

1 AN ACT relating to employers of the Teachers' Retirement System.

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

3 ➔Section 1. KRS 161.220 is amended to read as follows:

4 As used in KRS 161.220 to 161.716 and 161.990:

- 5 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to  
6 161.716 and 161.990 for payment of allowances to members;
- 7 (2) "Retirement allowance" means the amount annually payable during the course of  
8 his or her natural life to a member who has been retired by reason of service;
- 9 (3) "Disability allowance" means the amount annually payable to a member retired by  
10 reason of disability;
- 11 (4) "Member" means the commissioner of education, deputy commissioners, associate  
12 commissioners, and all division directors in the State Department of Education,  
13 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any  
14 full-time teacher or professional occupying a position requiring certification or  
15 graduation from a four (4) year college or university, as a condition of employment,  
16 and who is employed by public boards, institutions, or agencies as follows:
- 17 (a) Local boards of education and public charter schools if the public charter  
18 school satisfies the criteria set by the Internal Revenue Service to participate  
19 in a governmental retirement plan;
- 20 (b) Eastern Kentucky University, Kentucky State University, Morehead State  
21 University, Murray State University, Western Kentucky University, and any  
22 community colleges established under the control of these universities;
- 23 (c) State-operated secondary area vocational education or area technology  
24 centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- 25 (d) Other public education agencies as created by the General Assembly and  
26 those members of the administrative staff of the Teachers' Retirement System  
27 of the State of Kentucky whom the board of trustees may designate by

- 1 administrative regulation;
- 2 (e) Regional cooperative organizations formed by local boards of education or  
3 other public educational institutions listed in this subsection, for the purpose  
4 of providing educational services to the participating organizations;
- 5 (f) All full-time members of the staffs of the Kentucky Association of School  
6 Administrators, Kentucky Education Association, Kentucky Vocational  
7 Association, Kentucky High School Athletic Association, Kentucky  
8 Academic Association, and the Kentucky School Boards Association who  
9 were members of the Kentucky Teachers' Retirement System or were  
10 qualified for a position covered by the system at the time of employment by  
11 the association in the event that the board of directors of the respective  
12 association petitions to be included. The board of trustees of the Kentucky  
13 Teachers' Retirement System may designate by resolution whether part-time  
14 employees of the petitioning association are to be included. The state shall  
15 make no contributions on account of these employees, either full-time or part-  
16 time. The association shall make the employer's contributions, including any  
17 contribution that is specified under KRS 161.550. The provisions of this  
18 paragraph shall be applicable to persons in the employ of the associations on  
19 or subsequent to July 1, 1972;
- 20 (g) Employees of the Council on Postsecondary Education who were employees  
21 of the Department for Adult Education and Literacy and who were members  
22 of the Kentucky Teachers' Retirement System at the time the department was  
23 transferred to the council pursuant to Executive Order 2003-600;
- 24 (h) The Office of Career and Technical Education;
- 25 (i) The Office of Vocational Rehabilitation;
- 26 (j) The Kentucky Educational Collaborative for State Agency Children;
- 27 (k) The Governor's Scholars Program;

- 1           (l) Any person who is retired for service from the retirement system and is  
2           reemployed by an employer identified in this subsection in a position that the  
3           board of trustees deems to be a member, except that any person who becomes  
4           a member on or after January 1, 2022, and subsequently draws a monthly  
5           lifetime retirement allowance, shall upon reemployment after retirement not  
6           earn a second retirement account;
- 7           (m) Employees of the former Cabinet for Workforce Development who are  
8           transferred to the Kentucky Community and Technical College System and  
9           who occupy positions covered by the Kentucky Teachers' Retirement System  
10          shall remain in the Teachers' Retirement System. New employees occupying  
11          these positions, as well as newly created positions qualifying for Teachers'  
12          Retirement System coverage that would have previously been included in the  
13          former Cabinet for Workforce Development, shall be members of the  
14          Teachers' Retirement System;
- 15          (n) Effective January 1, 1998, employees of state community colleges who are  
16          transferred to the Kentucky Community and Technical College System shall  
17          continue to participate in federal old age, survivors, disability, and hospital  
18          insurance, and a retirement plan other than the Kentucky Teachers' Retirement  
19          System offered by Kentucky Community and Technical College System. New  
20          employees occupying positions in the Kentucky Community and Technical  
21          College System as referenced in KRS 164.5807(5) that would not have  
22          previously been included in the former Cabinet for Workforce Development,  
23          shall participate in federal old age, survivors, disability, and hospital  
24          insurance and have a choice at the time of employment of participating in a  
25          retirement plan provided by the Kentucky Community and Technical College  
26          System, including participation in the Kentucky Teachers' Retirement System,  
27          on the same basis as faculty of the state universities as provided in KRS

1 161.540 and 161.620;

2 (o) Employees of the Office of General Counsel, the Office of Budget and  
3 Administrative Services, and the Office of Quality and Human Resources  
4 within the Office of the Secretary of the former Cabinet for Workforce  
5 Development and the commissioners of the former Department for Adult  
6 Education and Literacy and the former Department for Technical Education  
7 who were contributing to the Kentucky Teachers' Retirement System as of  
8 July 15, 2000;

9 (p) Employees of the Kentucky Department of Education only who are graduates  
10 of a four (4) year college or university, notwithstanding a substitution clause  
11 within a job classification, and who are serving in a professional job  
12 classification as defined by the department;

13 (q) The Governor's School for Entrepreneurs Program;

14 (r) Employees of the Office of Adult Education within the Department of  
15 Workforce Development in the Education and Labor Cabinet who were  
16 employees of the Council on Postsecondary Education, Kentucky Adult  
17 Education Program and who were members of the Kentucky Teachers'  
18 Retirement System at the time the Program was transferred to the cabinet  
19 pursuant to Executive Orders 2019-0026 and 2019-0027; ~~and~~

20 (s) Employees of the Education Professional Standards Board who were  
21 members of the Kentucky Teachers' Retirement System at the time the  
22 employees were transferred to the Kentucky Department of Education  
23 pursuant to Executive Order 2020-590; and

24 (t) *WeLeadCS, the virtual computer science career academy established in*  
25 *KRS 158.809*;

26 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,  
27 and became a member of the retirement system created by 1938 (1st Extra. Sess.)

1 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year  
2 after that date, and any teacher who was a member of a local teacher retirement  
3 system in the public elementary or secondary schools of the state on or before July  
4 1, 1940, and continued to be a member of the system until he or she, with the  
5 membership of the local retirement system, became a member of the state Teachers'  
6 Retirement System or who becomes a member under the provisions of KRS  
7 161.470(4);

8 (6) "New teacher" means any member not a present teacher;

9 (7) "Prior service" means the number of years during which the member was a teacher  
10 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior  
11 service shall be allowed or credited to any teacher;

12 (8) "Subsequent service" means the number of years during which the teacher is a  
13 member of the Teachers' Retirement System after July 1, 1941;

14 (9) "Final average salary" means the average of the five (5) highest annual salaries  
15 which the member has received for service in a covered position and on which the  
16 member has made contributions, or on which the public board, institution, or  
17 agency has picked-up member contributions pursuant to KRS 161.540(2), or the  
18 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),  
19 which shall include picked-up member contributions. Additionally, the board of  
20 trustees may approve a final average salary based upon the average of the three (3)  
21 highest salaries for individuals who become members prior to January 1, 2022, who  
22 are at least fifty-five (55) years of age and have a minimum of twenty-seven (27)  
23 years of Kentucky service credit. However, if any of the five (5) or three (3) highest  
24 annual salaries used to calculate the final average salary was paid within the three  
25 (3) years immediately prior to the date of the member's retirement for individuals  
26 who become members prior to January 1, 2022, or within the five (5) years  
27 immediately prior to the date of the member's retirement for individuals who

1        become members on or after January 1, 2022, the amount of salary to be included  
2        for each of those three (3) years or five (5) years, as applicable, for the purpose of  
3        calculating the final average salary shall be limited to the lesser of:

- 4        (a)    The member's actual salary; or
- 5        (b)    The member's annual salary that was used for retirement purposes during each  
6        of the prior three (3) years or five (5) years, as applicable, plus a percentage  
7        increase equal to the percentage increase received by all other members  
8        employed by the public board, institution, or agency, or for members of  
9        school districts, the highest percentage increase received by members on any  
10       one (1) rank and step of the salary schedule of the school district. The increase  
11       shall be computed on the salary that was used for retirement purposes. The  
12       board of trustees may promulgate an administrative regulation in accordance  
13       with KRS Chapter 13A to establish a methodology for measuring the  
14       limitation so that the combined increases in salary for each of the last three (3)  
15       full years of salary prior to retirement shall not exceed the total permissible  
16       percentage increase received by other members of the employer for the same  
17       three (3) year period.

18       For individuals who became members of the retirement system prior to July 1,  
19       2021, this limitation shall not apply if the member receives an increase in salary in a  
20       percentage exceeding that received by the other members, and this increase was  
21       accompanied by a corresponding change in position or in length of employment.  
22       The board of trustees may promulgate an administrative regulation in accordance  
23       with KRS Chapter 13A to provide definitions for a corresponding change in  
24       position or in length of employment. This limitation shall also not apply to the  
25       payment to a member for accrued annual leave if the individual becomes a member  
26       before July 1, 2008, or accrued sick leave which is authorized by statute and which  
27       shall, for individuals subject to KRS 161.155(10) who became nonuniversity

- 1 members of the system prior to January 1, 2022, be included as part of a retiring  
2 member's annual compensation for the member's last year of active service;
- 3 (10) "Annual compensation" means the total salary received by a member as  
4 compensation for all services performed in employment covered by the retirement  
5 system during a fiscal year. Annual compensation shall not include payment for any  
6 benefit or salary adjustments made by the public board, institution, or agency to the  
7 member or on behalf of the member which is not available as a benefit or salary  
8 adjustment to other members employed by that public board, institution, or agency.  
9 Annual compensation shall not include the salary supplement received by a member  
10 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no  
11 circumstances shall annual compensation include compensation that is earned by a  
12 member while on assignment to an organization or agency that is not a public  
13 board, institution, or agency listed in subsection (4) of this section. In the event that  
14 federal law requires that a member continue membership in the retirement system  
15 even though the member is on assignment to an organization or agency that is not a  
16 public board, institution, or agency listed in subsection (4) of this section, the  
17 member's annual compensation for retirement purposes shall be deemed to be the  
18 annual compensation, as limited by subsection (9) of this section, last earned by the  
19 member while still employed solely by and providing services directly to a public  
20 board, institution, or agency listed in subsection (4) of this section. The board of  
21 trustees shall determine if any benefit or salary adjustment qualifies as annual  
22 compensation. For an individual who becomes a member on or after July 1, 2008,  
23 annual compensation shall not include lump-sum payments upon termination of  
24 employment for accumulated annual or compensatory leave;
- 25 (11) "Age of member" means the age attained on the first day of the month immediately  
26 following the birthdate of the member. This definition is limited to retirement  
27 eligibility and does not apply to tenure of members;

1 (12) "Employ," and derivatives thereof, means relationships under which an individual  
2 provides services to an employer as an employee, as an independent contractor, as  
3 an employee of a third party, or under any other arrangement as long as the services  
4 provided to the employer are provided in a position that would otherwise be  
5 covered by the Kentucky Teachers' Retirement System and as long as the services  
6 are being provided to a public board, institution, or agency listed in subsection (4)  
7 of this section;

8 (13) "Regular interest" means:

9 (a) For an individual who becomes a member prior to July 1, 2008, interest at  
10 three percent (3%) per annum;:

11 (b) For an individual who becomes a member on or after July 1, 2008, but prior to  
12 January 1, 2022, interest at two and one-half percent (2.5%) per annum for  
13 purposes of crediting interest to the teacher savings account or any other  
14 contributions made by the employee that are refundable to the employee upon  
15 termination of employment; and

16 (c) For an individual who becomes a member on or after January 1, 2022, the  
17 rolling five (5) year yield on a thirty (30) year United States Treasury bond as  
18 of the end of May prior to the most recently completed fiscal year, except  
19 that:

20 1. Once the member has at least sixty (60) months of service in the system  
21 it shall mean interest at two and one-half percent (2.5%) per annum for  
22 purposes of crediting interest to employee contributions in the  
23 foundational benefit component or any other contributions made by the  
24 employee to the foundational benefit component that are refundable to  
25 the employee upon termination of employment; and

26 2. The board shall have the authority to adjust the regular interest rate for  
27 individuals who become members on or after January 1, 2022, in



- 1                   accordance with KRS 161.633 and 161.634;
- 2   (14) "Accumulated contributions" means the contributions of a member to the teachers'  
3       savings fund, including picked-up member contributions as described in KRS  
4       161.540(2), plus accrued regular interest;
- 5   (15) "Annuitant" means a person who receives a retirement allowance or a disability  
6       allowance;
- 7   (16) "Local retirement system" means any teacher retirement or annuity system created  
8       in any public school district in Kentucky in accordance with the laws of Kentucky;
- 9   (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The  
10       retirement plan year is concurrent with this fiscal year. A contract for a member  
11       employed by a local board of education may not exceed two hundred sixty-one  
12       (261) days in the fiscal year;
- 13   (18) "Public schools" means the schools and other institutions mentioned in subsection  
14       (4) of this section;
- 15   (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was  
16       receiving, at the time of death of the member, at least one-half (1/2) of the support  
17       from the member for maintenance, including board, lodging, medical care, and  
18       related costs;
- 19   (20) "Active contributing member" means a member currently making contributions to  
20       the Teachers' Retirement System, who made contributions in the next preceding  
21       fiscal year, for whom picked-up member contributions are currently being made, or  
22       for whom these contributions were made in the next preceding fiscal year;
- 23   (21) "Full-time" means employment in a position that requires services on a continuing  
24       basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal  
25       year basis;
- 26   (22) "Full actuarial cost," when used to determine the payment that a member must pay  
27       for service credit means the actuarial value of all costs associated with the

1 enhancement of a member's benefits or eligibility for benefit enhancements,  
2 including health insurance supplement payments made by the retirement system.

3 The actuary for the retirement system shall determine the full actuarial value costs  
4 and actuarial cost factor tables as provided in KRS 161.400;

5 (23) "Last annual compensation" means the annual compensation, as defined by  
6 subsection (10) of this section and as limited by subsection (9) of this section,  
7 earned by the member during the most recent period of contributing service, either  
8 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)  
9 full year of service credit in the Kentucky Teachers' Retirement System, and which  
10 compensation is used in calculating the member's initial retirement allowance,  
11 excluding bonuses, retirement incentives, payments for accumulated sick leave,  
12 annual, personal, and compensatory leave, and any other lump-sum payment. For  
13 an individual who becomes a member on or after July 1, 2008, payments for annual  
14 or compensatory leave shall not be included in determining the member's last  
15 annual compensation;

16 (24) "Participant" means a member, as defined by subsection (4) of this section, or an  
17 annuitant, as defined by subsection (15) of this section;

18 (25) "Qualified domestic relations order" means any judgment, decree, or order,  
19 including approval of a property settlement agreement, that:

20 (a) Is issued by a court or administrative agency; and

21 (b) Relates to the provision of child support, alimony payments, or marital  
22 property rights to an alternate payee;

23 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
24 participant, who is designated to be paid retirement benefits in a qualified domestic  
25 relations order;

26 (27) "University member" means an individual who becomes a member through  
27 employment with an employer specified in subsection (4)(b) and (n) of this section;

- 1 (28) "Nonuniversity member" means an individual who becomes a member through  
2 employment with an employer specified under subsection (4) of this section, except  
3 for those members employed by an employer specified in subsection (4)(b) and (n)  
4 of this section;
- 5 (29) "Accumulated employer contribution" means the employer contribution deposited  
6 to a member's account through the supplemental benefit component and regular  
7 interest credited on such amounts as provided by KRS 161.635 for nonuniversity  
8 members and KRS 161.636 for university members;
- 9 (30) "Accumulated account balance" means:
- 10 (a) For members who began participating in the system prior to January 1, 2022,  
11 the member's accumulated contributions; or
- 12 (b) For members who began participating in the system on or after January 1,  
13 2022, the combined sum of the member's accumulated contributions and the  
14 member's accumulated employer contributions;
- 15 (31) "Foundational benefit component" means the benefits provided by KRS 161.220 to  
16 161.716 to individuals who become members on or after January 1, 2022, except  
17 for the supplemental benefit component and retiree health benefits set forth in KRS  
18 161.675; and
- 19 (32) "Supplemental benefit component" means:
- 20 (a) The benefit established pursuant to KRS 161.635 for individuals who become  
21 nonuniversity members on or after January 1, 2022; or
- 22 (b) The benefit established pursuant to KRS 161.636 for individuals who become  
23 university members on or after January 1, 2022.