

19 (4) Subsection (2) of this section shall not apply to:

- 20 (a) A bona fide promotion or career advancement as defined by subsection (1) of
21 this section;
- 22 (b) A lump-sum payment for compensatory time paid to an employee upon
23 termination of employment;
- 24 (c) A lump-sum payment made pursuant to an alternate sick leave program under
25 KRS 78.616(5) that is paid to an employee upon termination of employment;
- 26 (d) Increases in creditable compensation in a fiscal year over the immediately
27 preceding fiscal year, where in the immediately preceding fiscal year the

1 employer reported the employee as being on leave without pay for any reason,
2 including but not limited to sick leave without pay, maternity leave, leave
3 authorized under the Family Medical Leave Act, and any period of time where
4 the employee received workers' compensation benefit payments that were not
5 reported to the plan as creditable compensation;

6 (e) Increases in creditable compensation directly attributable to an employee's
7 receipt of compensation for overtime hours worked while serving as a
8 participating employee under any state or federal grant, grant pass-through, or
9 similar program that requires overtime as a condition or necessity of the
10 employer's receipt of the grant; and

11 (f) Increases in creditable compensation directly attributable to an employee's
12 receipt of compensation for overtime performed during a state of emergency
13 declared by the President of the United States or the Governor of the
14 Commonwealth of Kentucky.

15 (5) (a) For employees retiring on or after January 1, 2014, but prior to July 1, 2017,
16 the last participating employer shall be required to pay for any additional
17 actuarial costs resulting from annual increases in an employee's creditable
18 compensation greater than ten percent (10%) over the employee's last five (5)
19 fiscal years of employment that are not the direct result of a bona fide
20 promotion or career advancement. The cost shall be determined by the
21 retirement systems.

22 (b) Lump-sum payments for compensatory time paid to an employee upon
23 termination of employment shall be exempt from this subsection.

24 (c) Kentucky Retirement Systems shall be required to answer inquiries from
25 participating employers regarding this subsection. Upon request of the
26 employer prior to the employee's change of position or hiring, the systems
27 shall make a determination that is binding to the systems as to whether or not

1 a change of position or hiring constitutes a bona fide promotion or career
2 advancement.

3 (d) For any additional actuarial costs charged to the employer under this
4 subsection, the systems shall allow the employer to pay the costs without
5 interest over a period of one (1) year from the date of receipt of the employer's
6 final invoice.

7 (6) The Kentucky Retirement Systems shall determine whether increases in creditable
8 compensation during the last five (5) fiscal years of employment prior to retirement
9 constitute a bona fide promotion or career advancement and may promulgate
10 administrative regulations in accordance with KRS Chapter 13A to administer this
11 section. All state-administered retirement systems shall cooperate to implement this
12 section.

13 (7) Any employer who disagrees with a determination made by the system in
14 accordance with this section regarding whether an increase in compensation
15 constitutes a bona fide promotion or career advancement for purposes of subsection
16 (5) of this section may request a hearing and appeal the decision in accordance with
17 KRS 61.645(16).

18 (8) For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky
19 Retirement Systems shall provide a means for employers to separately report the
20 specific exceptions provided in subsection (4) of this section within the reporting
21 system utilized by the employers for making employer reports under KRS 16.645,
22 61.675, and 78.545. The Kentucky Retirement Systems shall continually provide
23 communication, instructions, training, and educational opportunities for employers
24 regarding how to appropriately report exemptions established by subsection (4) of
25 this section.

26 (9) This section shall not apply to employees participating in the hybrid cash balance
27 plan as provided by KRS 16.583 and 61.597 or to service in the 401(a) money

1 purchase plan as provided by KRS 61.5956.

2 ➔Section 4. KRS 61.640 is amended to read as follows:

- 3 (1) If a member dies prior to the first day of the month in which the member would
4 have received his or her first retirement allowance, the member's beneficiary shall
5 be eligible for the benefits provided by this section if the member had on file a
6 written designation of a beneficiary with the retirement office as provided by KRS
7 61.542 and the member met the following conditions at the date of his or her death:
- 8 (a) The member was eligible to retire under KRS 61.559(2) or (3), 61.5956(5)(a)
9 or (b), or 61.597(6)(a) or (b);
 - 10 (b) The member was in active employment or on authorized leave of absence with
11 five (5) or more years of service credit and died prior to his or her normal
12 retirement date or was normal retirement age or older and had at least four (4)
13 years of service credit; or
 - 14 (c) The member was not in active employment or on authorized leave of absence
15 with twelve (12) or more years of service credit and died prior to his or her
16 normal retirement date.
- 17 (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
18 a single person, then the beneficiary may elect to receive:
- 19 (a) A monthly benefit payable for the life of the beneficiary that is equal to the
20 benefit that would have been paid had the member retired immediately prior
21 to his or her date of death and elected to receive benefits payable under the
22 survivorship one hundred percent (100%) option as provided in KRS
23 61.635(2);
 - 24 (b) A monthly benefit payable for the life of the beneficiary under the beneficiary
25 Social Security adjustment option as provided in KRS 61.635(9) that is the
26 actuarial equivalent to the amount computed under paragraph (a) of this
27 subsection;

- 1 (c) A monthly benefit payable for a period of sixty (60) months that is the
2 actuarial equivalent to the amount computed under paragraph (a) of this
3 subsection;
- 4 (d) A monthly benefit payable for a period of one hundred twenty (120) months
5 that is the actuarial equivalent to the amount computed under paragraph (a) of
6 this subsection;
- 7 (e) If the member began participating in the system prior to January 1, 2014, a
8 monthly benefit payable for:
- 9 1. Sixty (60) months certain;~~[a period of]~~
- 10 2. One hundred twenty (120) months certain;
- 11 3. The actuarial equivalent refund; or
- 12 4. The Social Security adjustment option;
- 13 that is equivalent to the benefit the member would have been entitled to
14 receive based on his or her years of service and final compensation at the date
15 of his or her death reduced by the survivorship fifty percent (50%) factor as
16 provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that
17 is the actuarial equivalent to the amount computed under paragraph (a) of this
18 subsection; or
- 19 (f) The higher of a refund of the member's accumulated account balance as
20 described in KRS 61.625(1) or one (1) time lump-sum payment which shall be
21 the actuarial equivalent of the amount payable under paragraph (a) of this
22 subsection for a period of sixty (60) months.
- 23 (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section
24 are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or
25 the trustee may elect to receive the actuarial equivalent amounts payable under
26 subsection (2)(c), (d), (e), or (f) of this section using the assumption that the
27 beneficiary's age is the same as the member's age.

1 (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is
2 the member's estate, then the beneficiary shall receive the higher of a refund of the
3 member's accumulated account balance as described in KRS 61.625(1) or the one
4 (1) time lump-sum payment payable under subsection (2)(f) of this section, using
5 the assumption that the beneficiary's age is the same as the member's age.

6 (5) Payments of taxable distributions made pursuant to this section shall be subject to
7 state and federal income tax as appropriate.

8 ➔Section 5. The amendments to Sections 1 and 4 of this Act shall be retroactive
9 to June 25, 2009.

10 ➔Section 6. Notwithstanding the provisions of 2017 Ky. Acts ch. 32 to the
11 contrary, the implementation date of the amendments in subsection (28) of Section 9 of
12 2017 Ky. Acts ch. 32 by the Kentucky Retirement Systems shall be December 1, 2019.