

1 AN ACT relating to the fiduciary duties owed to the state-administered retirement
2 systems.

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

4 ➔Section 1. KRS 21.450 is amended to read as follows:

- 5 (1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through
6 contract with a reputable life insurance company authorized to do business in this
7 state, or through investment and reinvestment of funds in securities which, at the
8 time of making the investment, are by law permitted for the investment of funds by
9 fiduciaries in this state, or through a combination of such methods. To the extent
10 that funding is provided through insurance contract, no contributions, payments or
11 premiums shall be subject to any tax on insurance premiums or annuity
12 considerations. The investment committee for the judicial retirement fund shall be
13 trustee of any and all funds contributed or appropriated to the retirement system,
14 and shall have sole authority to make insurance contracts or investments.
- 15 (2) The board members, ~~for~~ any investment **manager**, adviser, **or consultant, or any**
16 **other person who is a fiduciary as provided by this subsection** shall discharge their
17 duties with respect to the funds of the retirement system solely in the interest of the
18 members and beneficiaries and:
- 19 (a) For the exclusive purposes of providing benefits to members and their
20 beneficiaries and defraying reasonable expenses of administering the plan;
- 21 (b) With the care, skill, prudence, and diligence under the circumstances then
22 prevailing that a prudent **person** ~~man~~ acting in a like capacity and familiar
23 with such matters would use in the conduct of an enterprise of a like character
24 and with like aims; and
- 25 (c) In accordance with the **federal, state, and common** laws, regulations and
26 other instruments governing the funds **and fiduciaries**.
- 27 (3) Any accrual of benefits provided under this or any other applicable statute shall be

1 no less than the benefit adjustment provided for in KRS 21.405(4) from the date of
2 the last establishment of that benefit.

3 (4) The board shall establish ethics policies and procedures by promulgation of
4 administrative regulations in accordance with the provisions of KRS Chapter 13A.
5 The ethics policies shall include but not be limited to annual financial and conflict
6 of interest disclosure requirements which must be completed by all board members
7 and made available to the public upon request.

8 (5) The consideration of environmental, social, political, ideological, or other
9 benefits or goals not in the sole interest of the members and beneficiaries of the
10 system is contrary to the fiduciary duties owed to the system and is prohibited.

11 (6) A person is a fiduciary with respect to the system and its fund assets when, upon
12 appointment, employment, engagement, or other action by the board, he or she:

13 (a) Exercises any discretionary authority or discretionary control over the
14 management of the system;

15 (b) Exercises any authority or control over the management or disposition of
16 the system's assets;

17 (c) Renders investment advice to the system for a fee or other compensation
18 from the system, either directly or indirectly, with respect to any moneys or
19 other property of the system;

20 (d) Possesses any discretionary authority or responsibility with respect to any
21 moneys or other property of the system; or

22 (e) Possesses any discretionary authority or responsibility in the administration
23 of the system.

24 (7) An investment manager, adviser, or consultant appointed, employed, engaged, or
25 otherwise acting by board authority, or any other fiduciary provided by this
26 subsection shall acknowledge in writing the fiduciary duties owed to the system
27 and its fund assets.

1 **(8) No contract or agreement, whether made in writing or not, shall in any manner**
2 **waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by**
3 **this section. Any agreement shall specify that it is made in the Commonwealth**
4 **and governed by the laws of the Commonwealth.**

5 ➔Section 2. KRS 21.540 is amended to read as follows:

- 6 (1) (a) Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this
7 section, the board of trustees of the Judicial Form Retirement System shall be
8 charged with the administration of KRS 6.500 to 6.577 and 21.350 to 21.510.
- 9 (b) The Judicial Form Retirement System shall have all powers necessary to
10 administer KRS 6.500 to 6.577 and 21.350 to 21.510 including the power to
11 promulgate all reasonable administrative regulations, pass upon questions of
12 eligibility and disability, make employments for services, to contract for
13 fiduciary liability insurance, investment counseling, and actuarial, auditing,
14 and other professional services subject to the limitations of KRS Chapters 45,
15 45A, 56, and 57.
- 16 (c) 1. The administrative expenses shall be paid out of an administrative
17 account which shall be funded by transfers of the necessary money, in
18 appropriate ratio, from the funds provided for in KRS 21.550 and
19 21.560.
- 20 2. Authorization for all administrative expenses relating to the operations
21 of the Judicial Form Retirement System shall be contained in the
22 biennial budget unit request, branch budget recommendations, and the
23 financial plan adopted by the General Assembly pursuant to KRS
24 Chapter 48.
- 25 3. The request from the Judicial Form Retirement System shall include any
26 specific administrative expenses requested by the board of trustees that
27 are not otherwise specified by this subsection.

- 1 (2) (a) A qualified domestic relations order issued by a court or administrative
2 agency shall be honored by the Judicial Form Retirement System if the order
3 is in compliance with the requirements established by the retirement system.
- 4 (b) Except in cases involving child support payments, the Judicial Form
5 Retirement System may charge reasonable and necessary fees and expenses to
6 the participant and the alternate payee of a qualified domestic relations order
7 for the administration of the qualified domestic relations order by the
8 retirement system. All fees and expenses shall be established by
9 administrative regulations promulgated by the board of trustees of the
10 retirement system. The qualified domestic relations order shall specify
11 whether the fees and expenses provided by this subsection shall be paid:
- 12 1. Solely by the participant;
 - 13 2. Solely by the alternate payee; or
 - 14 3. Equally shared by the participant and alternate payee.
- 15 (c) For purposes of this subsection, a "qualified domestic relations order" shall
16 mean any judgment, decree, or order, including approval of a property
17 settlement agreement, that:
- 18 1. Is issued by a court or administrative agency; and
 - 19 2. Relates to the provision of child support, alimony payments, or marital
20 property rights to a spouse, former spouse, child, or other dependent of a
21 member.
- 22 (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be
23 the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and
24 6.500 to 6.577 shall conform with federal statutes or regulations and meet the
25 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
26 regulations, and other published guidance, and the board shall have the authority to
27 promulgate administrative regulations, with retroactive effect if required under

1 federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement
2 Plan with federal statutes and regulations and to meet the qualification requirements
3 under 26 U.S.C. sec. 401(a).

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

9 (a) Meeting notices and agendas for all meetings of the board. Notices and
10 agendas shall be posted to the system's website~~[Web site]~~ at least seventy-two
11 (72) hours in advance of the board or committee meetings, except in the case
12 of special or emergency meetings as provided by KRS 61.823;

13 (b) A list of the members of the board of trustees and membership on each
14 committee established by the board, including any investment committees;

15 (c) A list of system staff and each staff's salary;

16 (d) A list of the fund's professional consultants and their respective fees and
17 commissions paid by the system;

18 (e) A list of the system's expenditures;

19 (f) The annual financial audit of the system, which shall include but not be
20 limited to a statement of plan net assets, a statement of changes in plan net
21 assets, an actuarial value of assets, a schedule of investments, a statement of
22 funded status and funding progress, and other supporting data;

23 (g) All external audits;

24 (h) The annual actuarial valuation report of pension and retiree health benefits of
25 each retirement plan administered by the system, which shall include a
26 general statistical section and information on contributions, benefit payouts,
27 and retirement plan demographic data;

- 1 (i) All board minutes or other materials that require adoption or ratification by
2 the board of trustees or committees of the board. The items listed in this
3 paragraph shall be posted within seventy-two (72) hours of adoption or
4 ratification by the board or committees;
- 5 (j) All bylaws, policies, or procedures adopted or ratified by the board of trustees
6 or by committees of the board;
- 7 (k) The summary plan description for each plan administered by the system;
- 8 (l) A document or a link to documents containing an unofficial copy of the
9 statutes governing the plans administered by the Judicial Form Retirement
10 System;
- 11 (m) Investment information, including all investment holdings in aggregate, fees,
12 and commissions for each fund administered by the board, which shall be
13 updated on a quarterly basis for fiscal years beginning on or after July 1,
14 2017. The system shall request from all managers, partnerships, and any other
15 available sources all information regarding fees and commissions and shall,
16 based on the requested information received:
- 17 1. Disclose the dollar value of fees and commissions paid to each
18 individual manager or partnership;
 - 19 2. Disclose the dollar value of any profit sharing, carried interest, or any
20 other partnership incentive arrangements, partnership agreements, or
21 any other partnership expenses received by or paid to each manager or
22 partnership; and
 - 23 3. As applicable, report each fee or commission by manager or partnership
24 consistent with standards established by the Institutional Limited
25 Partners Association (ILPA).

26 In addition to the requirements of this paragraph, the system shall also
27 disclose the name and address of all individual underlying managers or

1 partners in any fund of funds in which system assets are invested;

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

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

15 (p) Information regarding the system's financial and actuarial condition that is
16 easily understood by the members, retired members, and the public; **and**

17 **(q) All proxy vote reports as provided by subsection (9) of this section.**

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

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

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

26 (b) Directly or indirectly, for himself or herself or as an agent, use the assets of
27 the system, except to make current and necessary payments authorized by the

- 1 board;
- 2 (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed
- 3 from the board;
- 4 (d) Have a contract or agreement with the retirement system, individually or
- 5 through a business owned by the trustee or the employee;
- 6 (e) Use his or her official position with the retirement system to obtain a financial
- 7 gain or benefit or advantage for himself or herself or a family member;
- 8 (f) Use confidential information acquired during his or her tenure with the
- 9 systems to further his or her own economic interests or that of another person;
- 10 or
- 11 (g) Hold outside employment with, or accept compensation from, any person or
- 12 business with which he or she has involvement as part of his or her official
- 13 position with the system. The provisions of this paragraph shall not prohibit:
- 14 1. A trustee from serving as a judge or member of the General Assembly;
- 15 or
- 16 2. A trustee from serving on the board if the compensation is de minimus
- 17 and incidental to the trustee's outside employment. If the compensation
- 18 is more than de minimus, the trustee shall disclose the amount of the
- 19 compensation to the other trustees and recuse himself or herself from
- 20 any matters involving hiring or retaining a person or a business from
- 21 whom more than de minimus amounts are received by the trustee. For
- 22 purposes of this section, "de minimus" means an insignificant amount
- 23 that does not raise a reasonable question as to the trustee's objectivity.
- 24 (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580
- 25 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial
- 26 Retirement Plan, including fees and commissions paid to an investment manager,
- 27 private fund, or company issuing securities, who manages systems assets, shall be

1 used to pay fees and commissions to placement agents. For purposes of this
2 subsection, "placement agent" means a third-party individual, who is not an
3 employee, or firm, wholly or partially owned by the entity being hired, who solicits
4 investments on behalf of an investment manager, private fund, or company issuing
5 securities.

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

11 (a) On or before July 1, 2017, the board shall consult with the secretary of the
12 Finance and Administration Cabinet or his or her designee to develop an
13 investment procurement policy, which shall be written to meet best practices
14 in investment management procurement;

15 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
16 investment procurement policy to the secretary of the Finance and
17 Administration Cabinet or his or her designee for review and comment;

18 (c) Upon receipt of comments from the secretary of the Finance and
19 Administration Cabinet or his or her designee, the board shall choose to adopt
20 or not adopt any recommended changes;

21 (d) Upon adoption, the board shall tender the final investment procurement policy
22 to the secretary of the Finance and Administration Cabinet or his or her
23 designee;

24 (e) No later than thirty (30) days after receipt of the investment procurement
25 policy, the secretary or his or her designee shall certify whether the board's
26 investment procurement policy meets or does not meet best practices for
27 investment management procurement; and

- 1 (f) Any amendments to the investment procurement policy shall adhere to the
2 requirements set forth by paragraphs (b) to (e) of this subsection.
- 3 (8) (a) 1. Upon request by any person, the Judicial Form Retirement System shall
4 release the following information from the accounts of any member or
5 retiree of the Legislators' Retirement Plan or the Judicial Retirement
6 Plan, if the member or retiree is a current or former officeholder in the
7 Kentucky General Assembly:
- 8 a. The first and last name of the member or retiree;
- 9 b. The plan or plans in which the member has an account or from
10 which the retiree is receiving a monthly retirement allowance;
- 11 c. The status of the member or retiree, including but not limited to
12 whether he or she is a contributing to the plans but has not retired,
13 or a retiree drawing a monthly retirement allowance;
- 14 d. If the individual is a retiree, the monthly retirement allowance that
15 he or she was receiving at the end of the most recently completed
16 fiscal year; and
- 17 e. If the individual is a member who has not yet retired, the estimated
18 monthly retirement allowance that he or she is eligible to receive
19 on the first date he or she would be eligible for an unreduced
20 retirement allowance, using his or her service credit, final
21 compensation, and accumulated account balance at the end of the
22 most recently completed fiscal year.
- 23 2. No information shall be disclosed under this paragraph from an account
24 that is paying benefits to a beneficiary due to the death of a member or
25 retiree.
- 26 (b) The release of information under paragraph (a) of this subsection shall not
27 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

- 1 (9) (a) The board shall adopt written proxy voting guidelines which are consistent
2 with the fiduciary duties and other requirements of Section 1 of this Act.
- 3 (b) The board shall not adopt the recommendations of a proxy adviser or proxy
4 voting service unless the proxy adviser or proxy voting service acknowledges
5 in writing its fiduciary duties under subsection (7) of Section 1 of this Act
6 and commits to follow the board-adopted proxy voting guidelines when
7 voting the system's shares in order to comply with the board's fiduciary
8 duties and other responsibilities under this section and Section 1 of this Act.
- 9 (c) All shares held directly or indirectly by or on behalf of the system shall be
10 voted according to the proxy voting guidelines adopted by the board and
11 subject to the fiduciary duties and other requirements of this section by:
- 12 1. The board or investment committee of the board who are fiduciaries
13 having the sole authority to make investments under Section 1 of this
14 Act; or
- 15 2. A proxy adviser or proxy voting service that acknowledges in writing
16 its fiduciary duties under subsection (7) of Section 1 of this Act and
17 commits to follow the proxy voting guidelines adopted by the board
18 when voting the system's shares in order to comply with the board's
19 fiduciary duties and other responsibilities under this section.
- 20 (d) All proxy votes shall be tabulated and reported at least quarterly to the
21 board. For each vote, the report shall provide:
- 22 1. The vote caption;
23 2. The date of the vote;
24 3. The company's name;
25 4. The vote cast for the system;
26 5. The recommendation of the company's management; and
27 6. If applicable, the recommendation of the proxy adviser or proxy voting

1 service.

2 ➔Section 3. KRS 61.645 is amended to read as follows:

- 3 (1) The Kentucky Employees Retirement System and State Police Retirement System
4 shall be administered by the board of trustees of the Kentucky Retirement Systems
5 composed of nine (9) members, who shall be selected as follows:
- 6 (a) One (1) trustee, who shall be a member or retired from the State Police
7 Retirement System, elected by the members and retired members of the State
8 Police Retirement System;
- 9 (b) Two (2) trustees, who shall be members or retired from the Kentucky
10 Employees Retirement System, elected by the members and retired members
11 of the Kentucky Employees Retirement System;
- 12 (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to
13 Senate confirmation in accordance with KRS 11.160 for each appointment or
14 reappointment. Of the six (6) trustees appointed by the Governor, three (3)
15 trustees shall have investment experience and three (3) trustees shall have
16 retirement experience;
- 17 (d) For purposes of paragraph (c) of this subsection, a trustee with "investment
18 experience" means an individual who does not have a conflict of interest, as
19 provided by KRS 61.655, and who has at least ten (10) years of experience in
20 one (1) of the following areas of expertise:
- 21 1. A portfolio manager acting in a fiduciary capacity;
- 22 2. A professional securities analyst or investment consultant;
- 23 3. A current or retired employee or principal of a trust institution,
24 investment or finance organization, or endowment fund acting in an
25 investment-related capacity;
- 26 4. A chartered financial analyst in good standing as determined by the
27 CFA Institute; or

- 1 5. A university professor, teaching investment-related studies; and
- 2 (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement
- 3 experience" means an individual who does not have a conflict of interest, as
- 4 provided by KRS 61.655, and who has at least ten (10) years of experience in
- 5 one (1) of the following areas of expertise:
- 6 1. Experience in retirement or pension plan management;
- 7 2. A certified public accountant with relevant experience in retirement or
- 8 pension plan accounting;
- 9 3. An actuary with relevant experience in retirement or pension plan
- 10 consulting;
- 11 4. An attorney licensed to practice law in the Commonwealth of Kentucky
- 12 with relevant experience in retirement or pension plans; or
- 13 5. A current or former university professor whose primary area of
- 14 emphasis is economics or finance.
- 15 (2) The board is hereby granted the powers and privileges of a corporation, including
- 16 but not limited to the following powers:
- 17 (a) To sue and be sued in its corporate name;
- 18 (b) To make bylaws not inconsistent with the law;
- 19 (c) To conduct the business and promote the purposes for which it was formed;
- 20 (d) Except as provided in subsection (7) of Section 4 of this Act~~[KRS 61.650(6)]~~,
- 21 to contract for investment counseling, auditing, medical, and other
- 22 professional or technical services as required to carry out the obligations of
- 23 the board subject to KRS Chapters 45, 45A, 56, and 57. Actuarial consulting
- 24 services shall be provided by a firm hired by the Kentucky Public Pensions
- 25 Authority;
- 26 (e) To purchase fiduciary liability insurance;
- 27 (f) Except as provided in subsection (7) of Section 4 of this Act~~[KRS 61.650(6)]~~,

1 to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or
2 property necessary to exercise the board's powers and perform the board's
3 duties subject to KRS Chapters 45, 45A, and 56; and

4 (g) The board shall reimburse any trustee, officer, or employee for any legal
5 expense resulting from a civil action arising out of the performance of his or
6 her official duties. The hourly rate of reimbursement for any contract for legal
7 services under this paragraph shall not exceed the maximum hourly rate
8 provided in the Legal Services Duties and Maximum Rate Schedule
9 promulgated by the Government Contract Review Committee established
10 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
11 secretary of the Finance and Administration Cabinet or his or her designee.

12 (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee
13 shall serve a term of four (4) years or until his or her successor is duly
14 qualified except as otherwise provided in this section. An elected trustee or a
15 trustee appointed by the Governor under subsection (1)(c) of this section, shall
16 not serve more than three (3) consecutive four (4) year terms. An elected
17 trustee or a trustee appointed by the Governor under subsection (1)(c) of this
18 section, who has served three (3) consecutive terms may be elected or
19 appointed again after an absence of four (4) years from the board.

20 (b) The term limits established by paragraph (a) of this subsection shall apply to
21 trustees serving on or after July 1, 2012, and all terms of office served prior to
22 July 1, 2012, shall be used to determine if the trustee has exceeded the term
23 limits provided by paragraph (a) of this subsection.

24 (4) (a) The trustees selected by the membership of each of the various retirement
25 systems shall be elected by ballot. For each trustee to be elected, the board
26 may nominate, not less than six (6) months before a term of office of a trustee
27 is due to expire, three (3) constitutionally eligible individuals.

- 1 (b) Individuals may be nominated by the retirement system members which are to
2 elect the trustee by presenting to the executive director, not less than four (4)
3 months before a term of office of a trustee is due to expire, a petition, bearing
4 the name, last four (4) digits of the Social Security number, and signature of
5 no less than one-tenth (1/10) of the number voting in the last election by the
6 retirement system members.
- 7 (c) Within four (4) months of the nominations made in accordance with
8 paragraphs (a) and (b) of this subsection, the executive director shall cause to
9 be prepared an official ballot. The ballot shall include the name, address, and
10 position title of each individual nominated by the board and by petition.
11 Provisions shall also be made for write-in votes.
- 12 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
13 distributed to the eligible voters by mail to their last known residence address
14 on file with the Kentucky Public Pensions Authority. Ballots shall not be
15 distributed by mail to member addresses reported as invalid to the Kentucky
16 Public Pensions Authority.
- 17 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
18 a predetermined box number at a United States Post Office or submitted
19 electronically as provided by paragraph (j) of this subsection. Access to this
20 post office box shall be limited to the board's contracted firm. The individual
21 receiving a plurality of votes shall be declared elected.
- 22 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
23 or her choice. He or she shall sign and mail the ballot or submit the electronic
24 ballot at least thirty (30) days prior to the date the term to be filled is due to
25 expire. The latest mailing date, or date of submission in the case of electronic
26 ballots, shall be provided on the ballot.
- 27 (g) The board's contracted firm shall report in writing the outcome to the chair of

1 the board of trustees. Cost of an election shall be payable from the funds of
2 the system for which the trustee is elected.

3 (h) For purposes of this subsection, an eligible voter shall be a person who was a
4 member of the retirement system on December 31 of the year preceding the
5 election year.

6 (i) Each individual who submits a request to be nominated by the board under
7 paragraph (a) of this subsection and each individual who is nominated by the
8 membership under paragraph (b) of this subsection shall:

9 1. Complete an application developed by the retirement systems which
10 shall include but not be limited to a disclosure of any prior felonies and
11 any conflicts of interest that would hinder the individual's ability to
12 serve on the board;

13 2. Submit a resume detailing the individual's education and employment
14 history and a cover letter detailing the member's qualifications for
15 serving as trustee to the board; and

16 3. Authorize the systems to have a criminal background check performed.
17 The criminal background check shall be performed by the Department
18 of Kentucky State Police.

19 (j) In lieu of the ballots mailed to members and retired members as provided by
20 this subsection, the systems may by promulgation of administrative regulation
21 pursuant to KRS Chapter 13A conduct trustee elections using electronic
22 ballots, except that the systems shall mail a paper ballot upon request of any
23 eligible voter.

24 (5) (a) Any vacancy which may occur in an appointed position during a term of
25 office shall be filled in the same manner which provides for the selection of
26 the particular trustee, and any vacancy which may occur in an elected position
27 during a term of office shall be filled by appointment by a majority vote of the

1 remaining elected trustees with a person selected from the system in which the
2 vacancy occurs; however, any vacancy shall be filled only for the duration of
3 the unexpired term. In the event of a vacancy of an elected trustee during a
4 term of office, Kentucky Retirement Systems shall notify members of the
5 system in which the vacancy occurs of the vacancy and the opportunity to be
6 considered for the vacant position. Any vacancy during a term of office shall
7 be filled within ninety (90) days of the position becoming vacant.

8 (b) Any appointments or reappointments to an appointed position on the board
9 shall be made no later than thirty (30) days prior to an appointed member's
10 term of office ending.

11 (6) (a) Membership on the board of trustees shall not be incompatible with any other
12 office unless a constitutional incompatibility exists. No trustee shall serve in
13 more than one (1) position as trustee on the board; and if a trustee holds more
14 than one (1) position as trustee on the board, he or she shall resign a position.

15 (b) A trustee shall be removed from office upon conviction of a felony or for a
16 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
17 of competent jurisdiction.

18 (c) A current or former employee of Kentucky Retirement Systems, County
19 Employees Retirement System, or the Kentucky Public Pensions Authority
20 shall not be eligible to serve as a member of the board.

21 (7) Trustees who do not otherwise receive a salary from the State Treasury shall
22 receive a per diem of eighty dollars (\$80) for each day they are in session or on
23 official duty, and they shall be reimbursed for their actual and necessary expenses
24 in accordance with state administrative regulations and standards.

25 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
26 special session upon the call of the chair or the chief executive officer.

27 (b) The board shall elect a chair and a vice chair. The chair shall not serve more

1 than four (4) consecutive years as chair or vice-chair of the board. The vice-
2 chair shall not serve more than four (4) consecutive years as chair or vice-
3 chair of the board. A trustee who has served four (4) consecutive years as
4 chair or vice-chair of the board may be elected chair or vice-chair of the board
5 after an absence of two (2) years from the positions.

6 (c) A majority of the trustees shall constitute a quorum and all actions taken by
7 the board shall be by affirmative vote of a majority of the trustees present.

8 (9) (a) The board of trustees shall appoint or contract for the services of a chief
9 executive officer and general counsel and fix the compensation and other
10 terms of employment for these positions without limitation of the provisions
11 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
12 shall serve as the legislative and executive adviser to the board. The general
13 counsel shall serve as legal adviser to the board. The chief executive officer
14 and general counsel shall work with the executive director of the Kentucky
15 Public Pensions Authority to carry out the provisions of KRS 16.505 to
16 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public
17 Pensions Authority shall be the chief administrative officer of the board.

18 (b) Prior to April 1, 2021, the board of trustees shall authorize the executive
19 director to appoint the employees deemed necessary to transact the business
20 of the system. Effective April 1, 2021, the responsibility of appointing
21 employees and managing personnel needs shall be transferred to the Kentucky
22 Public Pensions Authority established by KRS 61.505.

23 (c) The board shall require the chief executive officer and may require the general
24 counsel to execute bonds for the faithful performance of his or her duties
25 notwithstanding the limitations of KRS Chapter 62.

26 (d) The board shall have a system of accounting established by the Kentucky
27 Public Pensions Authority.

1 (e) The board shall do all things, take all actions, and promulgate all
2 administrative regulations, not inconsistent with the provisions of KRS 16.505
3 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the
4 provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding
5 any other evidence of legislative intent, it is hereby declared to be the
6 controlling legislative intent that the provisions of KRS 16.505 to 16.652 and
7 61.510 to 61.705 conform with federal statute or regulation and meet the
8 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
9 regulations, and other published guidance. Provisions of KRS 16.505 to
10 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation
11 or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,
12 and other published guidance shall not be available. The board shall have the
13 authority to promulgate administrative regulations to conform with federal
14 statute and regulation and to meet the qualification requirements under 26
15 U.S.C. sec. 401(a), including an administrative regulation to comply with 26
16 U.S.C. sec. 401(a)(9).

17 (f) Notwithstanding any other provision of statute to the contrary, including but
18 not limited to any provision of KRS Chapter 12, the Governor shall have no
19 authority to change any provision of KRS 16.505 to 16.652 and 61.510 to
20 61.705 by executive order or action, including but not limited to reorganizing,
21 replacing, amending, or abolishing the membership of the Kentucky
22 Retirement Systems board of trustees.

23 (10) Notwithstanding any statute to the contrary, employees shall not be considered
24 legislative agents under KRS 6.611.

25 (11) The Attorney General, or an assistant designated by him or her, may attend each
26 meeting of the board and may receive the agenda, board minutes, and other
27 information distributed to trustees of the board upon request. The Attorney General

1 may act as legal adviser and attorney for the board, and the board may contract for
2 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

3 (12) (a) The Kentucky Public Pensions Authority shall publish an annual financial
4 report showing all receipts, disbursements, assets, and liabilities for the
5 systems. The annual report shall include a copy of an audit conducted in
6 accordance with generally accepted auditing standards. Except as provided by
7 paragraph (b) of this subsection, the board may select the independent
8 certified public accountant hired by the Kentucky Public Pensions Authority
9 or the Auditor of Public Accounts to perform the audit. If the audit is
10 performed by an independent certified public accountant, the Auditor of
11 Public Accounts shall not be required to perform an audit pursuant to KRS
12 43.050(2)(a), but may perform an audit at his or her discretion. All
13 proceedings and records of the board shall be open for inspection by the
14 public. The Kentucky Public Pensions Authority shall make copies of the
15 audit required by this subsection available for examination by any member,
16 retiree, or beneficiary in the offices of the Kentucky Public Pensions
17 Authority and in other places as necessary to make the audit available to all
18 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
19 to the Legislative Research Commission no later than ten (10) days after
20 receipt by the board.

21 (b) At least once every five (5) years, the Auditor of Public Accounts shall
22 perform the audit described by this subsection, and the system shall reimburse
23 the Auditor of Public Accounts for all costs of the audit. The Auditor of
24 Public Accounts shall determine which fiscal year during the five (5) year
25 period the audit prescribed by this paragraph will be completed.

26 (13) All expenses incurred by or on behalf of the system and the board in the
27 administration of the system during a fiscal year shall be paid from the retirement

1 allowance account, including any administrative expenses for the Kentucky Public
2 Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS
3 61.505. The board shall submit any administrative expenses that are specific to the
4 Kentucky Retirement Systems that are not otherwise covered by KRS
5 61.505(11)(a).

6 (14) Any person adversely affected by a decision of the board, except as provided under
7 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and
8 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court
9 within sixty (60) days of the board action.

10 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her
11 duties as a member of a committee:

- 12 1. In good faith;
- 13 2. On an informed basis; and
- 14 3. In a manner he or she honestly believes to be in the best interest of the
15 Kentucky Retirement Systems.

16 (b) A trustee discharges his or her duties on an informed basis if, when he or she
17 makes an inquiry into the business and affairs of the Kentucky Retirement
18 Systems or into a particular action to be taken or decision to be made, he or
19 she exercises the care an ordinary prudent person in a like position would
20 exercise under similar circumstances.

21 (c) In discharging his or her duties, a trustee may rely on information, opinions,
22 reports, or statements, including financial statements and other financial data,
23 if prepared or presented by:

- 24 1. One (1) or more officers or employees of the Kentucky Retirement
25 Systems whom the trustee honestly believes to be reliable and
26 competent in the matters presented;
- 27 2. Legal counsel, public accountants, actuaries, or other persons as to

- 1 matters the trustee honestly believes are within the person's professional
2 or expert competence; or
- 3 3. A committee of the board of trustees of which he or she is not a member
4 if the trustee honestly believes the committee merits confidence.
- 5 (d) A trustee shall not be considered as acting in good faith if he or she has
6 knowledge concerning the matter in question that makes reliance otherwise
7 permitted by paragraph (c) of this subsection unwarranted.
- 8 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
9 shall not be the basis for monetary damages or injunctive relief unless:
- 10 1. The trustee has breached or failed to perform the duties of the trustee's
11 office in compliance with this section; and
- 12 2. In the case of an action for monetary damages, the breach or failure to
13 perform constitutes willful misconduct or wanton or reckless disregard
14 for human rights, safety, or property.
- 15 (f) A person bringing an action for monetary damages under this section shall
16 have the burden of proving by clear and convincing evidence the provisions of
17 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
18 breach or failure to perform was the legal cause of damages suffered by the
19 Kentucky Retirement Systems.
- 20 (g) Nothing in this section shall eliminate or limit the liability of any trustee for
21 any act or omission occurring prior to July 15, 1988.
- 22 (h) In discharging his or her administrative duties under this section, a trustee
23 shall strive to administer the retirement system in an efficient and cost-
24 effective manner for the taxpayers of the Commonwealth of Kentucky and
25 shall take all actions available under the law to contain costs for the trusts,
26 including costs for participating employers, members, and retirees.
- 27 (16) When an order by the system substantially impairs the benefits or rights of a

1 member, retired member, or recipient, except action which relates to entitlement to
2 disability benefits, or when an employer disagrees with an order of the system as
3 provided by KRS 61.598, the affected member, retired member, recipient, or
4 employer may request a hearing to be held in accordance with KRS Chapter 13B.
5 The board may establish an appeals committee whose members shall be appointed
6 by the chair and who shall have authority to act upon the recommendations and
7 reports of the hearing officer on behalf of the board. The member, retired member,
8 recipient, or employer aggrieved by a final order of the board following the hearing
9 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
10 Chapter 13B. The board may establish a joint administrative appeals committee
11 with the County Employees Retirement System and may also establish a joint
12 disability appeals committee with the County Employees Retirement System.

13 (17) The board shall give the Kentucky Education Support Personnel Association
14 twenty-four (24) hours notice of the board meetings, to the extent possible.

15 (18) The board shall establish a formal trustee education program for all trustees of the
16 board. The program shall include but not be limited to the following:

17 (a) A required orientation program for all new trustees elected or appointed to the
18 board. The orientation program shall include training on:

- 19 1. Benefits and benefits administration;
- 20 2. Investment concepts, policies, and current composition and
21 administration of retirement systems investments;
- 22 3. Laws, bylaws, and administrative regulations pertaining to the
23 retirement systems and to fiduciaries; and
- 24 4. Actuarial and financial concepts pertaining to the retirement systems.

25 If a trustee fails to complete the orientation program within one (1) year from
26 the beginning of his or her first term on the board, the retirement systems shall
27 withhold payment of the per diem and travel expenses due to the board

1 member under this section and KRS 16.640 until the trustee has completed the
2 orientation program;

3 (b) Annual required training for board members on the administration, benefits,
4 financing, and investing of the retirement systems. If a trustee fails to
5 complete the annual required training during the calendar or fiscal year, the
6 retirement systems shall withhold payment of the per diem and travel
7 expenses due to the board member under this section and KRS 16.640 until
8 the board member has met the annual training requirements; and

9 (c) The retirement systems shall incorporate by reference in an administrative
10 regulation, pursuant to KRS 13A.2251, the trustee education program.

11 (19) In order to improve public transparency regarding the administration of the systems,
12 the board of trustees shall adopt a best practices model by posting the following
13 information to the Kentucky Public Pensions Authority's website~~[Web site]~~ and
14 shall make available to the public:

15 (a) Meeting notices and agendas for all meetings of the board. Notices and
16 agendas shall be posted to the Kentucky Public Pensions Authority's
17 website~~[Web site]~~ at least seventy-two (72) hours in advance of the board or
18 committee meetings, except in the case of special or emergency meetings as
19 provided by KRS 61.823;

20 (b) The ~~[Comprehensive]~~ Annual Comprehensive Financial Report with the
21 information as follows:

- 22 1. A general overview and update on the retirement systems by the
23 executive director;
- 24 2. A listing of the board of trustees;
- 25 3. A listing of key staff;
- 26 4. An organizational chart;
- 27 5. Financial information, including a statement of plan net assets, a

- 1 statement of changes in plan net assets, an actuarial value of assets, a
2 schedule of investments, a statement of funded status and funding
3 progress, and other supporting data;
- 4 6. Investment information, including a general overview, a list of the
5 retirement system's professional consultants, a total net of fees return on
6 retirement systems investments over a historical period, an investment
7 summary, contracted investment management expenses, transaction
8 commissions, and a schedule of investments;
- 9 7. The annual actuarial valuation report on the pension benefit and the
10 medical insurance benefit; and
- 11 8. A general statistical section, including information on contributions,
12 benefit payouts, and retirement systems' demographic data;
- 13 (c) All external audits;
- 14 (d) All board minutes or other materials that require adoption or ratification by
15 the board of trustees. The items listed in this paragraph shall be posted within
16 seventy-two (72) hours of adoption or ratification of the board;
- 17 (e) All bylaws, policies, or procedures adopted or ratified by the board of
18 trustees;
- 19 (f) The retirement systems' summary plan description;
- 20 (g) A document containing an unofficial copy of the statutes governing the
21 systems administered by Kentucky Retirement Systems;
- 22 (h) A listing of the members of the board of trustees and membership on each
23 committee established by the board, including any investment committees;
- 24 (i) All investment holdings in aggregate, fees, and commissions for each fund
25 administered by the board, which shall be updated on a quarterly basis for
26 fiscal years beginning on or after July 1, 2017. The systems shall request from
27 all managers, partnerships, and any other available sources all information

1 regarding fees and commissions and shall, based on the requested information
2 received:

- 3 1. Disclose the dollar value of fees and commissions paid to each
4 individual manager or partnership;
- 5 2. Disclose the dollar value of any profit sharing, carried interest, or any
6 other partnership incentive arrangements, partnership agreements, or
7 any other partnership expenses received by or paid to each manager or
8 partnership; and
- 9 3. As applicable, report each fee or commission by manager or partnership
10 consistent with standards established by the Institutional Limited
11 Partners Association (ILPA).

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

15 (j) An update of net of fees investment returns, asset allocations, and the
16 performance of the funds against benchmarks adopted by the board for each
17 fund, for each asset class administered by the board, and for each manager.
18 The update shall be posted on a quarterly basis for fiscal years beginning on
19 or after July 1, 2017;

20 (k) A searchable database of the systems' expenditures and a listing of each
21 individual employed by the systems along with the employee's salary or
22 wages. In lieu of posting the information required by this paragraph to the
23 Kentucky Public Pensions Authority's website~~[Web site]~~, the systems may
24 provide the information through a website~~[Web site]~~ established by the
25 executive branch to inform the public about executive branch agency
26 expenditures and public employee salaries and wages;

27 (l) All contracts or offering documents for services, goods, or property purchased

1 or utilized by the systems;~~and~~

2 (m) Information regarding the systems' financial and actuarial condition that is
3 easily understood by the members, retired members, and the public; and

4 (n) All proxy vote reports as provided by subsection (8) of Section 4 of this Act.

5 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement
6 systems shall not be required to furnish information that is protected under KRS
7 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the
8 retirement systems' ability to competitively invest in real estate or other asset
9 classes, except that no provision of this section or KRS 61.878 shall exclude
10 disclosure and review of all contracts, including investment contracts, by the board,
11 the Auditor of Public Accounts, and the Government Contract Review Committee
12 established pursuant to KRS 45A.705 or the disclosure of investment fees and
13 commissions as provided by this section. If any public record contains material
14 which is not excepted under this section, the systems shall separate the excepted
15 material by removal, segregation, or redaction, and make the nonexcepted material
16 available for examination.

17 (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705
18 to the contrary, no funds of the systems administered by Kentucky Retirement
19 Systems, including fees and commissions paid to an investment manager, private
20 fund, or company issuing securities, who manages systems assets, shall be used to
21 pay fees and commissions to placement agents. For purposes of this subsection,
22 "placement agent" means a third-party individual, who is not an employee, or firm,
23 wholly or partially owned by the entity being hired, who solicits investments on
24 behalf of an investment manager, private fund, or company issuing securities.

25 ➔Section 4. KRS 61.650 is amended to read as follows:

26 (1) (a) The board shall be the trustee of funds created by KRS 16.510, 61.515, and
27 61.701 pertaining to the accounts for the Kentucky Employees Retirement

1 System or State Police Retirement System, notwithstanding the provisions of
2 any other statute to the contrary, and shall have exclusive power to invest and
3 reinvest such assets in accordance with federal law.

4 (b) 1. The board shall establish an investment committee whose membership
5 shall be composed of the following:

6 a. The three (3) trustees of the Kentucky Retirement Systems board
7 appointed by the Governor pursuant to KRS 61.645 who have
8 investment experience; and

9 b. Additional trustees appointed by the board chair.

10 2. The investment committee shall have authority to implement the
11 investment policies adopted by the board and act on behalf of the board
12 on all investment-related matters and to acquire, sell, safeguard,
13 monitor, and manage the assets and securities of the several funds.

14 (c) A trustee, officer, employee, employee of the Kentucky Public Pensions
15 Authority, investment manager, adviser, or consultant, or any other person
16 who is a fiduciary as provided by this subsection shall discharge duties with
17 respect to the retirement system:

18 1. Solely in the interest of the members and beneficiaries;

19 2. For the exclusive purpose of providing benefits to members and
20 beneficiaries and paying reasonable expenses of administering the
21 system;

22 3. With the care, skill, and caution under the circumstances then prevailing
23 that a prudent person acting in a like capacity and familiar with those
24 matters would use in the conduct of an activity of like character and
25 purpose;

26 4. Impartially, taking into account any differing interests of members and
27 beneficiaries;

- 1 5. Incurring any costs that are appropriate and reasonable; and
- 2 6. In accordance with a good-faith interpretation of the federal, state, and
- 3 common law governing the ~~retirement~~ system and fiduciaries.

4 (d) In addition to the standards of conduct prescribed by paragraph (c) of this
5 subsection:

- 6 1. All internal investment staff of the Kentucky Public Pensions Authority,
7 and investment consultants shall adhere to the Code of Ethics and
8 Standards of Professional Conduct, and all board trustees shall adhere to
9 the Code of Conduct for Members of a Pension Scheme Governing
10 Body. All codes cited in this subparagraph are promulgated by the CFA
11 Institute; and
- 12 2. Investment managers shall comply with all applicable provisions of the
13 federal Investment Advisers Act of 1940, as amended, and the rules and
14 regulations promulgated thereunder, and shall comply with all other
15 applicable federal securities statutes and related rules and regulations
16 that apply to investment managers.

17 (e) A person is a fiduciary with respect to the system and its fund assets when,
18 upon appointment, employment, engagement, or other action by the board
19 or Authority, he or she:

- 20 1. Exercises any discretionary authority or discretionary control over the
21 management of the system;
- 22 2. Exercises any authority or control over the management or disposition
23 of the system's assets;
- 24 3. Renders investment advice to the system for a fee or other
25 compensation from the system, either directly or indirectly, with
26 respect to any moneys or other property of the system;
- 27 4. Possesses any discretionary authority or responsibility with respect to

1 any moneys or other property of the system; or

2 5. Possesses any discretionary authority or responsibility in the
 3 administration of the system.

4 (f) An investment manager, adviser, or consultant appointed by the board or
 5 any other fiduciary provided by this subsection shall acknowledge in writing
 6 the fiduciary duties owed to the system and its fund assets.

7 (g) No contract or agreement, whether made in writing or not, shall in any
 8 manner waive, restrict, or limit a fiduciary's liability as to any of the duties
 9 imposed by this section. Any agreement shall specify that it is made in the
 10 Commonwealth and governed by the laws of the Commonwealth.

11 (2) The board, through adopted written policies, shall maintain ownership and control
 12 over its assets held in its unitized managed custodial account.

13 (3) The board, in keeping with its responsibility as trustee and wherever consistent with
 14 its fiduciary responsibilities, shall give priority to the investment of funds in
 15 obligation calculated to improve the industrial development and enhance the
 16 economic welfare of the Commonwealth.

17 (4) The consideration of environmental, social, political, ideological, or other
 18 benefits or goals not in the sole interest of the members and beneficiaries of the
 19 system is contrary to the fiduciary duties owed to the system and is prohibited.

20 (5) The contents of real estate appraisals, engineering or feasibility estimates, and
 21 evaluations made by or for the system relative to the acquisition or disposition of
 22 property, until such time as all of the property has been acquired or sold, shall be
 23 excluded from the application of KRS 61.870 to 61.884 and shall be subject to
 24 inspection only upon order of a court of competent jurisdiction.

25 ~~(6)~~~~(5)~~ Based upon market value at the time of purchase, the board shall limit the
 26 amount of assets managed by any one (1) active or passive investment manager to
 27 fifteen percent (15%) of the assets in the pension and insurance funds.

1 ~~(Z)~~~~(6)~~ All contracts for the investment or management of assets of the systems shall
2 not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall
3 conduct the following process to develop and adopt an investment procurement
4 policy with which all prospective contracts for the investment or management of
5 assets of the systems shall comply:

6 (a) On or before July 1, 2017, the board shall consult with the secretary of the
7 Finance and Administration Cabinet or his or her designee to develop an
8 investment procurement policy, which shall be written to meet best practices
9 in investment management procurement;

10 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
11 investment procurement policy to the secretary of the Finance and
12 Administration Cabinet or his or her designee for review and comment;

13 (c) Upon receipt of comments from the secretary of the Finance and
14 Administration Cabinet or his or her designee, the board shall choose to adopt
15 or not adopt any recommended changes;

16 (d) Upon adoption, the board shall tender the final investment procurement policy
17 to the secretary of the Finance and Administration Cabinet or his or her
18 designee;

19 (e) No later than thirty (30) days after receipt of the investment procurement
20 policy, the secretary or his or her designee shall certify whether the board's
21 investment procurement policy meets or does not meet best practices for
22 investment management procurement; and

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

25 **(8) (a) The board shall adopt written proxy voting guidelines which are consistent**
26 **with the fiduciary duties and other requirements of this section.**

27 **(b) The board shall not adopt the recommendations of a proxy adviser or proxy**

1 voting service unless the proxy adviser or proxy voting service acknowledges
 2 in writing its fiduciary duties under subsection (1)(f) of this section and
 3 commits to follow the board-adopted proxy voting guidelines when voting
 4 the system's shares in order to comply with the board's fiduciary duties and
 5 other responsibilities under this section.

6 (c) All shares held directly or indirectly by or on behalf of the system shall be
 7 voted according to the proxy voting guidelines adopted by the board and
 8 subject to the fiduciary duties and other requirements of this section by:

- 9 1. The board, the investment committee of the board, or an employee or
 10 employees of the Authority who are fiduciaries under subsection (1) of
 11 this section and are appointed or otherwise authorized by the board; or
- 12 2. A proxy adviser or proxy voting service that acknowledges in writing
 13 its fiduciary duties under subsection (1)(f) of this section and commits
 14 to follow the proxy voting guidelines adopted by the board when voting
 15 the system's shares in order to comply with the board's fiduciary duties
 16 and other responsibilities under this section.

17 (d) All proxy votes shall be tabulated and reported at least quarterly to the
 18 board. For each vote, the report shall provide:

- 19 1. The vote caption;
- 20 2. The date of the vote;
- 21 3. The company's name;
- 22 4. The vote cast for the system;
- 23 5. The recommendation of the company's management; and
- 24 6. If applicable, the recommendation of the proxy adviser or proxy voting
 25 service.

26 ➔Section 5. KRS 78.782 is amended to read as follows:

- 27 (1) The County Employees Retirement System shall be administered by the board of

1 trustees composed of nine (9) members, who shall be selected as follows:

2 (a) Three (3) trustees, who shall be members or retired from the County
3 Employees Retirement System, elected by the members and retired members
4 of the County Employees Retirement System, of which:

5 1. Two (2) shall have a majority of his or her service credit earned in the
6 County Employees Retirement System in a nonhazardous position; and

7 2. One (1) shall have a majority of his or her service credit earned in the
8 County Employees Retirement System in a hazardous position;

9 (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in
10 accordance with KRS 11.160 for each appointment or reappointment. Of the
11 six (6) trustees appointed by the Governor:

12 1. One (1) trustee with retirement experience shall be appointed from a list
13 of three (3) applicants submitted by the Kentucky League of Cities;

14 2. One (1) trustee with investment experience shall be appointed from a list
15 of three (3) applicants submitted by the Kentucky League of Cities;

16 3. One (1) trustee with retirement experience shall be appointed from a list
17 of three (3) applicants submitted by the Kentucky Association of
18 Counties;

19 4. One (1) trustee with investment experience shall be appointed from a list
20 of three (3) applicants submitted by the Kentucky Association of
21 Counties;

22 5. One (1) trustee with retirement experience shall be appointed from a list
23 of three (3) applicants submitted by the Kentucky School Boards
24 Association; and

25 6. One (1) trustee with investment experience shall be appointed from a list
26 of three (3) applicants submitted by the Kentucky School Boards
27 Association.

1 Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint
2 each individual trustee described by subparagraphs 1. to 6. of this paragraph
3 solely from each corresponding individual list required to be submitted by the
4 Kentucky League of Cities, the Kentucky Association of Counties, or the
5 Kentucky School Boards Association as provided by subparagraphs 1. to 6. of
6 this paragraph, and the Governor shall not be able to reject the list of
7 applicants submitted, request that another list be provided, or use a list
8 different from the one (1) individual list required to be submitted for each
9 specific appointment or reappointment;

10 (c) For purposes of paragraph (b) of this subsection, a trustee with "investment
11 experience" means an individual who does not have a conflict of interest, as
12 provided by KRS 61.655, and who has at least ten (10) years of experience in
13 one (1) of the following areas of expertise:

- 14 1. A portfolio manager acting in a fiduciary capacity;
- 15 2. A professional securities analyst or investment consultant;
- 16 3. A current or retired employee or principal of a trust institution,
17 investment or finance organization, or endowment fund acting in an
18 investment-related capacity;
- 19 4. A chartered financial analyst in good standing as determined by the
20 CFA Institute; or
- 21 5. A university professor, teaching investment-related studies; and

22 (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement
23 experience" means an individual who does not have a conflict of interest, as
24 provided by KRS 61.655, and who has at least ten (10) years of experience in
25 one (1) of the following areas of expertise:

- 26 1. Experience in retirement or pension plan management;
- 27 2. A certified public accountant with relevant experience in retirement or

- 1 pension plan accounting;
- 2 3. An actuary with relevant experience in retirement or pension plan
- 3 consulting;
- 4 4. An attorney licensed to practice law in the Commonwealth of Kentucky
- 5 with relevant experience in retirement or pension plans; or
- 6 5. A current or former university professor whose primary area of
- 7 emphasis is economics or finance.
- 8 (2) The board is hereby granted the powers and privileges of a corporation, including
- 9 but not limited to the following powers:
- 10 (a) To sue and be sued in its corporate name;
- 11 (b) To make bylaws not inconsistent with the law;
- 12 (c) To conduct the business and promote the purposes for which it was formed;
- 13 (d) Except as provided in subsection (7) of Section 6 of this Act~~[KRS 78.790(6)]~~,
- 14 to contract for investment counseling, auditing, medical, and other
- 15 professional or technical services as required to carry out the obligations of
- 16 the board subject to the provisions of KRS Chapters 45, 45A, 56, and 57.
- 17 Actuarial consulting services shall be provided by a firm hired by the
- 18 Kentucky Public Pensions Authority;
- 19 (e) To purchase fiduciary liability insurance;
- 20 (f) Except as provided in subsection (7) of Section 6 of this Act~~[KRS 78.790(6)]~~,
- 21 to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or
- 22 property necessary to exercise the board's powers and perform the board's
- 23 duties subject to KRS Chapters 45, 45A, and 56; and
- 24 (g) The board shall reimburse any trustee, officer, or employee for any legal
- 25 expense resulting from a civil action arising out of the performance of his or
- 26 her official duties. The hourly rate of reimbursement for any contract for legal
- 27 services under this paragraph shall not exceed the maximum hourly rate

1 provided in the Legal Services Duties and Maximum Rate Schedule
2 promulgated by the Government Contract Review Committee established
3 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
4 secretary of the Finance and Administration Cabinet or his or her designee.

5 (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall
6 serve a term of four (4) years or until his or her successor is duly qualified except as
7 otherwise provided in this section. An elected or appointed trustee shall not serve
8 more than three (3) consecutive four (4) year terms. An elected or appointed trustee
9 who has served three (3) consecutive terms may be elected or appointed again after
10 an absence of four (4) years from the board.

11 (4) (a) The trustees selected by the membership of the system shall be elected by
12 ballot. For each trustee to be elected, the board may nominate, not less than
13 six (6) months before a term of office of a trustee is due to expire, three (3)
14 constitutionally eligible individuals.

15 (b) Individuals may be nominated by the system members by presenting to the
16 executive director, not less than four (4) months before a term of office of a
17 trustee is due to expire, a petition, bearing the name, last four (4) digits of the
18 Social Security number, and signature of no less than one-tenth (1/10) of the
19 number voting in the last election by the system members.

20 (c) Within four (4) months of the nominations made in accordance with
21 paragraphs (a) and (b) of this subsection, the executive director shall cause to
22 be prepared an official ballot. The ballot shall carry the name, address, and
23 position title of each individual nominated by the board and by petition.
24 Provision shall also be made for write-in votes.

25 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be
26 distributed to the eligible voters by mail to their last known residence address
27 on file with the Kentucky Public Pensions Authority. Ballots shall not be

1 distributed by mail to member addresses reported as invalid to the Kentucky
2 Public Pensions Authority.

3 (e) The ballots shall be addressed to the County Employees Retirement System in
4 care of a predetermined box number at a United States Post Office or
5 submitted electronically as provided by paragraph (j) of this subsection.
6 Access to this post office box shall be limited to the board's contracted firm.
7 The individual receiving a plurality of votes shall be declared elected.

8 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his
9 or her choice. He or she shall sign and mail the ballot or submit the electronic
10 ballot at least thirty (30) days prior to the date the term to be filled is due to
11 expire. The latest mailing date, or date of submission in the case of electronic
12 ballots, shall be provided on the ballot.

13 (g) The board's contracted firm shall report in writing the outcome to the chair of
14 the board of trustees. Costs of an election shall be payable from the funds of
15 the system.

16 (h) For purposes of this subsection, an eligible voter shall be a person who was a
17 member of the system on December 31 of the year preceding the election
18 year.

19 (i) Each individual who submits a request to be nominated by the board under
20 paragraph (a) of this subsection and each individual who is nominated by the
21 membership under paragraph (b) of this subsection shall:

22 1. Complete an application developed by the system which shall include
23 but not be limited to a disclosure of any prior felonies and any conflicts
24 of interest that would hinder the individual's ability to serve on the
25 board;

26 2. Submit a resume detailing the individual's education and employment
27 history and a cover letter detailing the member's qualifications for

1 serving as trustee to the board; and

2 3. Authorize the system to have a criminal background check performed.

3 The criminal background check shall be performed by the Department
4 of Kentucky State Police.

5 (j) In lieu of the ballots mailed to members and retired members as provided by
6 this subsection, the systems may by promulgation of administrative regulation
7 pursuant to KRS Chapter 13A conduct trustee elections using electronic
8 ballots, except that the systems shall mail a paper ballot upon request of any
9 eligible voter.

10 (5) (a) Any vacancy which may occur in an appointed position during a term of
11 office shall be filled in the same manner which provides for the selection of
12 the particular trustee, and any vacancy which may occur in an elected position
13 during a term of office shall be filled by appointment by a majority vote of the
14 remaining elected trustees; however, any vacancy shall be filled only for the
15 duration of the unexpired term. In the event of a vacancy of an elected trustee
16 during a term of office, the system shall notify members of the vacancy and
17 the opportunity to be considered for the vacant position. Any vacancy shall be
18 filled within ninety (90) days of the position becoming vacant.

19 (b) Any appointments or reappointments to an appointed position on the board
20 shall be made at least thirty (30) days prior to an appointed member's term of
21 office ending. The Governor's Office shall, with each appointment or
22 reappointment, request lists to be submitted and base selections on those lists
23 solely under the procedures and requirements provided by subsection (1)(b) of
24 this section.

25 (6) (a) Membership on the board of trustees shall not be incompatible with any other
26 office unless a constitutional incompatibility exists. No trustee shall serve in
27 more than one (1) position as trustee on the board and, if a trustee holds more

- 1 than one (1) position as trustee on the board, he or she shall resign a position.
- 2 (b) A trustee shall be removed from office upon conviction of a felony or for a
3 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
4 of competent jurisdiction.
- 5 (c) A current or former employee of the County Employees Retirement System,
6 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
7 shall not be eligible to serve as a member of the board.
- 8 (7) Trustees who do not otherwise receive a salary from the State Treasury shall
9 receive a per diem of eighty dollars (\$80) for each day they are in session or on
10 official duty, and they shall be reimbursed for their actual and necessary expenses
11 in accordance with state administrative regulations and standards.
- 12 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
13 special session upon the call of the chair or the chief executive officer.
- 14 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
15 than four (4) consecutive years as chair or vice chair of the board. The vice
16 chair shall not serve more than four (4) consecutive years as chair or vice
17 chair of the board. A trustee who has served four (4) consecutive years as
18 chair or vice chair of the board may be elected chair or vice chair of the board
19 after an absence of two (2) years from the positions.
- 20 (c) A majority of the trustees shall constitute a quorum, and all actions taken by
21 the board shall be by affirmative vote of a majority of the trustees present.
- 22 (9) (a) The board of trustees shall appoint or contract for the services of a chief
23 executive officer and general counsel and fix the compensation and other
24 terms of employment for these positions without limitation of the provisions
25 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer
26 shall serve as the legislative and executive adviser to the board. The general
27 counsel shall serve as legal adviser to the board. The chief executive officer

- 1 and general counsel shall work with the executive director of the Kentucky
2 Public Pensions Authority to carry out the provisions of KRS 78.510 to
3 78.852. The executive director of the Kentucky Public Pensions Authority
4 shall be the chief administrative officer of the board.
- 5 (b) The board shall require the chief executive officer and may require the general
6 counsel to execute bonds for the faithful performance of his or her duties
7 notwithstanding the limitations of KRS Chapter 62.
- 8 (c) The board shall have a system of accounting established by the Kentucky
9 Public Pensions Authority.
- 10 (d) The board shall do all things, take all actions, and promulgate all
11 administrative regulations, not inconsistent with the provisions of KRS 78.510
12 to 78.852, necessary or proper in order to carry out the provisions of KRS
13 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it
14 is hereby declared to be the controlling legislative intent that the provisions of
15 KRS 78.510 to 78.852 conform with federal statute or regulation and meet the
16 qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
17 regulations, and other published guidance. Provisions of KRS 78.510 to
18 78.852 which conflict with federal statute or regulation or qualification under
19 26 U.S.C. sec. 401(a), applicable federal regulations, and other published
20 guidance shall not be available. The board shall have the authority to
21 promulgate administrative regulations to conform with federal statute and
22 regulation and to meet the qualification requirements under 26 U.S.C. sec.
23 401(a), including an administrative regulation to comply with 26 U.S.C. sec.
24 401(a)(9).
- 25 (e) Notwithstanding any other provision of statute to the contrary, including but
26 not limited to any provision of KRS Chapter 12, the Governor shall have no
27 authority to change any provision of KRS 78.510 to 78.852 by executive order

1 or action, including but not limited to reorganizing, replacing, amending, or
2 abolishing the membership of the County Employees Retirement System
3 board of trustees.

4 (10) The chief executive officer and general counsel of the board shall serve during its
5 will and pleasure. Notwithstanding any statute to the contrary, the chief executive
6 officer shall not be considered a legislative agent under KRS 6.611.

7 (11) The Attorney General, or an assistant designated by him or her, may attend each
8 meeting of the board and may receive the agenda, board minutes, and other
9 information distributed to trustees of the board upon request. The Attorney General
10 may act as legal adviser and attorney for the board, and the board may contract for
11 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

12 (12) (a) The Kentucky Public Pensions Authority shall publish an annual financial
13 report showing all receipts, disbursements, assets, and liabilities for the
14 systems. The annual report shall include a copy of an audit conducted in
15 accordance with generally accepted auditing standards. Except as provided by
16 paragraph (b) of this subsection, the board may select the independent
17 certified public accountant hired by the Kentucky Public Pensions Authority
18 or the Auditor of Public Accounts to perform the audit. If the audit is
19 performed by an independent certified public accountant, the Auditor of
20 Public Accounts shall not be required to perform an audit pursuant to KRS
21 43.050(2)(a), but may perform an audit at his or her discretion. All
22 proceedings and records of the board shall be open for inspection by the
23 public. The Kentucky Public Pensions Authority shall make copies of the
24 audit required by this subsection available for examination by any member,
25 retiree, or beneficiary in the offices of the County Employees Retirement
26 System and in other places as necessary to make the audit available to all
27 members, retirees, and beneficiaries. A copy of the annual audit shall be sent

1 electronically to the Legislative Research Commission no later than ten (10)
2 days after receipt by the board.

3 (b) At least once every five (5) years, the Auditor of Public Accounts shall
4 perform the audit described by this subsection, and the system shall reimburse
5 the Auditor of Public Accounts for all costs of the audit. The Auditor of
6 Public Accounts shall determine which fiscal year during the five (5) year
7 period the audit prescribed by this paragraph will be completed.

8 (13) All expenses incurred by or on behalf of the system and the board in the
9 administration of the system during a fiscal year shall be paid from the retirement
10 allowance account, including any administrative expenses for the Kentucky Public
11 Pensions Authority that are assigned to the County Employees Retirement System
12 by KRS 61.505. The board shall submit any administrative expenses that are
13 specific to the County Employees Retirement System that are not otherwise covered
14 by KRS 61.505(11)(a).

15 (14) Except as provided under subsection (16) of this section or KRS 61.665, any person
16 adversely affected by a decision of the board involving KRS 78.510 to 78.852 may
17 appeal the decision of the board to the Franklin Circuit Court within sixty (60) days
18 of the board action.

19 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her
20 duties as a member of a committee:

- 21 1. In good faith;
- 22 2. On an informed basis; and
- 23 3. In a manner he or she honestly believes to be in the best interest of the
24 County Employees Retirement System.

25 (b) A trustee discharges his or her duties on an informed basis if, when he or she
26 makes an inquiry into the business and affairs of the system or into a
27 particular action to be taken or decision to be made, he or she exercises the

1 care an ordinary prudent person in a like position would exercise under
2 similar circumstances.

3 (c) In discharging his or her duties, a trustee may rely on information, opinions,
4 reports, or statements, including financial statements and other financial data,
5 if prepared or presented by:

6 1. One (1) or more officers or employees of the system or Authority whom
7 the trustee honestly believes to be reliable and competent in the matters
8 presented;

9 2. Legal counsel, public accountants, actuaries, or other persons as to
10 matters the trustee honestly believes are within the person's professional
11 or expert competence; or

12 3. A committee of the board of trustees of which he or she is not a member
13 if the trustee honestly believes the committee merits confidence.

14 (d) A trustee shall not be considered as acting in good faith if he or she has
15 knowledge concerning the matter in question that makes reliance otherwise
16 permitted by paragraph (c) of this subsection unwarranted.

17 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
18 shall not be the basis for monetary damages or injunctive relief unless:

19 1. The trustee has breached or failed to perform the duties of the trustee's
20 office in compliance with this section; and

21 2. In the case of an action for monetary damages, the breach or failure to
22 perform constitutes willful misconduct or wanton or reckless disregard
23 for human rights, safety, or property.

24 (f) A person bringing an action for monetary damages under this section shall
25 have the burden of proving by clear and convincing evidence the provisions of
26 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
27 breach or failure to perform was the legal cause of damages suffered by the

1 system.

2 (g) In discharging his or her administrative duties under this section, a trustee
3 shall strive to administer the system in an efficient and cost-effective manner
4 for the taxpayers of the Commonwealth of Kentucky and shall take all actions
5 available under the law to contain costs for the trusts, including costs for
6 participating employers, members, and retirees.

7 (16) When an order by the system substantially impairs the benefits or rights of a
8 member, retired member, or recipient, except action which relates to entitlement to
9 disability benefits, or when an employer disagrees with an order of the system as
10 provided by KRS 61.598, the affected member, retired member, recipient, or
11 employer may request a hearing to be held in accordance with KRS Chapter 13B.
12 The board may establish an appeals committee whose members shall be appointed
13 by the chair and who shall have authority to act upon the recommendations and
14 reports of the hearing officer on behalf of the board. The member, retired member,
15 recipient, or employer aggrieved by a final order of the board following the hearing
16 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
17 Chapter 13B. The board may establish a joint administrative appeals committee
18 with the Kentucky Retirement Systems and may also establish a joint disability
19 appeals committee with the Kentucky Retirement Systems.

20 (17) The board shall establish a formal trustee education program for all trustees of the
21 board. The program shall include but not be limited to the following:

22 (a) A required orientation program for all new trustees elected or appointed to the
23 board. The orientation program shall include training on:

- 24 1. Benefits and benefits administration;
- 25 2. Investment concepts, policies, and current composition and
26 administration of system investments;
- 27 3. Laws, bylaws, and administrative regulations pertaining to the system

1 and to fiduciaries; and

2 4. Actuarial and financial concepts pertaining to the system.

3 If a trustee fails to complete the orientation program within one (1) year from
4 the beginning of his or her first term on the board, the system shall withhold
5 payment of the per diem and travel expenses due to the board member under
6 this section until the trustee has completed the orientation program;

7 (b) Annual required training for board members on the administration, benefits,
8 financing, and investing of the system. If a trustee fails to complete the annual
9 required training during the calendar or fiscal year, the retirement system shall
10 withhold payment of the per diem and travel expenses due to the board
11 member under this section until the board member has met the annual training
12 requirements; and

13 (c) The system shall incorporate by reference in an administrative regulation,
14 pursuant to KRS 13A.2251, the trustee education program.

15 (18) In order to improve public transparency regarding the administration of the system,
16 the board of trustees shall adopt a best practices model by posting the following
17 information to the Kentucky Public Pensions Authority's website~~[Web site]~~ and
18 shall make available to the public:

19 (a) Meeting notices and agendas for all meetings of the board. Notices and
20 agendas shall be posted to the Kentucky Public Pensions Authority's
21 website~~[Web site]~~ at least seventy-two (72) hours in advance of the board or
22 committee meetings, except in the case of special or emergency meetings as
23 provided by KRS 61.823;

24 (b) The ~~[Comprehensive]~~ Annual Comprehensive Financial Report with the
25 information as follows:

- 26 1. A general overview and update on the system by the executive director;
27 2. A listing of the board of trustees;

- 1 3. A listing of key staff;
- 2 4. An organizational chart;
- 3 5. Financial information, including a statement of plan net assets, a
- 4 statement of changes in plan net assets, an actuarial value of assets, a
- 5 schedule of investments, a statement of funded status and funding
- 6 progress, and other supporting data;
- 7 6. Investment information, including a general overview, a list of the
- 8 system's professional consultants, a total net of fees return on system
- 9 investments over a historical period, an investment summary, contracted
- 10 investment management expenses, transaction commissions, and a
- 11 schedule of investments;
- 12 7. The annual actuarial valuation report on the pension benefit and the
- 13 medical insurance benefit; and
- 14 8. A general statistical section, including information on contributions,
- 15 benefit payouts, and retirement system demographic data;
- 16 (c) All external audits;
- 17 (d) All board minutes or other materials that require adoption or ratification by
- 18 the board of trustees. The items listed in this paragraph shall be posted within
- 19 seventy-two (72) hours of adoption or ratification of the board;
- 20 (e) All bylaws, policies, or procedures adopted or ratified by the board of
- 21 trustees;
- 22 (f) The system's summary plan description;
- 23 (g) A document containing an unofficial copy of the statutes governing the
- 24 system;
- 25 (h) A listing of the members of the board of trustees and membership on each
- 26 committee established by the board, including any investment committees;
- 27 (i) All investment holdings in aggregate, fees, and commissions for each fund

1 administered by the board, which shall be updated on a quarterly basis for
2 fiscal years beginning on or after July 1, 2021. The system shall request from
3 all managers, partnerships, and any other available sources all information
4 regarding fees and commissions and shall, based on the requested information
5 received:

- 6 1. Disclose the dollar value of fees and commissions paid to each
7 individual manager or partnership;
- 8 2. Disclose the dollar value of any profit sharing, carried interest, or any
9 other partnership incentive arrangements, partnership agreements, or
10 any other partnership expenses received by or paid to each manager or
11 partnership; and
- 12 3. As applicable, report each fee or commission by manager or partnership
13 consistent with standards established by the Institutional Limited
14 Partners Association (ILPA).

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

- 18 (j) An update of net of fees investment returns, asset allocations, and the
19 performance of the funds against benchmarks adopted by the board for each
20 fund, for each asset class administered by the board, and for each manager.
21 The update shall be posted on a quarterly basis for fiscal years beginning on
22 or after July 1, 2021;

- 23 (k) A searchable database of the system's expenditures and a listing of each
24 individual employed by the system along with the employee's salary or wages.
25 In lieu of posting the information required by this paragraph to the Kentucky
26 Public Pensions Authority's website~~[Web site]~~, the system may provide the
27 information through a website~~[Web site]~~ established by the executive branch

1 to inform the public about public employee salaries and wages;

2 (l) All contracts or offering documents for services, goods, or property purchased
3 or utilized by the system for contracts or offering documents entered into on
4 or after July 1, 2021;~~and~~

5 (m) Information regarding the system's financial and actuarial condition that is
6 easily understood by the members, retired members, and the public; and

7 (n) All proxy vote reports as provided by subsection (8) of Section 6 of this Act.

8 (19) Notwithstanding the requirements of subsection (18) of this section, the system
9 shall not be required to furnish information that is protected under KRS 61.661,
10 exempt under KRS 61.878, or that, if disclosed, would compromise the system's
11 ability to competitively invest in real estate or other asset classes, except that no
12 provision of this section or KRS 61.878 shall exclude disclosure and review of all
13 contracts, including investment contracts, by the board, the Auditor of Public
14 Accounts, and the Government Contract Review Committee established pursuant to
15 KRS 45A.705 or the disclosure of investment fees and commissions as provided by
16 this section. If any public record contains material which is not excepted under this
17 section, the system shall separate the excepted material by removal, segregation, or
18 redaction, and make the nonexcepted material available for examination.

19 (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no
20 funds of the County Employees Retirement System, including fees and
21 commissions paid to an investment manager, private fund, or company issuing
22 securities, who manages systems assets, shall be used to pay fees and commissions
23 to placement agents. For purposes of this subsection, "placement agent" means a
24 third-party individual, who is not an employee, or firm, wholly or partially owned
25 by the entity being hired, who solicits investments on behalf of an investment
26 manager, private fund, or company issuing securities.

27 ➔Section 6. KRS 78.790 is amended to read as follows:

- 1 (1) (a) The board shall be the trustee of funds pertaining to the County Employees
2 Retirement System created by KRS 78.510 to 78.852, and KRS 61.701, and
3 shall have full and exclusive power to invest and reinvest such assets in
4 accordance with federal law.
- 5 (b) 1. The board shall establish an investment committee that shall include
6 members of the board with investment experience, elected members, or
7 other members as determined by the board chair, and may also include
8 nonvoting members who have investment expertise.
- 9 2. The investment committee shall have authority to implement the
10 investment policies adopted by the board and act on behalf of the board
11 on all investment-related matters.
- 12 (c) A trustee, officer, employee, employee of the Kentucky Public Pensions
13 Authority, investment manager, adviser, consultant, or any other person who
14 is a fiduciary as provided by this subsection shall discharge duties with
15 respect to the system:
- 16 1. Solely in the interest of the members and beneficiaries;
- 17 2. For the exclusive purpose of providing benefits to members and
18 beneficiaries and paying reasonable expenses of administering the
19 system;
- 20 3. With the care, skill, and caution under the circumstances then prevailing
21 that a prudent person acting in a like capacity and familiar with those
22 matters would use in the conduct of an activity of like character and
23 purpose;
- 24 4. Impartially, taking into account any differing interests of members and
25 beneficiaries;
- 26 5. Incurring any costs that are appropriate and reasonable; and
- 27 6. In accordance with a good-faith interpretation of the federal, state, and

1 common law governing the system and fiduciaries.

2 (d) In addition to the standards of conduct prescribed by paragraph (c) of this
3 subsection:

- 4 1. All internal investment staff of the Kentucky Public Pensions Authority,
5 and investment consultants shall adhere to the Code of Ethics and
6 Standards of Professional Conduct, and all board trustees shall adhere to
7 the Code of Conduct for Members of a Pension Scheme Governing
8 Body. All codes cited in this subparagraph are promulgated by the CFA
9 Institute; and
- 10 2. Investment managers shall comply with all applicable provisions of the
11 federal Investment Advisers Act of 1940, as amended, and the rules and
12 regulations promulgated thereunder, and shall comply with all other
13 applicable federal securities statutes and related rules and regulations
14 that apply to investment managers.

15 (e) A person is a fiduciary with respect to the system and its fund assets when,
16 upon appointment, employment, engagement, or other action by the board
17 or Authority, he or she:

- 18 1. Exercises any discretionary authority or discretionary control over the
19 management of the system;
- 20 2. Exercises any authority or control over the management or disposition
21 of the system's assets;
- 22 3. Renders investment advice to the system for a fee or other
23 compensation from the system, either directly or indirectly, with
24 respect to any moneys or other property of the system;
- 25 4. Possesses any discretionary authority or responsibility with respect to
26 any moneys or other property of the system; or
- 27 5. Possesses any discretionary authority or responsibility in the

1 administration of the system.

2 (f) An investment manager, adviser, or consultant appointed by the board or
 3 any other fiduciary provided by this subsection shall acknowledge in writing
 4 the fiduciary duties owed to the system and its fund assets.

5 (g) No contract or agreement, whether made in writing or not, shall in any
 6 manner waive, restrict, or limit a fiduciary's liability as to any of the duties
 7 imposed by this section. Any agreement shall specify that it is made in the
 8 Commonwealth and governed by the laws of the Commonwealth.

9 (2) The board, through adopted written policies, shall maintain ownership and control
 10 over its assets held in its unitized managed custodial account.

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

15 (4) The consideration of environmental, social, political, ideological, or other
 16 benefits or goals not in the sole interest of the members and beneficiaries of the
 17 system is contrary to the fiduciary duties owed to the system and is prohibited.

18 (5) The contents of real estate appraisals, engineering or feasibility estimates, and
 19 evaluations made by or for the system relative to the acquisition or disposition of
 20 property, until such time as all of the property has been acquired or sold, shall be
 21 excluded from the application of KRS 61.870 to 61.884 and shall be subject to
 22 inspection only upon order of a court of competent jurisdiction.

23 (6)~~(5)~~ Based upon market value at the time of purchase, the board shall limit the
 24 amount of assets managed by any one (1) active or passive investment manager to
 25 fifteen percent (15%) of the assets in the pension and insurance funds.

26 (7)~~(6)~~ All contracts for the investment or management of assets of the system shall
 27 not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall

1 conduct the following process to develop and adopt an investment procurement
2 policy with which all prospective contracts for the investment or management of
3 assets of the system shall comply:

- 4 (a) The board shall consult with the secretary of the Finance and Administration
5 Cabinet or his or her designee to develop an investment procurement policy,
6 which shall be written to meet best practices in investment management
7 procurement;
- 8 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
9 investment procurement policy to the secretary of the Finance and
10 Administration Cabinet or his or her designee for review and comment;
- 11 (c) Upon receipt of comments from the secretary of the Finance and
12 Administration Cabinet or his or her designee, the board shall choose to adopt
13 or not adopt any recommended changes;
- 14 (d) Upon adoption, the board shall tender the final investment procurement policy
15 to the secretary of the Finance and Administration Cabinet or his or her
16 designee;
- 17 (e) No later than thirty (30) days after receipt of the investment procurement
18 policy, the secretary or his or her designee shall certify whether the board's
19 investment procurement policy meets or does not meet best practices for
20 investment management procurement; and
- 21 (f) Any amendments to the investment procurement policy shall adhere to the
22 requirements set forth by paragraphs (b) to (e) of this subsection.

23 **(8) (a) The board shall adopt written proxy voting guidelines, which are consistent**
24 **with the fiduciary duties and other requirements of this section.**

25 **(b) The board shall not adopt the recommendations of a proxy adviser or proxy**
26 **voting service, unless the proxy adviser or proxy voting service in writing**
27 **acknowledges its fiduciary duties under subsection (1)(f) of this section and**

1 commits to follow the board-adopted proxy voting guidelines when voting
 2 the system's shares in order to comply with the board's fiduciary duties and
 3 other responsibilities under this section.

4 (c) All shares held directly or indirectly by or on behalf of the system shall be
 5 voted according to the proxy voting guidelines adopted by the board and
 6 subject to the fiduciary duties and other requirements of this section by:

7 1. An employee or employees of the Authority who are fiduciaries under
 8 subsection (1) of this section and are appointed or otherwise
 9 authorized by the board; or

10 2. A proxy adviser or proxy voting service that in writing acknowledges
 11 its fiduciary duties under subsection (1)(f) of this section and commits
 12 to follow the proxy voting guidelines adopted by the board when voting
 13 the system's shares in order to comply with the board's fiduciary duties
 14 and other responsibilities under this section.

15 (d) All proxy votes shall be tabulated and reported at least quarterly to the
 16 board. For each vote, the report shall provide:

17 1. The vote caption;

18 2. The date of the vote;

19 3. The company's name;

20 4. The vote cast for the system;

21 5. The recommendation of the company's management; and

22 6. If applicable, the recommendation of the proxy adviser or proxy voting
 23 service.

24 ➔Section 7. KRS 161.250 is amended to read as follows:

25 (1) (a) The general administration and management of the retirement system, and the
 26 responsibility for its proper operation and for making effective provisions of
 27 KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be

1 known as the "Board of Trustees of the Teachers' Retirement System of the
2 State of Kentucky."

3 (b) The board of trustees shall consist of the following:

- 4 1. The chief state school officer;
- 5 2. The State Treasurer;
- 6 3. Two (2) trustees, appointed by the Governor of the Commonwealth,
7 subject to Senate confirmation in accordance with KRS 11.160 for each
8 appointment or reappointment. These two (2) trustees shall have
9 investment experience. For purposes of this subparagraph, a trustee with
10 "investment experience" means an individual who does not have a
11 conflict of interest, as provided by KRS 161.460, and who has at least
12 ten (10) years of experience in one (1) of the following areas of
13 expertise:
 - 14 a. A portfolio manager acting in a fiduciary capacity;
 - 15 b. A professional securities analyst or investment consultant;
 - 16 c. A current or retired employee or principal of a trust institution,
17 investment or finance organization, or endowment fund acting in
18 an investment-related capacity;
 - 19 d. A chartered financial analyst in good standing as determined by
20 the CFA Institute; or
 - 21 e. A university professor, teaching investment-related studies; and
- 22 4. Seven (7) other trustees elected as provided in KRS 161.260. Four (4) of
23 the elective trustees shall be members of the retirement system, to be
24 known as teacher trustees, two (2) shall be persons who are not
25 members of the teaching profession, to be known as the lay trustees, and
26 one (1) shall be an annuitant of the retirement system to be known as the
27 retired teacher trustee. One (1) teacher trustee shall be elected annually

1 for a four-year term. The retired teacher trustee shall be elected every
2 four (4) years. The chief state school officer and the State Treasurer are
3 considered ex officio members of the board of trustees and may
4 designate in writing a person to represent them at board meetings.

5 (c) 1. Elective trustees shall not serve more than three (3) consecutive four (4)
6 year terms. An elective trustee who has served three (3) consecutive
7 terms may be elected again after an absence of four (4) years from the
8 board of trustees.

9 2. The term limits established by subparagraph 1. of this paragraph shall
10 apply to elective trustees serving on or after July 1, 2012, and all terms
11 of office served prior to July 1, 2012, shall be used to determine if the
12 elective trustee has exceeded the term limits provided by subparagraph
13 1. of this paragraph.

14 (d) 1. Each appointed trustee shall serve a term of four (4) years. An appointed
15 trustee shall not serve more than three (3) consecutive four (4) year
16 terms. An appointed trustee who has served three (3) consecutive terms
17 may be appointed again after an absence of four (4) years from the
18 board of trustees.

19 2. Any vacancy that occurs in an appointed position shall be filled in the
20 same manner that provides for the selection of the trustee; however, any
21 vacancy shall be filled only for the duration of the unexpired term.

22 (2) A member, retired member, or designated beneficiary may appeal the retirement
23 system's decisions that materially affect the amount of service retirement allowance,
24 amount of service credit, eligibility for service retirement, or eligibility for
25 survivorship benefits to which that member, retired member, or designated
26 beneficiary claims to be entitled. All appeals must be in writing and filed with the
27 retirement system within thirty (30) days of the claimant's first notice of the

1 retirement system's decision. For purposes of this section, notice shall be complete
2 and effective upon the date of mailing of the retirement system's decision to the
3 claimant at the claimant's last known address. Failure by the claimant to file a
4 written appeal with the retirement system within the thirty (30) day period shall
5 result in the decision of the retirement system becoming permanent with the effect
6 of a final and unappealable order. Appeals may include a request for an
7 administrative hearing which shall be conducted in accordance with the provisions
8 of KRS Chapter 13B. The board of trustees may establish an appeals committee
9 whose members shall be appointed by the chairperson and who shall have the
10 authority to act upon the report and recommendation of the hearing officer by
11 issuing a final order on behalf of the full board of trustees. A member, retired
12 member, or designated beneficiary who has filed a timely, written appeal of a
13 decision of the retirement system may, following the administrative hearing and
14 issuance of the final order by the board of trustees, appeal the final order of the
15 board of trustees to the Franklin Circuit Court in accordance with the provisions of
16 KRS Chapter 13B.

17 (3) The board of trustees shall establish a formal trustee education program for all
18 trustees of the board. The program shall include but not be limited to the following:

19 (a) A required orientation program for all new trustees to the board. The
20 orientation program shall include training on:

- 21 1. Benefits and benefits administration;
- 22 2. Investment concepts, policies, and current composition and
23 administration of retirement system investments;
- 24 3. Laws, bylaws, and administrative regulations pertaining to the
25 retirement system and to fiduciaries; and
- 26 4. Actuarial and financial concepts pertaining to the retirement system.

27 If a trustee fails to complete the orientation program within one (1) year from

1 the beginning of his or her first term on the board, the retirement system shall
2 withhold payment of the per diem and travel expenses due to the board
3 member under KRS 161.290 until the trustee has completed the orientation
4 program;

5 (b) Annual required training for trustees on the administration, benefits,
6 financing, and investing of the retirement system. If a trustee fails to complete
7 the annual required training during the calendar or fiscal year, the retirement
8 system shall withhold payment of the per diem and travel expenses due to the
9 board member under KRS 161.290 until the board member has met the annual
10 training requirements; and

11 (c) The retirement system shall incorporate by reference in an administrative
12 regulation, pursuant to KRS 13A.2251, the trustee education program.

13 (4) In order to improve public transparency regarding the administration of the system,
14 the board of trustees shall adopt a best practices model by posting the following
15 information to the retirement system's website~~[Web site]~~ and shall make available
16 to the public:

17 (a) Meeting notices and agendas for all meetings of the board. Notices and
18 agendas shall be posted to the retirement system's website~~[Web site]~~ at least
19 seventy-two (72) hours in advance of the board or committee meetings, except
20 in the case of special or emergency meetings as provided by KRS 61.823;

21 (b) The ~~[Comprehensive]~~ Annual Comprehensive Financial Report with the
22 information as follows:

- 23 1. A general overview and update on the retirement system by the
24 executive secretary;
- 25 2. A listing of the board of trustees;
- 26 3. A listing of key staff;
- 27 4. An organizational chart;

- 1 5. Financial information, including a statement of plan net assets, a
2 statement of changes in plan net assets, an actuarial value of assets, a
3 schedule of investments, a statement of funded status and funding
4 progress, and other supporting data;
- 5 6. Investment information, including a general overview, a list of the
6 retirement system's professional consultants, a total net return on
7 retirement system investments over a historical period, an investment
8 summary, contracted investment management expenses, transaction
9 commissions, and a schedule of investments;
- 10 7. The annual actuarial valuation report on the pension benefit and the
11 medical insurance benefit; and
- 12 8. A general statistical section, including information on contributions,
13 benefit payouts, and retirement system demographic data;
- 14 (c) All external audits;
- 15 (d) All board minutes or other materials that require adoption or ratification by
16 the board of trustees. The items listed in this paragraph shall be posted within
17 seventy-two (72) hours of adoption or ratification of the board;
- 18 (e) All bylaws, policies, or procedures adopted or ratified by the board of
19 trustees;
- 20 (f) The retirement system's summary plan description;
- 21 (g) The retirement system's law book;
- 22 (h) A listing of the members of the board of trustees and membership on each
23 committee established by the board, including any investment committees;
- 24 (i) All investment holdings in aggregate, fees, and commissions for each fund
25 administered by the board, which shall be updated on a quarterly basis for
26 fiscal years beginning on or after July 1, 2017. The system shall request from
27 all managers, partnerships, and any other available sources all information

1 regarding fees and commissions and shall, based on the requested information
2 received:

- 3 1. Disclose the dollar value of fees or commissions paid to each individual
4 manager or partnership;
- 5 2. Disclose the dollar value of any profit sharing, carried interest, or any
6 other partnership incentive arrangements, partnership agreements, or
7 any other partnership expenses received by or paid to each manager or
8 partnership; and
- 9 3. As applicable, report each fee or commission by manager or partnership
10 consistent with standards established by the Institutional Limited
11 Partners Association (ILPA).

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

15 (j) An update of net of fees investment returns, asset allocations, and the
16 performance of the funds against benchmarks adopted by the board for each
17 fund, for each asset class administered by the board, and for each manager.
18 The update shall be posted on a quarterly basis for fiscal years beginning on
19 or after July 1, 2017;

20 (k) All contracts or offering documents for services, goods, or property purchased
21 or utilized by the system;~~and~~

22 (l) A searchable database of the system's expenditures and a listing of each
23 individual employed by the system along with the employee's salary or wages.

24 In lieu of posting the information required by this paragraph to the system's
25 website~~[Web site]~~, the system may provide the information through a
26 website~~[Web site]~~ established by the executive branch to inform the public
27 about executive branch agency expenditures and public employee salaries and

1 wages; and

2 (m) All proxy vote reports as provided by subsection (11) of Section 9 of this Act.

3 (5) Notwithstanding the requirements of subsection (4) of this section, the retirement
4 system shall not be required to furnish information that is protected under KRS
5 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the
6 retirement system's ability to competitively invest in real estate or other asset
7 classes, except that no provision of this section or KRS 61.878 shall exclude
8 disclosure and review of all contracts, including investment contracts, by the board,
9 the Auditor of Public Accounts, and the Government Contract Review Committee
10 established pursuant to KRS 45A.705 or the disclosure of investment fees and
11 commissions as provided by this section. If any public record contains material
12 which is not excepted under this section, the system shall separate the excepted
13 material by removal, segregation, or redaction, and make the nonexcepted material
14 available for examination.

15 (6) For any benefit improvements the General Assembly has authorized the board of
16 trustees to establish under KRS 161.220 to 161.716 and that require formal
17 adoption by the board, the board shall establish the benefits by promulgation of
18 administrative regulations in accordance with KRS Chapter 13A.

19 ➔Section 8. KRS 161.340 is amended to read as follows:

20 (1) (a) The board of trustees shall elect from its membership a chairperson and a vice
21 chairperson on an annual basis as prescribed by the administrative regulations
22 of the board of trustees. The chairperson shall not serve more than four (4)
23 consecutive years as chairperson or vice chairperson of the board. The vice
24 chairperson shall not serve more than four (4) consecutive years as
25 chairperson or vice chairperson of the board. A trustee who has served four
26 (4) consecutive years as chairperson or vice chairperson of the board may be
27 elected chairperson or vice chairperson of the board after an absence of two

- 1 (2) years from the position.
- 2 (b) The board of trustees shall employ an executive secretary by means of a
- 3 contract not to exceed a period of four (4) years and fix the compensation and
- 4 other terms of employment for this position without limitation of the
- 5 provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive
- 6 secretary shall be the chief administrative officer of the board. The executive
- 7 secretary, at the time of employment, shall be a graduate of a four (4) year
- 8 college or university, and shall possess qualifications as the board of trustees
- 9 may require. The executive secretary shall not have held by appointment or
- 10 election an elective public office within the five (5) year period next
- 11 preceding the date of employment.
- 12 (2) The board shall employ clerical, administrative, and other personnel as are required
- 13 to transact the business of the retirement system. The compensation of all persons
- 14 employed by the board shall be paid at the rates and in amounts as the board
- 15 approves. Anything in the Kentucky Revised Statutes to the contrary
- 16 notwithstanding, the power over and the control of determining and maintaining an
- 17 adequate complement of employees in the system shall be under the exclusive
- 18 jurisdiction of the board of trustees.
- 19 (3) (a) Except as provided by subsection (10) of Section 9 of this Act~~KRS~~
- 20 ~~161.430(7)~~, the board shall contract for actuarial, auditing, legal, medical,
- 21 investment counseling, and other professional or technical services, insurance,
- 22 and commodities, as are required to carry out the obligations of the board in
- 23 accordance with the provisions of this chapter, subject to KRS Chapters 45,
- 24 45A, 56, and 57 but without the limitations provided by KRS Chapters 12 and
- 25 13B.
- 26 (b) The board shall provide for legal counsel and other legal services as may be
- 27 required in defense of trustees, officers, and employees of the system who

1 may be subjected to civil action arising from the performance of their legally
2 assigned duties if counsel and services are not provided by the Attorney
3 General. The hourly rate of reimbursement for any contract for legal services
4 under this paragraph shall not exceed the maximum hourly rate provided in
5 the Legal Services Duties and Maximum Rate Schedule promulgated by the
6 Government Contract Review Committee established pursuant to KRS
7 45A.705, unless a higher rate is specifically approved by the secretary of the
8 Finance and Administration Cabinet or his or her designee.

9 (4) The board of trustees may expend funds from the expense fund as necessary to
10 insure the trustees, employees, and officials of the Teachers' Retirement System
11 against any liability arising out of an act or omission committed in the scope and
12 course of performing legal duties. Insurance may be obtained or provided by
13 contracting with an insurance carrier, by self-insurance, by indemnification, or by
14 any combination thereof.

15 (5) Notwithstanding any statute to the contrary, employees shall not be considered
16 legislative agents as defined in KRS 6.611.

17 (6) Notwithstanding any statute to the contrary, the executive branch of government
18 shall accept from the Teachers' Retirement System all accrued annual and sick
19 leave balances and service credits of employees leaving the Teachers' Retirement
20 System and accepting appointments within the executive branch. These leave
21 balances shall be attested to by the Teachers' Retirement System and shall not
22 exceed those limits established by statute or administrative regulation for
23 employees of the executive branch.

24 ➔Section 9. KRS 161.430 is amended to read as follows:

25 (1) (a) The board of trustees shall be the trustee of the funds of the retirement system
26 and shall have full power and responsibility for the purchase, sale, exchange,
27 transfer, or other disposition of the investments and moneys of the retirement

1 system. The board shall, by administrative regulation, establish investment
2 policies and procedures to carry out their responsibilities.

- 3 (b) 1. The board shall contract with experienced competent investment
4 managers to invest and manage assets of the system. The board may also
5 employ qualified investment staff to advise it on investment matters and
6 to invest and manage assets of the system not to exceed fifty percent
7 (50%) of the system's assets. The board may contract with one (1) or
8 more general investment consultants, as well as specialized investment
9 consultants, to advise it on investment matters.
- 10 2. All internal investment staff and investment consultants shall adhere to
11 the Code of Ethics and Standards of Professional Conduct, and all board
12 trustees shall adhere to the Code of Conduct for Members of a Pension
13 Scheme Governing Body, promulgated by the CFA Institute. Investment
14 managers shall comply with the federal Investment Advisers Act of
15 1940, as amended, and the rules and regulations promulgated thereunder
16 and shall comply with all other applicable federal securities statutes and
17 related rules and regulations that apply to investment managers.
- 18 3. No investment manager shall manage more than forty percent (40%) of
19 the funds of the retirement system.

20 (c) The board may appoint an investment committee to act for the board in all
21 matters of investment, subject to the approval of the board of trustees. The
22 board of trustees, in keeping with their responsibilities as trustees and
23 wherever consistent with their fiduciary responsibilities, shall give priority to
24 the investment of funds in obligations calculated to improve the industrial
25 development and enhance the economic welfare of the Commonwealth.
26 Toward this end, the board shall develop procedures for informing the
27 business community of the potential for in-state investments by the retirement

1 fund, accepting and evaluating applications for the in-state investment of
2 funds, and working with members of the business community in executing in-
3 state investments which are consistent with the board's fiduciary
4 responsibilities. The board shall include in the criteria it uses to evaluate in-
5 state investments their potential for creating new employment opportunities
6 and adding to the total job pool in Kentucky. The board may cooperate with
7 the board of trustees of Kentucky Retirement Systems in developing its
8 program and procedures, and shall report to the Legislative Research
9 Commission annually on its progress in placing in-state investments. The first
10 report shall be submitted by October 1, 1991, and subsequent reports shall be
11 submitted by October 1 of each year thereafter. The report shall include the
12 number of applications for in-state investment received, the nature of the
13 investments proposed, the amount requested, the amount invested, and the
14 percentage of applications which resulted in investments.

15 (2) The board members, ~~and~~ investment managers, advisers, or consultants, or any
16 other person who is a fiduciary as provided by this subsection, shall discharge
17 their duties with respect to the assets of the system solely in the interests of the
18 active contributing members and annuitants and:

19 (a) For the exclusive purpose of providing benefits to members and annuitants
20 and defraying reasonable expenses of administering the system;

21 (b) With the care, skill, prudence, and diligence under the circumstances then
22 prevailing that a prudent person acting in a like capacity and familiar with
23 these matters would use in the conduct of an enterprise of a like character and
24 with like aims;

25 (c) By diversifying the investments of the plan so as to minimize the risk of large
26 losses, unless under the circumstances it is clearly prudent not to do so; and

27 (d) In accordance with the federal, state, and common laws, administrative

1 regulations, and other instruments governing the system and fiduciaries.

2 (3) (a) In choosing and contracting for professional investment management and
3 consulting services, the board shall do so prudently and in the interest of the
4 members and annuitants. Any contract that the board makes with an
5 investment manager shall set forth policies and guidelines of the board with
6 reference to standard rating services and specific criteria for determining the
7 quality of investments. Expenses directly related to investment management
8 and consulting services shall be financed from the guarantee fund in amounts
9 approved by the board.

10 (b) An investment manager or consultant appointed under this section shall
11 acknowledge in writing his or her fiduciary responsibilities to the fund. To be
12 eligible for appointment, an investment manager, consultant, or an affiliate,
13 shall be:

- 14 1. Registered under the Federal Investment Advisers Act of 1940; or
- 15 2. A bank as defined by that Act; or
- 16 3. An insurance company qualified to perform investment services under
17 the laws of more than one (1) state.

18 (c) No contract or agreement, whether made in writing or not, shall in any
19 manner waive, restrict, or limit a fiduciary's liability as to any of the duties
20 imposed by this section. Any agreement shall specify that it is made in the
21 Commonwealth and governed by the laws of the Commonwealth.

22 (4) A person is a fiduciary with respect to the system and its fund assets when, upon
23 appointment, employment, engagement, or other action by the board, he or she:

24 (a) Exercises any discretionary authority or discretionary control over the
25 management of the system;

26 (b) Exercises any authority or control over the management or disposition of
27 the system's assets;

1 (c) Renders investment advice to the system for a fee or other compensation
2 from the system, either directly or indirectly, with respect to any moneys or
3 other property of the system;

4 (d) Possesses any discretionary authority or responsibility with respect to any
5 moneys or other property of the system; or

6 (e) Possesses any discretionary authority or responsibility in the administration
7 of the system.

8 (6) The consideration of environmental, social, political, ideological, or other
9 benefits or goals not in the sole interest of the members and beneficiaries of the
10 system is contrary to the fiduciary duties provided by this section and is
11 prohibited.

12 (7) No investment or disbursement of funds shall be made unless authorized by the
13 board of trustees, except that the board, in order to ensure timely market
14 transactions, shall establish investment guidelines and may permit its staff and
15 investment managers who are employed or under contract with the board pursuant
16 to this section to execute purchases and sales of investment instruments within
17 those guidelines without prior board approval.

18 ~~(8)~~~~(5)~~ In discharging his or her administrative duties under this section, a trustee
19 shall strive to administer the retirement system in an efficient and cost-effective
20 manner for the taxpayers of the Commonwealth of Kentucky.

21 ~~(9)~~~~(6)~~ Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of
22 the Teachers' Retirement System, including fees and commissions paid to an
23 investment manager, private fund, or company issuing securities, who manages
24 systems assets, shall be used to pay fees and commissions to placement agents. For
25 purposes of this subsection, "placement agent" means a third-party individual, who
26 is not an employee, or firm, wholly or partially owned by the entity being hired,
27 who solicits investments on behalf of an investment manager, private fund, or

1 company issuing securities.

2 ~~(10)(7)~~ All contracts for the investment or management of assets of the system shall
3 not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall
4 conduct the following process to develop and adopt an investment procurement
5 policy with which all prospective contracts for the investment or management of
6 assets of the system shall comply:

7 (a) On or before July 1, 2017, the board shall consult with the secretary of the
8 Finance and Administration Cabinet or his or her designee to develop an
9 investment procurement policy, which shall be written to meet best practices
10 in investment management procurement;

11 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
12 investment procurement policy to the secretary of the Finance and
13 Administration Cabinet or his or her designee for review and comment;

14 (c) Upon receipt of comments from the secretary of the Finance and
15 Administration Cabinet or his or her designee, the board shall choose to adopt
16 or not adopt any recommended changes;

17 (d) Upon adoption, the board shall tender the final investment procurement policy
18 to the secretary of the Finance and Administration Cabinet or his or her
19 designee;

20 (e) No later than thirty (30) days after receipt of the investment procurement
21 policy, the secretary or his or her designee shall certify whether the board's
22 investment procurement policy meets or does not meet best practices for
23 investment management procurement; and

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

26 **(11) (a) The board shall adopt written proxy voting guidelines which are consistent**
27 **with the fiduciary duties and other requirements of this section.**

1 **(b) The board shall not adopt the recommendations of a proxy adviser or proxy**
2 **voting service, unless the proxy adviser or proxy voting service**
3 **acknowledges in writing its fiduciary duties under subsection (3)(b) of this**
4 **section and commits to follow the board-adopted proxy voting guidelines**
5 **when voting the system's shares in order to comply with the board's**
6 **fiduciary duties and other responsibilities under this section.**

7 **(c) All shares held directly or indirectly by or on behalf of the system shall be**
8 **voted according to the proxy voting guidelines adopted by the board and**
9 **subject to the fiduciary duties and other requirements of this section by:**

10 **1. The board, the investment committee of the board, or an employee or**
11 **employees of the system who are fiduciaries under subsection (4) of**
12 **this section and are appointed or otherwise authorized by the board; or**

13 **2. A proxy adviser or proxy voting service that in writing acknowledges**
14 **its fiduciary duties under subsection (3)(b) of this section and commits**
15 **to follow the proxy voting guidelines adopted by the board when voting**
16 **the system's shares in order to comply with the board's fiduciary duties**
17 **and other responsibilities under this section.**

18 **(d) All proxy votes shall be tabulated and reported at least quarterly to the**
19 **board. For each vote, the report shall provide:**

20 **1. The vote caption;**

21 **2. The date of the vote;**

22 **3. The company's name;**

23 **4. The vote cast for the system;**

24 **5. The recommendation of the company's management; and**

25 **6. If applicable, the recommendation of the proxy adviser or proxy voting**
26 **service.**