

1 AN ACT relating to reemployment after retirement in the Teachers' Retirement  
2 System.

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

4 ➔Section 1. KRS 161.605 is amended to read as follows:

5 Any member retired by reason of service may return to work in a position covered by the  
6 Kentucky Teachers' Retirement System and continue to receive his or her retirement  
7 allowance under the following conditions:

8 (1) Any member who is retired with thirty (30) or more years of service may return to  
9 work in a full-time or a part-time position, or in a position providing substitute  
10 teaching service, covered by the Teachers' Retirement System and earn up to a  
11 maximum of seventy-five percent (75%) of the member's last annual compensation  
12 measured on a daily rate to be determined by the board of trustees. For purposes of  
13 determining whether the salary of a member returning to work is seventy-five  
14 percent (75%) or less of the member's last annual compensation, all remuneration  
15 paid and benefits provided to the member, on an actual dollar or fair market value  
16 basis as determined by the retirement system, excluding employer-provided medical  
17 insurance required under subsection ~~(4)(5)~~ of this section, shall be considered.  
18 Members who were retired on or before June 30, 2002, shall be entitled to return to  
19 work under the provisions of this section as if they had retired with thirty (30) years  
20 of service. Nonqualified service credit purchased under the provisions of KRS  
21 161.5465 or elsewhere with any state-administered retirement system shall not be  
22 used to meet the thirty (30) year requirement set forth in this subsection. Out-of  
23 state teaching service provided in public schools for kindergarten through grade  
24 twelve (12) may count toward the thirty (30) year requirement set forth in this  
25 subsection even if it is not purchased as service credit, if the member obtains from  
26 his or her out-of-state employer certification of this service on forms prescribed by  
27 the retirement system;

1 (2) Any member who is retired with less than thirty (30) years of service after June 30,  
2 2002, may return to work in a full-time or part-time position, or in a position  
3 providing substitute teaching service, covered by the Teachers' Retirement System  
4 and earn up to a maximum of sixty-five percent (65%) of the member's last annual  
5 compensation measured on a daily rate to be determined by the board of trustees.  
6 For purposes of determining whether the salary of a member returning to work is  
7 sixty-five percent (65%) or less of the member's last annual compensation, all  
8 remuneration paid and benefits provided to the member, on an actual dollar or fair  
9 market value basis as determined by the retirement system, excluding employer-  
10 provided medical insurance required under subsection ~~(4)~~~~(5)~~ of this section, shall  
11 be considered;

12 ~~[(3) Reemployment of a retired member under subsection (1) or (2) of this section in a~~  
13 ~~full-time teaching or nonteaching position in a local school district shall be~~  
14 ~~permitted only if the employer certifies to the Kentucky Teachers' Retirement~~  
15 ~~System that there are no other qualified applicants available to fill the teaching or~~  
16 ~~nonteaching position. The employer may use any source considered reliable,~~  
17 ~~including but not limited to data provided by the Education Professional Standards~~  
18 ~~Board and the Department of Education, to determine whether other qualified~~  
19 ~~applicants are available to fill the teaching or nonteaching position. The Kentucky~~  
20 ~~Board of Education shall promulgate administrative regulations to establish~~  
21 ~~procedures to determine whether other qualified applicants are available to fill a~~  
22 ~~teaching or nonteaching position and, if not, for filling the position with a retired~~  
23 ~~member who will then be permitted to return to work in that position under~~  
24 ~~subsection (1) or (2) of this section. The administrative regulations shall ensure that~~  
25 ~~a retired member shall not be hired in a teaching or nonteaching position by a local~~  
26 ~~school district until the superintendent of the school district assures the Kentucky~~  
27 ~~Teachers' Retirement System that every reasonable effort has been made to recruit~~

1 ~~other qualified applicants for the position on an annual basis;]~~

2 ~~(3)~~~~(4)~~ Under this section, an employer may employ full-time a number of retired  
3 members not to exceed three percent (3%) of the membership actively employed  
4 full-time by that employer. The board of trustees may reduce this three percent  
5 (3%) cap upon recommendation of the retirement system's actuary if a reduction is  
6 necessary to maintain the actuarial soundness of the retirement system. The board  
7 of trustees may increase the three percent (3%) cap upon a determination that an  
8 increase is warranted to help address a shortage in the number of available teachers  
9 and upon the determination of the retirement system's actuary that the proposed cap  
10 increase allows the actuarial soundness of the retirement system to be maintained.  
11 For purposes of this subsection, "full-time" means the same as defined by KRS  
12 161.220(21). A local school district may exceed the quota established by this  
13 subsection by making an annual written request to the Kentucky Department of  
14 Education which the department may approve on a year-by-year basis if the  
15 statewide quota has not been met. A district's written request to exceed its quota  
16 shall be submitted no sooner than two (2) weeks after the start of the school year;

17 ~~(4)~~~~(5)~~ (a) Except as provided by subsection ~~(9)~~~~(10)~~ of this section, a member  
18 returning to work in a full-time or part-time position, or in a position  
19 providing substitute teaching service, under subsection (1) or (2) of this  
20 section shall contribute to an account with the retirement system that shall be  
21 administered independently from and with no reciprocal impact with the  
22 member's original retirement account, or any other account from which the  
23 member is eligible to draw a retirement allowance.

24 (b) Except as provided by subsection ~~(9)~~~~(10)~~ of this section, a member returning  
25 to work under subsection (1) or (2) of this section shall make contributions to  
26 the retirement system at the rate provided under KRS 161.540. The new  
27 account shall independently meet all vesting requirements as well as all other

1 conditions set forth in KRS 161.600(1) or (2), as applicable, before any  
2 retirement allowance is payable from this account. The retirement allowance  
3 accruing under this new account shall be calculated pursuant to KRS 161.620.  
4 This new account shall not entitle the member to a duplication of the benefits  
5 offered under KRS 161.620(7) or 161.675, nor shall this new account provide  
6 the benefits offered by KRS 161.520, 161.525, 161.620(3), 161.655, 161.661,  
7 or 161.663.

8 (c) A member returning to work under subsection (1) or (2) of this section shall  
9 waive his or her medical insurance with the Teachers' Retirement System  
10 during the period of reemployment and shall receive the medical insurance  
11 coverage that is generally provided by the member's active employer to the  
12 other members of the retirement system that the active employer employs. If  
13 medical insurance coverage is not available from the employer, the Kentucky  
14 Teachers' Retirement System may provide coverage for the member.

15 (d) A member returning to work under subsection (1) or (2) of this section shall  
16 not be eligible to purchase service credit for any service provided after the  
17 member's effective date of retirement but prior to the date that the member  
18 returns to work. A member returning to work under subsection (1) or (2) of  
19 this section shall not be eligible to purchase service credit that the member  
20 would have otherwise been eligible to purchase prior to the member's initial  
21 retirement.

22 (e) A member who returns to work under subsection (1) or (2) of this section, or  
23 in the event of the death of the member, the member's estate or applicably  
24 designated beneficiary, shall be entitled, within ninety (90) days of the posting  
25 of the annual report submitted by the employer, to a refund of contributions as  
26 permitted and limited by KRS 161.470;

27 ~~(5)~~~~(6)~~ The board of trustees may annually, on July 1, adjust the current daily rate of

1 a member's last annual compensation, for each full twelve (12) month period that  
2 has elapsed subsequent to the member earning his or her last annual compensation,  
3 by the percentage increase in the annual average of the consumer price index for all  
4 urban consumers for the calendar year preceding the adjustment as published by the  
5 Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each  
6 annual adjustment shall become part of the member's daily rate base. Failure to  
7 comply with the salary limitations set forth in subsections (1) and (2) of this section  
8 as may be adjusted by this subsection shall result in a reduction of the member's  
9 retirement allowance or any other benefit to which the member would otherwise be  
10 entitled on a dollar-for-dollar basis for each dollar that the member exceeds these  
11 salary limitations, and the member shall be refunded his or her retirement  
12 contributions made on the compensation that exceeds these salary limitations.  
13 Notwithstanding any other provision of law to the contrary, a member retiring from  
14 a local school district who returns to work for a local school district under  
15 subsection (1) or (2) of this section shall be entitled, without any reduction to his or  
16 her retirement allowance or any other retirement benefit, to earn a minimum  
17 amount equal to one hundred seventy dollars (\$170) per day;

18 ~~(6)~~~~(7)~~ (a) A retired member returning to work under subsection (1) or (2) of this  
19 section shall have separated from service for a period of at least one (1) year if  
20 returning to work for the same employer on a full-time basis, and at least three  
21 (3) months if returning to work for a different employer on a full-time basis.  
22 A retired member returning to work under subsection (1) or (2) of this section  
23 on a part-time basis shall have separated from service for a period of at least  
24 three (3) months before returning to work for any employer.

25 (b) As an alternative to the separation-from-service requirements in paragraph (a)  
26 of this subsection, a retired member who is returning to work for the same  
27 employer in a full-time position under subsections (1) and (2) of this section

1           may elect a separation-from-service of not less than two (2) months followed  
2           by a forfeiture of the retired member's retirement allowance on a month-to-  
3           month basis for each month that the member has separated from service for  
4           less than twelve (12) full months. A retired member returning to work for the  
5           same employer in a part-time position, or for a different employer in a full-  
6           time position, may elect an alternative separation-from-service requirement of  
7           at least two (2) months followed by a forfeiture of the member's retirement  
8           allowance for one (1) month. During the period that the member forfeits his or  
9           her retirement allowance and thereafter, member and employer contributions  
10          shall be made to the retirement system as a result of employment in any  
11          position subject to membership in the retirement system. The member shall  
12          contribute to an account with the retirement system subject to the conditions  
13          set forth in subsection ~~(4)~~(5) of this section.

14          (c) A retired member who is returning to work for an employer that has  
15          employees who participate in the Teachers' Retirement System shall comply  
16          with the separation-from-service requirements in this subsection before  
17          performing any service for the employer, regardless of whether the retired  
18          member is providing service in a position covered by the Teachers'  
19          Retirement System.

20          (d) The starting date for any separation from service required under this  
21          subsection shall be the effective date of the member's retirement.

22          (e) The separation-from-service requirements of this subsection are not met if  
23          there is a prearranged agreement between the member and an employer that  
24          has employees who participate in the Teachers' Retirement System prior to  
25          retirement for the member to work for the employer after retirement.

26          (f) The Teachers' Retirement System may require the member and the employer  
27          for which the member is returning to work to certify in writing on a form

1 prescribed by the Teachers' Retirement System that no prearranged agreement  
2 was or will be entered into between the member and employer prior to  
3 retirement for the member to work for the employer after retirement.

4 (g) Failure to comply with the separation-from-service requirements in this  
5 subsection voids a member's retirement and the member shall be required to  
6 return all the retirement benefits he or she received, with interest, for the  
7 period of time that the member returned to work without a sufficient  
8 separation from service;

9 ~~(7)~~~~(8)~~ (a) Effective July 1, 2004, local school districts may employ retired  
10 members in full-time or part-time teaching or administrative positions *in*  
11 *critical shortage areas* without limitation on the compensation of the retired  
12 members that is otherwise required by subsections (1) and (2) of this section.~~]~~  
13 ~~Under provisions of this subsection, a local school district may only employ~~  
14 ~~retired members to fill critical shortage positions for which there are no other~~  
15 ~~qualified applicants as determined by the local superintendent.]~~ The number  
16 of retired members that a local school district may employ under this  
17 subsection shall be no more than *four (4)*~~two (2)~~ members per local school  
18 district or *ten*~~one~~ percent (*10%*)~~(1%)~~ of the total active members employed  
19 by the local school district on a full-time basis as defined under KRS  
20 161.220(21), whichever number is greater. Retired members returning to work  
21 under this subsection shall be subject to the separation-from-service  
22 requirements set forth in subsection ~~(6)~~~~(7)~~ of this section. Retired members  
23 returning to work under this subsection shall waive their medical insurance  
24 coverage with the retirement system during their period of reemployment and  
25 receive medical insurance coverage that is offered to other full-time members  
26 employed by the local school district. Retired members returning to work  
27 under this subsection shall contribute to an account subject to the conditions

1 set forth in subsection ~~(4)~~~~(5)~~ of this section. Retired members returning to  
2 work under this subsection shall make contributions to the retirement system  
3 at the rate provided under KRS 161.540. The employer shall make  
4 contributions at the rate provided under KRS 161.550. Local school districts  
5 shall make annual payments to the retirement system on the compensation  
6 paid to the reemployed retirees at the rates determined by the retirement  
7 system's actuary that reflect any accrued liability resulting from the  
8 reemployment of these members.

9 (b) The Department of Education may employ retired members in full-time or  
10 part-time teaching or nonteaching positions without the limitations on  
11 compensation otherwise required by subsections (1) and (2) of this section to  
12 fill critical shortage areas in the schools it operates, including the Kentucky  
13 School for the Blind, the Kentucky School for the Deaf, and the Kentucky  
14 Virtual High School, and to serve on audit teams. The department shall be  
15 subject to the same requirements as local school districts as provided in  
16 paragraph (a) of this subsection, except the Teachers' Retirement System shall  
17 determine the maximum number of employees that may be employed under  
18 this paragraph;

19 ~~(8)~~~~(9)~~ The return-to-work limitations set forth in this section shall apply to retired  
20 members who are returning to work in the same position from which they retired, or  
21 a position substantially similar to the one from which they retired, or a position  
22 described in KRS 161.046 or any position listed in KRS 161.220(4) which requires  
23 membership in the retirement system. Positions which generally require  
24 certification or graduation from a four (4) year college or university as a condition  
25 of employment which are created, or changed to remove the position from coverage  
26 under KRS 161.220(4) are also subject to the return to work limitations set forth in  
27 this section. The board of trustees shall determine whether employment in a



1 nonteaching position is subject to this subsection;

2 ~~(9)~~~~(10)~~ (a) Notwithstanding the provisions of this section, individuals who become  
3 members on or after January 1, 2022, who subsequently retire and begin  
4 drawing a monthly lifetime retirement allowance from the Teachers'  
5 Retirement System, who following retirement are reemployed with an  
6 employer participating in the Teachers' Retirement System, shall not be  
7 eligible to contribute to or earn benefits in a second retirement account in the  
8 Teachers' Retirement System during the period of reemployment.

9 (b) The provisions of subsections (1) to ~~(7)~~~~(8)~~ of this section are not subject to  
10 KRS 161.714;

11 ~~(10)~~~~(11)~~ Any member retired by reason of service may waive his or her annuity and  
12 return to full-time employment in a position covered by the Teachers' Retirement  
13 System under the following conditions:

14 (a) The member shall receive no annuity payments while employed in a covered  
15 position, shall waive his or her medical insurance coverage with the Teachers'  
16 Retirement System during the period of reemployment, and shall receive the  
17 medical insurance coverage that is generally offered by the member's active  
18 employer to the other members of the retirement system employed by the  
19 active employer. The member's estate or, if there is a beneficiary applicably  
20 designated by the member, then the beneficiary, shall continue to be eligible  
21 for life insurance benefits as provided in KRS 161.655. Service subsequent to  
22 retirement shall not be used to improve an annuity, except as provided in  
23 paragraphs (b) and (c) of this subsection;

24 (b) Any member who waives regular annuity benefits and returns to teaching or  
25 covered employment shall be entitled to make contributions on the salaries  
26 received for this service and have his or her retirement annuity recalculated as  
27 provided in the regular retirement formula in KRS 161.620(1), less any

1 applicable actuarial discount applied to the original retirement allowance due  
2 to the election of a joint and last survivor option. Retirement option and  
3 beneficiary designation on original retirement shall not be altered by  
4 postretirement employment, and dependents and spouses of the members shall  
5 not become eligible for benefits under KRS 161.520, 161.525, or 161.661  
6 because of postretirement employment;

7 (c) When a member returns to full-time teaching or covered employment as  
8 provided in subsection (b) of this section, the employer is required to withhold  
9 and remit regular retirement contributions. The member must be employed  
10 full-time for at least one (1) consecutive contract year to be eligible to  
11 improve an annuity. The member shall be returned to the annuity rolls on July  
12 1 following completion of the contract year or on the first day of the month  
13 following the month of termination of service if full-time employment  
14 exceeds one (1) consecutive contract year. A member shall not be returned to  
15 the annuity rolls until after he or she has filed a retirement application in  
16 compliance with KRS 161.600(6). Any discounts applied at the time of the  
17 original retirement due to service or age may be reduced or eliminated due to  
18 additional employment if full-time employment is for one (1) consecutive  
19 contract year or longer; and

20 (d) A member retired by reason of service who has been employed the equivalent  
21 of twenty-five (25) days or more during a school year under KRS 161.605  
22 may waive the member's retirement annuity and return to regular employment  
23 covered by the Teachers' Retirement System during that school year a  
24 maximum of one (1) time during any five (5) year period, beginning with that  
25 school year;

26 ~~(11)~~ Retired members may be employed in a part-time teaching capacity by an  
27 agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of

1 twelve (12) teaching hours in any one (1) fiscal year. Retired members may be  
2 employed for a period not to exceed the equivalent of one hundred (100) days in  
3 any one (1) fiscal year in a part-time administrative or nonteaching capacity by an  
4 agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be  
5 covered by the retirement system. Except as otherwise provided by this subsection,  
6 the return to work provisions set forth in subsections (1) to ~~(7)~~~~(8)~~ of this section  
7 shall not apply to retired members who return to work solely for an agency  
8 described in KRS 161.220(4)(b) or (n). Calculation of the number of days and  
9 teaching hours for part-time teaching, substitute teaching, or part-time employment  
10 in a nonteaching capacity under this section shall not exceed the ratio between a  
11 school year and the actual months of retirement for the member during that school  
12 year. The board of trustees by administrative regulation may establish fractional  
13 equivalents of a day of teaching service. Any member who exceeds the twelve (12)  
14 hour or one hundred (100) day limitations of this subsection shall be subject to  
15 having his or her retirement voided and be required to return all retirement  
16 allowances and other benefits paid to the member or on the member's behalf since  
17 the effective date of retirement. In lieu of voiding a member's retirement, the system  
18 may reduce the member's retirement allowance or any other benefit to which the  
19 member would otherwise be entitled on a dollar-for-dollar basis for each dollar of  
20 compensation that the member earns in employment exceeding twelve (12) hours,  
21 one hundred (100) days, or any apportionment of the two (2) combined. Retired  
22 members returning to work for an employer described in KRS 161.220(4)(b) or (n)  
23 shall comply with the separation-from-service requirements of subsection ~~(6)~~~~(7)~~  
24 of this section;

25 ~~(12)~~~~(13)~~ When a retired member returns to employment in a part-time teaching  
26 capacity or in a nonteaching capacity as provided in subsection ~~(11)~~~~(12)~~ of this  
27 section, the employer shall contribute annually to the retirement system on the

1 compensation paid to the retired member at rates determined by the retirement  
 2 system actuary that reflect accrued liability for retired members who return to work  
 3 under subsection ~~(11)~~~~(12)~~ of this section; and

4 ~~(13)~~~~(14)~~ For retired members who return to work during any one (1) fiscal year in both  
 5 a position described in KRS 161.220(4)(b) or (n) and in a position described under  
 6 another provision under KRS 161.220(4), and for retired members who return to  
 7 work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and  
 8 an administrative or nonteaching capacity, the board of trustees shall adopt a  
 9 methodology for a pro rata apportionment of days and hours that the retired  
 10 member may work in each position.

11 ➔Section 2. KRS 156.106 is amended to read as follows:

12 (1) For purposes of this section and KRS 161.605, "critical shortage area" means a lack  
 13 of certified teachers in particular subject areas, in grade levels, or in geographic  
 14 locations at the elementary and secondary level, as determined annually by the  
 15 commissioner of education. The commissioner may use any source considered  
 16 reliable including, but not limited to, data provided by the Education Professional  
 17 Standards Board and local education agencies to identify the critical shortage areas.

18 (2) (a) The Kentucky Board of Education shall promulgate administrative regulations  
 19 to establish procedures to be used to appoint retired teachers and  
 20 administrators to positions in critical shortage areas under this section and  
 21 KRS 161.605. ~~The administrative regulations shall assure that:~~

22 ~~(a) A retired teacher or administrator shall not be hired until the superintendent~~  
 23 ~~assures that he or she has made every reasonable effort to recruit an active~~  
 24 ~~teacher or administrator for the position on an annual basis; and]~~

25 (b) A retired teacher or administrator *appointed to a position in a critical*  
 26 *shortage area* shall be paid, at a minimum, a salary at Rank II with ten (10)  
 27 years of experience based on a single salary schedule adopted by the district.

