1 AN ACT relating to the Kentucky Public Pensions Authority.

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

3 → Section 1. KRS 16.582 is amended to read as follows:

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- 4 (1) (a) Total and permanent disability means a disability which results in the
  5 member's incapacity to engage in any occupation for remuneration or profit.
  6 Loss by severance of both hands at or above the wrists, or both feet at or
  7 above the ankles, or one (1) hand above the wrist and one (1) foot above the
  8 ankle, or the complete, irrevocable loss of the sight of both eyes shall be
  9 considered as total and permanent.
  - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
  - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
  - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- 21 (2) Any person may qualify to retire on disability, subject to the following:
- 22 (a) The person shall have sixty (60) months of service, twelve (12) of which shall 23 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The 24 service requirement shall be waived if the disability is a total and permanent 25 disability or a hazardous disability and is a direct result of an act in line of 26 duty;
- 27 (b) For a person whose membership date is prior to August 1, 2004, the person

Page 1 of 170
XXXX

Proposed House Substitute

1			shall not be eligible for an unreduced retirement allowance;
2		(c)	The person's application shall be on file in the retirement office no later than
3			twenty-four (24) months after the person's last day of paid employment, as
4			defined in KRS 16.505, as a regular full-time officer or in a regular full-time
5			hazardous position under KRS 61.592;
6		(d)	The person shall receive a satisfactory determination pursuant to KRS 61.665;
7			and
8		(e)	A person's disability application based on the same claim of incapacity shall
9			be accepted and reconsidered for disability if accompanied by new objective
10			medical evidence. The application shall be on file in the retirement office no
11			later than twenty-four (24) months after the person's last day of paid
12			employment as a regular full-time officer or in a regular full-time hazardous
13			position.
14	(3)	Upo	n the examination of the objective medical evidence by licensed physicians
15		purs	uant to KRS 61.665, it shall be determined that:
16		(a)	The incapacity results from bodily injury, mental illness, or disease. For
17			purposes of this section, "injury" means any physical harm or damage to the
18			human organism other than disease or mental illness;
19		(b)	The incapacity is deemed to be permanent; and
20		(c)	The incapacity does not result directly or indirectly from:
21			1. Injury intentionally self-inflicted while sane or insane; or
22			2. Bodily injury, mental illness, disease, or condition which pre-existed
23			membership in the system or reemployment, whichever is most recent,
24			unless:
25			a. The disability results from bodily injury, mental illness, disease, or
26			a condition which has been substantially aggravated by an injury or
27			accident arising out of or in the course of employment; or

Page 2 of 170
XXXX
Proposed House Substitute

1				b. The person has at least sixteen (16) years' current or prior service
2				for employment with employers participating in the retirement
3				systems administered by the Kentucky Retirement Systems or the
4				County Employees Retirement System.
5				For purposes of this subparagraph, "reemployment" shall not mean a
6				change of employment between employers participating in the
7				retirement systems administered by the Kentucky Retirement Systems or
8				the County Employees Retirement System with no loss of service credit.
9	(4)	(a)	1.	An incapacity shall be deemed to be permanent for the purpose of
10				<u>hazardous disability</u> if it is expected to result in death or can be
11				expected to last for a continuous period of not less than twelve (12)
12				months from the person's last day of paid employment in a position as $\underline{a}$
13				regular full-time officer or a hazardous position.
14			2.	The determination of a permanent incapacity for the purpose of
15				<u>hazardous disability</u> shall be based on the medical evidence contained
16				in the member's file and the member's residual functional capacity and
17				physical exertion requirements.
18			<u>3.</u>	The determination of a total and permanent incapacity shall be based
19				on the medical evidence contained in the member's file and the
20				member's residual functional capacity.
21		(b)	The	person's residual functional capacity shall be the person's capacity for
22			worl	activity on a regular and continuing basis. The person's physical ability
23			shal	be assessed in light of the severity of the person's physical, mental, and
24			othe	r impairments. The person's ability to walk, stand, carry, push, pull, reach,
25			hanc	le, and other physical functions shall be considered with regard to
26			phys	ical impairments. The person's ability to understand, remember, and carry

Page 3 of 170
XXXX Proposed House Substitute

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out instructions and respond appropriately to supervision, coworkers, and

work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

- (c) The person's physical exertion requirements shall be determined based on the following standards:
  - Sedentary work shall be work that involves lifting no more than ten (10)
    pounds at a time and occasionally lifting or carrying articles such as
    large files, ledgers, and small tools. Although a sedentary job primarily
    involves sitting, occasional walking and standing may also be required
    in the performance of duties.
  - 2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
  - 3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

Page 4 of 170
XXXX
Proposed House Substitute

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4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his or her last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his or her last date of paid employment and continuing to his or her fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his or her last day of paid employment, and the maximum service credit for calculating his or her retirement allowance, including his or her total service and service added under this section, shall not exceed twenty (20) years.

(b) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his disability.

(c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the disability retirement

Page 5 of 170
XXXX

Proposed House Substitute

I			allowance shall be the higher of twenty-five percent (25%) of the member's
2			monthly final rate of pay or the retirement allowance determined in the same
3			manner as for retirement at his or her normal retirement date under KRS
4			16.583.
5	(6)	If th	e member receives a satisfactory determination of hazardous disability pursuant
6		to K	CRS 61.665 and the disability is the direct result of an act in line of duty as
7		defi	ned in KRS 16.505, the member's retirement allowance shall be calculated as
8		follo	ows:
9		(a)	For the disabled member, benefits as provided in subsection (5) of this section
10			except that the monthly retirement allowance payable shall not be less than
11			twenty-five percent (25%) of the member's monthly final rate of pay; and
12		(b)	For each dependent child of the member on his or her disability retirement
13			date, who is alive at the time any particular payment is due, a monthly
14			payment equal to ten percent (10%) of the disabled member's monthly final
15			rate of pay; however, total maximum dependent children's benefit shall not
16			exceed forty percent (40%) of the member's monthly final rate of pay. The
17			payments shall be payable to each dependent child, or to a legally appointed
18			guardian or as directed by the system.
19	(7)	If th	e member receives a satisfactory determination of total and permanent disability
20		purs	tuant to KRS 61.665 and the disability is the direct result of an act in line of duty
21		as d	efined in KRS 16.505, the member's retirement allowance shall be calculated as
22		follo	ows:
23		(a)	For the disabled member, the benefits as provided in subsection (5) of this
24			section except that the monthly retirement allowance payable shall not be less
25			than seventy-five percent (75%) of the member's monthly average pay; and
26		(b)	For each dependent child of the member on his or her disability retirement
27			date, who is alive at the time any particular payment is due, a monthly

Page 6 of 170
XXXX
Proposed House Substitute

1		payment equal to ten percent (10%) of the disabled member's monthly average
2		pay, except that:
3		1. Member and dependent children payments under this subsection shall
4		not exceed one hundred percent (100%) of the member's monthly
5		average pay; and
6		2. Total maximum dependent children's benefits shall not exceed twenty-
7		five percent (25%) of the member's monthly average pay while the
8		member is living and forty percent (40%) of the member's monthly
9		average pay after the member's death. The payments shall be payable to
10		each dependent child, or to a legally appointed guardian or as directed by
11		the system, and shall be divided equally among all dependent children.
12	(8)	No benefit provided in this section shall be reduced as a result of any change in the
13		extent of disability of any retired member who is the age of normal retirement [age
14		fifty five (55)] or older.
15	(9)	If a regular full-time officer or hazardous position member has been approved for
16		benefits under a hazardous disability, the board shall, upon request of the member
17		permit the member to receive the hazardous disability allowance while accruing
18		benefits in a nonhazardous position, subject to proper medical review of the
19		nonhazardous position's job description by the system's medical examiner.
20	(10)	For a member of the State Police Retirement System, in lieu of the allowance
21		provided in subsection (5) to (7) of this section, the member may be retained on the
22		regular payroll and receive the compensation authorized by KRS 16.165, if he or
23		she is qualified.
24		Section 2 KRS 61 505 is amended to read as follows:

27 (a) A single personnel system for the staffing needs of the Kentucky Retirement

purpose shall be to administer and operate:

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Page 7 of 170
XXXX Proposed House Substitute

There is created an eight (8) member Kentucky Public Pensions Authority whose

1		Systems and the County Employees Retirement System;
2	(b)	A system of accounting that is developed by the Authority for the Kentucky
3		Retirement Systems and the County Employees Retirement System;
4	(c)	Day-to-day administrative needs of the Kentucky Retirement Systems and the
5		County Employees Retirement System, including but not limited to:
6		1. Benefit counseling and administration;
7		2. Information technology and services, including a centralized Web site
8		for the Authority, the Kentucky Retirement Systems, and the County
9		Employees Retirement System;
10		3. Legal services;
11		4. Employer reporting and compliance;
12		5. Processing and distribution of benefit payments, and other financial,
13		investment administration, and accounting duties as directed by the
14		Kentucky Retirement Systems board of trustees or the County
15		Employees Retirement System board of trustees;
16		6. All administrative actions, orders, decisions, and determinations
17		necessary to carry out benefit functions required by the Kentucky
18		Retirement Systems and the County Employment Retirement System
19		statutes, including but not limited to administration of reduced and
20		unreduced retirement benefits, disability retirement, reemployment after
21		retirement, service purchases, computation of sick-leave credit costs,
22		correction of system records, qualified domestic relations orders, and
23		pension spiking determinations[, and all other administrative decisions
24		and orders]; and
25		7. Completing and compiling financial data and reports;
26	(d)	Any jointly held assets used for the administration of the Kentucky Retirement
27		Systems and the County Employees Retirement System, including but not

Page 8 of 170
XXXX
Proposed House Substitute

1			limited to real estate, office space, equipment, and supplies;
2		(e)	$\underline{\mathit{The}}$ hiring $\underline{\mathit{of}}$ a single actuarial consulting firm who shall serve both the
3			Kentucky Retirement Systems and the County Employees Retirement System;
4		(f)	The hiring of a single external certified public accountant who shall
5			perform audits for both the Kentucky Retirement Systems and the County
6			Employees Retirement System;
7		<u>(g)</u>	The <u>promulgation of [Authority may promulgate]</u> administrative regulations
8			as an authority or on behalf of the Kentucky Retirement Systems and the
9			County Employees Retirement System, individually or collectively, provided
10			such regulations are not inconsistent with the provisions of this section and
11			KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852,
12			necessary or proper in order to carry out the provisions of this section and
13			duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
14		<u>(h)</u> [(	(g)] <u>A system of</u> contracting management for administrative services; and
15		<u>(i)</u> [(	(h)] Other tasks or duties as directed solely or jointly by the boards of the
16			Kentucky Retirement Systems or the County Employees Retirement System.
17	(2)	The	eight (8) member Kentucky Public Pensions Authority shall be composed of
18		the f	following individuals:
19		(a)	The chair of the Kentucky Retirement Systems board of trustees;
20		(b)	The chair of the County Employees Retirement System board of trustees;
21		(c)	The investment committee chair of the Kentucky Retirement Systems board of
22			trustees, unless the investment committee chair is also the chair of the board
23			of trustees in which case the chair of the Kentucky Retirement Systems shall
24			appoint an individual who serves on the investment committee;
25		(d)	The investment committee chair of the County Employees Retirement System
26			board of trustees, unless the investment committee chair is also the chair of
27			the County Employees Retirement System board of trustees in which case the

Page 9 of 170
XXXX
Proposed House Substitute

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chair of the County Employees Retirement System shall appoint an individual

2			who serves on the investment committee;
3		(e)	Two additional (2) trustees of the Kentucky Retirement Systems board of
4			trustees selected by the chair of the Kentucky Retirement Systems board of
5			trustees of which one (1) shall be a trustee who was elected by the
6			membership of one (1) of the systems administered by Kentucky Retirement
7			Systems and one (1) shall be a trustee of Kentucky Retirement Systems who
8			was appointed by the Governor; and
9		(f)	Two additional (2) trustees of the County Employees Retirement System
10			board of trustees selected by the chair of the County Employees Retirement
11			System board of trustees of which one (1) shall be a trustee who was elected
12			by the membership of the County Employees Retirement System and one (1)
13			shall be a trustee of the County Employees Retirement System who was
14			appointed by the Governor.
15	(3)	The	Kentucky Public Pensions Authority is hereby granted the powers and
16		privi	leges of a corporation, including 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 and in accordance with its
19			duties as provided by this section;
20		(c)	To conduct the business and promote the purposes for which it was formed;
21		(d)	To carry out the obligations of the Authority subject to KRS Chapters 45,
22			45A, 56, and 57;
23		(e)	To purchase fiduciary liability insurance; and
24		(f)	The Kentucky Public Pensions Authority shall reimburse any Authority
25			member, officer, or employee for any legal expense resulting from a civil
26			action arising out of the performance of his or her official duties. The hourly
27			rate of reimbursement for any contract for legal services under this paragraph

Page 10 of 170
XXXX
Proposed House Substitute

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shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

- 6 (4) Any vacancy which may occur in an appointed position on the Kentucky Public Pensions Authority shall be filled in the same manner which provides for the 8 selection of the particular member of the Authority. No person shall serve in more 9 than one (1) position as a member of the Authority and if a person holds more than 10 one (1) position as a member of the Authority, he or she shall resign a position.
- 11 (5) Membership on the Authority shall not be incompatible with any other office (a) 12 unless a constitutional incompatibility exists. No Authority member shall 13 serve in more than one (1) position as a member of the Authority.
  - An Authority member shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
  - A current or former employee of the County Employees Retirement System, (c) Kentucky Retirement Systems, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the Authority.
  - Kentucky Public Pensions Authority members who do not otherwise receive a (6) salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards, except that the members shall not receive a per diem or receive reimbursements on the same day they receive a per diem or reimbursements for service to the Kentucky Retirement Systems board of trustees or County Employees Retirement Systems board of trustees.

Page 11 of 170 XXXX Proposed House Substitute

1	(7)	(a)	The Authority shall meet at least once in each quarter of the year and may
2			meet in special session upon the call of the chair or the executive director of
3			the Authority.
4		(b)	The Authority shall elect a chair and a vice chair. The chair shall not serve
5			more than four (4) consecutive years as chair or vice chair of the Authority.
6			The vice chair shall not serve more than four (4) consecutive years as chair or
7			vice chair of the Authority. A member who has served four (4) consecutive
8			years as chair or vice chair of the Authority may be elected chair or vice chair
9			of the Authority after an absence of two (2) years from the positions.
10		(c)	A majority of the Authority members shall constitute a quorum and all actions
11			taken by the Authority shall be by affirmative vote of a majority of the
12			Authority members present.

(d) The Authority shall post on the Authority's Web site and shall make available to the public:

- 1. All meeting notices and agendas of the Authority. Notices and agendas shall be posted to the Authority's Web site at least seventy-two (72) hours in advance of the Authority's meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
- 2. All Authority minutes or other materials that require adoption or ratification by the Authority. The items listed in this subparagraph shall be posted within seventy-two (72) hours of adoption or ratification of the Authority;
- 3. All bylaws, policies, or procedures adopted or ratified by the Authority; and
- 4. A listing of the members of the Authority and membership on each committee established by the Authority.
- 27 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the

Page 12 of 170
XXXX

Proposed House Substitute

services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief administrative officer of the Authority, the Kentucky Retirement Systems board of trustees, and the County Employees Retirement System board of trustees. The executive director shall work cooperatively with the chief executive officers of the Kentucky Retirement Systems and the County Employees Retirement System. *The Authority shall annually conduct a performance evaluation of the executive director*.

- (b) The Kentucky Public Pensions Authority shall authorize the executive director to appoint the employees deemed necessary to transact the duties of the Authority for the purposes outlined in subsection (1) of this section. After the effective date of this Act, approval by the Authority shall be required for a petition to the secretary of the Personnel Cabinet for the creation of any new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).
- (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume responsibility of administering the staff of the Kentucky Retirement Systems in order to provide the services established by this section.
- (d) <u>1.</u> All employees of the Kentucky Public Pensions Authority, except for the executive director <u>and no more than six (6) unclassified employees of the Office of Investments employed pursuant to KRS 18A.115(1)(e), (g), (h), and (i)[, chief investment officer, and one (1) deputy chief investment officer], shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.</u>
  - 2. The employees exempted from the classified service under this paragraph shall not be subject to the salary limitations specified in

Page 13 of 170

XXXX

Proposed House Substitute

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2	3. The Kentucky Public Pensions Authority shall adopt a written salary
3	and classification plan fixing a range of compensation and written
4	terms of employment for any of the unclassified employees of the
5	Office of Investments it authorizes under this paragraph. The
6	Authority shall authorize the executive director to appoint up to six (6)
7	unclassified employees of the Office of Investments subject to the
8	compensation ranges and terms of employment the Authority has
9	established. The Authority may amend the written salary and
10	classification plan adopted under this paragraph at any time.

- The Authority shall annually review, approve, and submit a report to the (e) Public Pension Oversight Board detailing the number of employees of the Authority, the salary paid to each employee, and the change in the salaries of each individual employed by the Authority over the prior year.
- The Authority shall require the executive director and the employees as it (f) thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- Notwithstanding any other provision of statute to the contrary, including but (g) not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of this section by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Public Pensions Authority.
- 23 (9)All employees of the Authority shall serve during its will and pleasure. 24 Notwithstanding any statute to the contrary, employees shall not be considered 25 legislative agents under KRS 6.611.
- 26 (10) The Attorney General, or an assistant designated by him or her, may attend each 27 meeting of the Authority and may receive the agenda, board minutes, and other

Page 14 of 170 XXXX Proposed House Substitute

information distributed to Authority members upon request. The Attorney General may act as legal adviser and attorney for the Authority, and the Authority may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(11) (a)

All expenses incurred by or on behalf of the Kentucky Public Pensions Authority shall be paid by the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System and shall be prorated, assigned, or allocated to each system as determined by Kentucky Public Pensions Authority. Any additional initial costs determined by the Authority to be attributable solely to establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority as provided by this section and KRS 78.782 shall be paid by the County Employees Retirement System. Any additional ongoing annual administrative and investment expenses that occur after the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority that are determined by the Authority to be a direct result of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority shall be paid by the County Employees Retirement System.

(b) Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. *The Kentucky Public Pensions Authority shall approve the biennial budget unit request prior to its submission by the Authority.* The request from the Kentucky Public

Page 15 of 170
XXXX
Proposed House Substitute

1		Pensions Authority shall include any specific administrative expenses
2		requested by the Kentucky Retirement Systems board of trustees or the
3		County Employees Retirement System board of trustees pursuant to KRS
4		61.645(13) or 78.782(13), as applicable, that are not otherwise expenses
5		specified by paragraph (a) of this subsection.
6	(12) (a)	An Authority member shall discharge his or her duties as a member of the
7		Authority, including his or her duties as a member of a committee of the
8		Authority:
9		1. In good faith;
10		2. On an informed basis; and
11		3. In a manner he or she honestly believes to be in the best interest of the
12		County Employees Retirement System and the Kentucky Retirement
13		Systems, as applicable.
14	(b)	An Authority member discharges his or her duties on an informed basis if,
15		when he or she makes an inquiry into the business and affairs of the Authority,
16		system, or systems or into a particular action to be taken or decision to be
17		made, he or she exercises the care an ordinary prudent person in a like
18		position would exercise under similar circumstances.
19	(c)	In discharging his or her duties, an Authority member may rely on
20		information, opinions, reports, or statements, including financial statements
21		and other financial data, if prepared or presented by:
22		1. One (1) or more officers or employees of the Authority whom the
23		Authority member honestly believes to be reliable and competent in the
24		matters presented;
25		2. Legal counsel, public accountants, actuaries, or other persons as to
26		matters the Authority member honestly believes are within the person's
27		professional or expert competence; or

Page 16 of 170
XXXX
Proposed House Substitute

1		3. A committee of the Authority of which he or she is not a member if the
2		Authority member honestly believes the committee merits confidence.
3	(d)	An Authority member shall not be considered as acting in good faith if he or
4		she has knowledge concerning the matter in question that makes reliance
5		otherwise permitted by paragraph (c) of this subsection unwarranted.
6	(e)	Any action taken as a member of the Authority, or any failure to take any
7		action as an Authority member, shall not be the basis for monetary damages or
8		injunctive relief unless:
9		1. The Authority member has breached or failed to perform the duties of
10		the member's office in compliance with this section; and
11		2. In the case of an action for monetary damages, the breach or failure to
12		perform constitutes willful misconduct or wanton or reckless disregard
13		for human rights, safety, or property.
14	(f)	A person bringing an action for monetary damages under this section shall
15		have the burden of proving by clear and convincing evidence the provisions of
16		paragraph (e)1. and 2. of this subsection, and the burden of proving that the
17		breach or failure to perform was the legal cause of damages suffered by the
18		Kentucky Retirement Systems or County Employees Retirement System, as
19		applicable.
20	(g)	In discharging his or her administrative duties under this section, an Authority
21		member shall strive to administer the systems in an efficient and cost-effective
22		manner for the taxpayers of the Commonwealth of Kentucky and shall take all
23		actions available under the law to contain costs for the trusts, including costs
24		for participating employers, members, and retirees.
25	<b>→</b> Se	ection 3. KRS 61.510 is amended to read as follows:
26	As used in	KRS 61.510 to 61.705, unless the context otherwise requires:

Page 17 of 170

XXXX

Proposed House Substitute

(1) "System" means the Kentucky Employees Retirement System created by KRS

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- 1 61.510 to 61.705;
- 2 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 3 (3) "Department" means any state department or board or agency participating in the
- 4 system in accordance with appropriate executive order, as provided in KRS 61.520.
- 5 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
- 6 General Assembly and any other body, entity, or instrumentality designated by
- 7 executive order by the Governor, shall be deemed to be a department,
- 8 notwithstanding whether said body, entity, or instrumentality is an integral part of
- 9 state government;
- 10 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 11 (5) "Employee" means the members, officers, and employees of the General Assembly
- and every regular full-time, appointed or elective officer or employee of a
- participating department, including the Department of Military Affairs. The term
- does not include persons engaged as independent contractors, seasonal, emergency,
- temporary, interim, and part-time workers. In case of any doubt, the board shall
- determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 17 (6) "Employer" means a department or any authority of a department having the power
- to appoint or select an employee in the department, including the Senate and the
- House of Representatives, or any other entity, the employees of which are eligible
- for membership in the system pursuant to KRS 61.525;
- 21 (7) "State" means the Commonwealth of Kentucky;
- 22 (8) "Member" means any employee who is included in the membership of the system or
- any former employee whose membership has not been terminated under KRS
- 24 61.535;
- 25 (9) "Service" means the total of current service and prior service as defined in this
- section;
- 27 (10) "Current service" means the number of years and months of employment as an

Page 18 of 170
XXXX
Proposed House Substitute

employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position; (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; (12) "Accumulated contributions" at any time means the sum of all amounts deducted

from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

26 (13) "Creditable compensation":

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(a) Means all salary, wages, tips to the extent the tips are reported for income tax

Page 19 of 170  $$\operatorname{YXXX}$$  Proposed House Substitute

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

## (b) Includes:

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

Page 20 of 170 XXXX Proposed House Substitute

1		lump-sum payments for reinstated wages pursuant to KRS 61.569,
2		which shall be credited to the period during which the wages were
3		earned or should have been paid by the employer;
4		4. Amounts which are not includable in the member's gross income by
5		virtue of the member having taken a voluntary salary reduction provided
6		for under applicable provisions of the Internal Revenue Code; and
7		5. Elective amounts for qualified transportation fringes paid or made
8		available on or after January 1, 2001, for calendar years on or after
9		January 1, 2001, that are not includable in the gross income of the
10		employee by reason of 26 U.S.C. sec. 132(f)(4); and
11	(c)	Excludes:
12		1. Living allowances, expense reimbursements, lump-sum payments for
13		accrued vacation leave, and other items determined by the board;
14		2. For employees who begin participating on or after September 1, 2008,
15		lump-sum payments for compensatory time;
16		3. For employees who begin participating on or after August 1, 2016,
17		nominal fees paid for services as a volunteer; and
18		4. Any salary or wages paid to an employee for services as a Kentucky
19		State Police school resource officer as defined by KRS 158.441;
20	(14) "Fin	al compensation" of a member means:
21	(a)	For a member who begins participating before September 1, 2008, who is
22		employed in a nonhazardous position, the creditable compensation of the
23		member during the five (5) fiscal years he or she was paid at the highest
24		average monthly rate divided by the number of months of service credit during
25		that five (5) year period multiplied by twelve (12). The five (5) years may be
26		fractional and need not be consecutive. If the number of months of service
27		credit during the five (5) year period is less than forty-eight (48), one (1) or

Page 21 of 170 XXXXProposed House Substitute

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more additional fiscal years shall be used;

(b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

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

Page 22 of 170
XXXX
Proposed House Substitute

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

- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;

Page 23 of 170

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Proposed House Substitute

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(17)	"Actuarial equivalent" means a benefit of equal value when computed upon the
	basis of the actuarial tables that are adopted by the board. In cases of disability
	retirement, the options authorized by KRS 61.635 shall be computed by adding ten
	(10) years to the age of the member, unless the member has chosen the Social
	Security adjustment option as provided for in KRS 61.635(8), in which case the
	member's actual age shall be used. For members who began participating in the
	system prior to January 1, 2014, no disability retirement option shall be less than the
	same option computed under early retirement;

- 9 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless 10 otherwise provided in KRS 61.510 to 61.705;
- 11 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the 12 following June 30, which shall also be the plan year. The "fiscal year" shall be the 13 limitation year used to determine contribution and benefit limits as established by 14 26 U.S.C. sec. 415;
- 15 (20) "Officers and employees of the General Assembly" means the occupants of those 16 positions enumerated in KRS 6.150. The term shall also apply to assistants who 17 were employed by the General Assembly for at least one (1) regular legislative 18 session prior to July 13, 2004, who elect to participate in the retirement system, and 19 who serve for at least six (6) regular legislative sessions. Assistants hired after July 20 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean 22 all positions that average one hundred (100) or more hours per month determined by 23 using the number of months actually worked within a calendar or fiscal year, 24 including all positions except:
  - Seasonal positions, which although temporary in duration, are positions which (a) coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine

Page 24 of 170 XXXX Proposed House Substitute

1	(9) months;

2 (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

- (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
- (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
- (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- 26 (24) "Retired member" means any former member receiving a retirement allowance or 27 any former member who has filed the necessary documents for retirement benefits

Page 25 of 170
XXXX Proposed House Substitute

and is no longer contributing to the retirement system;

2 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,

monthly, or yearly rate of pay converted to an annual rate as defined in final rate of

- 4 pay. The rate shall be certified by the employer;
- 5 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
- 6 the member in accordance with KRS 61.542 or 61.705 to receive any available
- benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
- 8 does not mean an estate, trust, or trustee;
- 9 (27) "Recipient" means the retired member or the person or persons designated as
- beneficiary by the member and drawing a retirement allowance as a result of the
- member's death or a dependent child drawing a retirement allowance. An alternate
- payee of a qualified domestic relations order shall not be considered a recipient,
- except for purposes of KRS 61.623;
- 14 (28) "Level percentage of payroll amortization method" means a method of determining
- the annual amortization payment on the unfunded actuarial accrued liability as
- expressed as a percentage of payroll over a set period of years but that may be
- 17 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,
- the percentage of payroll shall be projected to remain constant for all years
- remaining in the set period of time and the unfunded actuarially accrued liability
- shall be projected to be fully amortized at the conclusion of the set period of years;
- 21 (29) "Increment" means twelve (12) months of service credit which are purchased. The
- 22 twelve (12) months need not be consecutive. The final increment may be less than
- 23 twelve (12) months;
- 24 (30) "Person" means a natural person;
- 25 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building
- in Frankfort, unless otherwise designated by the Kentucky Public Pensions
- 27 Authority;

Page 26 of 170
XXXX
Proposed House Substitute

1	(32)	"Last day of paid employment" means the last date employer and employee
2		contributions are required to be reported in accordance with KRS 16.543, 61.543, or
3		78.615 to the retirement office in order for the employee to receive current service
4		credit for the month. Last day of paid employment does not mean a date the
5		employee receives payment for accrued leave, whether by lump sum or otherwise, if
6		that date occurs twenty-four (24) or more months after previous contributions;
7	(33)	"Objective medical evidence" means reports of examinations or treatments; medical
8		signs which are anatomical, physiological, or psychological abnormalities that can
9		be observed; psychiatric signs which are medically demonstrable phenomena

- be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory techniques, including but not limited chemical electrocardiograms, electroencephalograms, X-rays, and psychological tests. The testimonial evidence of the person applying for disability retirement shall not
- 16 constitute or be deemed the equivalent of objective medical evidence;
- 17 (34) "Participating" means an employee is currently earning service credit in the system 18 as provided in KRS 61.543;
- 19 (35) "Month" means a calendar month;
- 20 (36) "Membership date" means:

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- 21 (a) The date upon which the member began participating in the system as 22 provided in KRS 61.543; or
- 23 For a member electing to participate in the system pursuant to KRS 24 196.167(4) who has not previously participated in the system or the Kentucky 25 Teachers' Retirement System, the date the member began participating in a 26 defined contribution plan that meets the requirements of 26 U.S.C. sec. 27 403(b);

Page 27 of 170 XXXX Proposed House Substitute

1	(37)	"Par	ticipant" means a member, as defined by subsection (8) of this section, or a	
2		retire	ed member, as defined by subsection (24) of this section;	
3	(38)	"Qua	alified domestic relations order" means any judgment, decree, or order,	
4		inclu	ading approval of a property settlement agreement, that:	
5		(a)	Is issued by a court or administrative agency; and	
6		(b)	Relates to the provision of child support, alimony payments, or marital	
7			property rights to an alternate payee;	
8	(39)	"Alt	ernate payee" means a spouse, former spouse, child, or other dependent of a	
9		parti	cipant, who is designated to be paid retirement benefits in a qualified domestic	
10		relations order;		
11	(40)	"Acc	cumulated employer credit" mean the employer pay credit deposited to the	
12		member's account and interest credited on such amounts as provided by KRS		
13		16.583 and 61.597;		
14	(41)	"Acc	cumulated account balance" means:	
15		(a)	For members who began participating in the system prior to January 1, 2014,	
16			the member's accumulated contributions; or	
17		(b)	For members who began participating in the system on or after January 1,	
18			2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,	
19			the combined sum of the member's accumulated contributions and the	
20			member's accumulated employer credit;	
21	(42)	"Vol	lunteer" means an individual who:	
22		(a)	Freely and without pressure or coercion performs hours of service for an	
23			employer participating in one (1) of the systems administered by Kentucky	
24			Retirement Systems without receipt of compensation for services rendered,	
25			except for reimbursement of actual expenses, payment of a nominal fee to	

Page 28 of 170
XXXX
Proposed House Substitute

If a retired member, does not become an employee, leased employee, or

offset the costs of performing the voluntary services, or both; and

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1		independent contractor of	the employer for which he or she is performing
2		volunteer services for a p	eriod of at least twelve (12) months following the
3		retired member's most reco	ent retirement date;
4	(43)	Nominal fee" means compensa	tion earned for services as a volunteer that does not
5		xceed five hundred dollars (\$5	00) per month. Compensation earned for services as
6		volunteer from more than one	(1) participating employer during a month shall be
7		ggregated to determine whethe	r the compensation exceeds the five hundred dollars
8		\$500) per month maximum pro	vided by this subsection;
9	(44)	Nonhazardous position" mean	s a position that does not meet the requirements of
10		XRS 61.592 or has not been app	proved by the board as a hazardous position;
11	(45)	Monthly average pay" means:	
12		a) In the case of a member w	who dies as a direct result of an act in line of duty as
13		defined in KRS 16.505 of	or who dies as a result of a duty-related injury as
14		defined in KRS 61.621, the	ne higher of the member's monthly final rate of pay
15		or the average monthly	creditable compensation earned by the deceased
16		member during his or her	ast twelve (12) months of employment; or
17		b) In the case where a mem	ber becomes totally and permanently disabled as a
18		direct result of an act in	line of duty as defined in KRS 16.505 or becomes
19		disabled as a result of a c	luty-related injury as defined in KRS 61.621 and is
20		eligible for the benefits	provided by KRS 61.621(5)(a), the higher of the
21		member's monthly final	rate of pay or the average monthly creditable
22		compensation earned by	the disabled member during his or her last twelve
23		(12) months of employment	ent prior to the date the act in line of duty or duty-
24		related injury occurred;	
25	(46)	Authority" means the Kentucl	xy Public Pensions Authority as provided by KRS
26		1.505; <del>[ and]</del>	
27	(47)	Executive director" means the	executive director of the Kentucky Public Pensions

Page 29 of 170 XXXXProposed House Substitute

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1		Autl	nority <u>; and</u>
2	<u>(48)</u>	''Ins	structional staff" means the employees of a state college or university
3		<u>part</u>	icipating under Section 4 of this Act who are:
4		<u>(a)</u>	Faculty;
5		<u>(b)</u>	Staff responsible for teaching; or
6		<u>(b)</u>	Other individuals employed in an administrative position that is eligible for
7			participation in the Teachers' Insurance and Annuity Association (TIAA)
8			or the Teachers' Retirement System.
9		<b>→</b> S	ection 4. KRS 61.520 is amended to read as follows:
10	(1)	Each	n department determined by the board to be eligible and qualified for
11		parti	cipation shall participate in the system when the Governor by appropriate
12		exec	eutive order, the authority to issue such executive order being granted, directs
13		such	department to participate in the system. The effective date of such participation
14		shall	be determined by the board and fixed by the Governor in his executive order.
15	(2)	(a)	Notwithstanding the provisions of subsection (1) of this section, the Governor
16			is authorized to permit any state college or university, which he directs by
17			appropriate executive order to participate in the system after January 1, 1972,
18			to include its noninstructional employees in the membership of the system
19			while excluding the instructional employees of the state college or university
20			from membership.
21		(b)	All employees of an agency participating under authority of paragraph (a) of
22			this subsection [(2)(a) of this section] shall be considered noninstructional
23			employees except the members of the instructional staff as defined in Section
24			3 of this Act of the state college or university who are responsible for
25			teaching and the administrative positions which are included in the Teachers'
26			Insurance and Annuity Association (TIAA) or the Kentucky Teachers'
27			Retirement System].

Page 30 of 170
XXXX Proposed House Substitute

All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, board for mental health or individuals with an intellectual disability, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

7 (4) Except as provided by KRS 61.522:

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- 8 (a) Once a department participates it shall continue to participate as long as it remains qualified; and
  - (b) Any position initially required to participate in the Kentucky Employees

    Retirement System shall continue to participate as long as the position exists.
  - → Section 5. KRS 61.565 is amended to read as follows:
- 13 Each employer participating in the State Police Retirement System as (1) 14 provided for in KRS 16.505 to 16.652 and the Kentucky Employees 15 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute 16 annually to the respective retirement system an amount determined by the 17 actuarial valuation completed in accordance with KRS 61.670 and as specified 18 by this section. Employer contributions for each respective retirement system 19 shall be equal to the sum of the "normal cost contribution" and the "actuarially 20 accrued liability contribution."
  - (b) For purposes of this section, the normal cost contribution shall be computed as a percentage of pay and shall be an annual amount that is sufficient when combined with employee contributions to fund benefits earned during the year in the respective system. The amount shall be:
    - 1. Paid as a percentage of creditable compensation reported for each employee participating in the system and accruing benefits; and
- 27 2. The same percentage of pay for all employees who are participating in

Page 31 of 170
XXXX Proposed House Substitute

the same retirement system, except that separate percentage rates shall
be developed in each system for those employers whose employees are
participating in hazardous duty retirement coverage as provided by KRS
61.592.

- (c) For purposes of this section, the actuarially accrued liability contribution for all employers, except for contributions paid by nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021, shall be:
  - 1. Computed by amortizing the total unfunded actuarially accrued liability of each system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 actuarial valuation shall be amortized over a closed period of twenty (20) years beginning with the actuarial valuation in which the increase or decrease in the unfunded actuarially accrued liability is recognized. An increase or decrease in the unfunded actuarially accrued liability may result from, but not be limited to, legislative changes to benefits, changes in actuarial methods or assumptions, or actuarial gains or losses;
  - 2. Paid as a percentage of payroll on the creditable compensation reported for each employee participating in the system and accruing benefits; and
  - 3. The same percentage of pay for all employees who are participating in the same retirement system, except that separate percentage rates shall be developed in each system for those employers whose employees are participating in hazardous duty retirement coverage as provided by KRS 61.592.
- (d) 1. For purposes of this section, the actuarially accrued liability contribution

Page 32 of 170
XXXX
Proposed House Substitute

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for nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021:

shall be an annual dollar amount that is sufficient to amortize the total unfunded actuarially accrued liability of the system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 actuarial valuation shall be amortized over a closed period of twenty (20) years beginning with the actuarial valuation in which the increase or decrease in the unfunded actuarially accrued liability is recognized. An increase or decrease in the unfunded actuarially accrued liability may result from but not be limited to legislative changes to benefits, changes in actuarial methods or assumptions, or actuarial gains or losses;

Shall be prorated to each individual nonhazardous employer in the Kentucky Employees Retirement System by multiplying the annual dollar amount of the actuarially accrued liability contribution for the system as determined by subdivision a. of this subparagraph by the individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation which shall be determined solely by the system's consulting actuary and assigned to each employer based upon the last participating employer of the member or retiree as of June 30, 2019. The individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation shall be used to determine the individual employer's

Page 33 of 170
XXXX
Proposed House Substitute

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prorated dollar amount of the system's actuarially accrued liability contribution in all future fiscal years of the amortization period or periods, except that the employer's percentage shall be adjusted to reflect any employer who voluntarily or involuntarily ceases participation as provided by KRS 61.522 and except as provided by subparagraphs 4. and 5. of this paragraph. For purposes of this subdivision, all executive branch departments, program cabinets and their respective departments, and administrative bodies enumerated in KRS 12.020, and any other executive branch agencies administratively attached to a department, program cabinet, or administrative body enumerated in KRS 12.020, shall be considered a single individual employer and only one (1) value shall be computed for these executive branch employers. For purposes of this subdivision, all employers of the legislative branch, including the Legislative Research Commission and the General Assembly that covers legislators and staff who participate in the Kentucky Employees Retirement System, shall be considered a single individual employer and only one (1) value shall be computed for these employers. For purposes of this subdivision, all employers of the judicial branch, including the Administrative Office of the Courts, the Judicial Form Retirement System, and all master commissioners, shall be considered a single individual employer and only one (1) value shall be computed for these employers;

c. Shall be payable by an individual employer in equal monthly dollar installments during the fiscal year in accordance with the reporting requirements specified by KRS 61.675 so that the individual

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d.

employer pays its full prorated dollar amount of the actuarially accrued liability contribution as determined by subdivision b. of this subparagraph; and

Notwithstanding subdivision b. of this subparagraph for those individual participating employers who are local and district health departments governed by KRS Chapter 212, community mental health centers, and employers whose employees are not subject to KRS 18A.005 to 18A.200, who received or were eligible to receive a distribution of general fund appropriations in the 2018-2020 biennial executive branch budget to assist in paying retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5); 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169, Part I, G., 9., (2), shall not, once the initial dollar amounts are established in accordance with this paragraph, be adjusted in terms of dollars paid by the individual employer, except that adjustments shall be made by the system upon completion of an actuarial investigation as provided by KRS 61.670, so long as at least four (4) years have passed since the last adjustment to the actuarially accrued liability contribution for these employers. The provisions of this subdivision shall not be interpreted to mean that employers described by this subdivision may continue paying the dollar value of contributions or employer contribution rates established or paid by the employer in budget periods occurring prior to July 1, 2021.

2. Individual employers, solely for purposes of collecting employer contributions from various fund sources during the fiscal year, may convert the actuarially accrued liability contribution established by this paragraph to a percentage of pay and may adjust the percent of pay

Page 35 of 170
XXXX
Proposed House Substitute

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during the fiscal year in order to pay the required dollar value of actuarially accrued liability contribution required by this paragraph. No provision of this subparagraph shall be construed to reduce an individual employer's actuarially accrued liability contribution as otherwise provided by this paragraph.

- 3. The provisions of this paragraph shall not apply to those employers who cease participation as provided by KRS 61.522.
- 4. In the event an individual Kentucky Employees Retirement System nonhazardous employer who is required to pay an actuarially accrued liability contribution as provided by this paragraph and as calculated from the 2019 actuarial valuation or subsequent valuations, merges with another employer or entity, forms a new or separate employer or entity, or splits or separates operations into multiple employers or entities, the system shall, except for those employers or entities who pay the costs to cease participation as provided by KRS 61.522, have full authority to assign a portion or all of the total actuarially accrued liability contribution to the merged, new, split, or separate employers or entities, regardless of whether or not the merged, new, split, or separate employers or entities participate in the system. In the case of a district health department established pursuant to KRS Chapter 212, which ceases to operate or which has a county or counties that withdraw from the district health department, the systems shall assign the total actuarially accrued liability contribution based upon the proportion of taxable property of each county as certified by the Department for Public Health in the Cabinet for Health and Family Services in accordance with KRS 212.132. The system shall establish by administrative regulations the process of assigning actuarially accrued liability contributions as

XXXX Proposed House Substitute

authorized by this subparagraph.

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5. An employer who is not in the executive, legislative, or judicial a. branch of Kentucky state government as enumerated in subparagraph 1.b. of this paragraph may on or before July 1, 2021, appeal to the board regarding any current or former employees or retirees the employer believes should not be used to determine the employer's percentage of the system's total actuarially accrued liability. The only appeals that shall be submitted by the employer or considered by the board shall be potential errors where the last participating employer is in dispute, situations where employees of the employer were hired through a contract between the executive branch and the employer for the employee to provide services to the executive branch, or situations where a community mental health center was contracted to provide services at a facility previously operated by the executive branch. The employer shall submit the information required by the board to verify potential errors or contract employees with employers.

b. The board shall review and issue a final determination regarding any appeals by December 31, 2021. In situations where the board determines the last participating employer was incorrect and should be assigned to another employer, the system shall, effective for employer contributions payable on or after July 1, 2022, assign the cost to the executive branch until such time ownership of the liability can be determined and assigned to the correct employer. In situations where the board determines certain employees of employers were hired through a contract between the executive branch and the employer for an employee or employees to provide

Page 37 of 170
XXXX
Proposed House Substitute

1			services to the executive branch, those liabilities shall, effective for
2			employer contributions payable on or after July 1, 2022, be
3			assigned to the executive branch. In situations where the board
4			determines the community mental health center was contracted to
5			provide services at a facility previously operated by the executive
6			branch, the liabilities for employees providing services at that
7			facility shall, effective for employer contributions payable on or
8			after July 1, 2022, be assigned to the executive branch.
9		c.	No appeal shall be submitted by the employer or considered by the
10			board regarding the assumptions or methodology used by the
11			actuary to determine a particular employer's percentage of the
12			system's total actuarially accrued liability or the use of the last
13			participating employer to assign liabilities to an employer, excep-
14			as otherwise provided by this subparagraph.
15		d.	The board shall within thirty (30) days following the final
16			determinations submit to the Public Pension Oversight Board the
17			list of appeals that were approved, the number of employees
18			involved, and any costs that will be transferred to the executive
19			branch effective July 1, 2022.
20	(e)	The empl	oyer contributions computed under this section shall be determined
21		using:	
22		1. The	entry age normal cost funding method;
23		2. An	asset smoothing method that smooths investment gains and losses
24		ovei	a five (5) year period; and
25		3. Oth	er funding methods and assumptions established by the board in
26		acco	ordance with KRS 61.670.

Page 38 of 170
XXXX
Proposed House Substitute

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(2)

(a)

Except as limited by subsection (1)(d)1.d. of this section as it relates to the

1	Kentucky Employees Retirement System, normal cost contribution rates and
2	the actuarially accrued liability contribution shall be determined by the board
3	on the basis of the annual actuarial valuation last preceding the July 1 of a new
4	biennium.

- The board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.
- (3) The system shall advise each employer prior to July 1 of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall 10 include in the budget sufficient funds to pay the employer contributions as determined by the board under this section.
- 12 (4) All employers, including the General Assembly, shall pay the full actuarially 13 required contributions, as prescribed by this section, to the Kentucky Employees 14 Retirement System and the State Police Retirement System in fiscal years occurring 15 on or after July 1, 2020.
  - → Section 6. KRS 61.590 is amended to read as follows:

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- 17 A member or beneficiary eligible to receive retirement benefits under any of (1) (a) 18 the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 19 16.652 shall have on file at the retirement office on the form prescribed by the 20 board, a correctly completed notification of retirement, giving his or her name, 21 address, Social Security number or Kentucky Public Pensions 22 Authority[Retirement Systems] member identification number, last day of 23 employment, and other information the Authority[system] may require. The 24 form entitled "Notification of Retirement" shall not be filed more than six (6) 25 months before the member's effective retirement date.
  - (b) A member eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify

Page 39 of 170 XXXX Proposed House Substitute

in writing on the "Notification of Retirement" form or another form prescribed by the board that no prearranged agreement existed prior to the member's retirement between the member and any participating agency in the systems administered by the Kentucky Retirement Systems or any participating agency in the County Employees Retirement System for the member to return to employment with the participating agency. No retirement benefits shall be paid to the member until the member completes the certification required by this paragraph.

- (2) After receipt of the correctly completed form entitled "Notification of Retirement", the <u>Authority</u>[system] shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.
- (3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he or she has checked one (1) payment option of his or her choice, signed the document, and had his or her signature witnessed. A member shall not have the right to select a different payment option on or after the first day of the month in which the member receives his or her first retirement allowance or after the effective date of a deferred retirement option as provided by subsection (6) of this section, except as provided by KRS 61.542(5). A beneficiary shall not have the right to select a different payment option after the effective date of the beneficiary's retirement allowance as provided in subsection (7) of this section.
  - (4) A member or beneficiary choosing a monthly payment option shall have on file at the retirement office his or her birth certificate or other acceptable evidence of date of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

Page 40 of 170
XXXX

Proposed House Substitute

1 (5) (a) The effective date of normal retirement shall be the first month following the
2 month in which employment from all employers participating in any of the
3 systems administered by Kentucky Retirement Systems <u>and all employers</u>
4 <u>participating in the County Employees Retirement System</u> was terminated.

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The effective date of disability retirement shall be the first month following (b) the month in which the member's last day of paid employment in a regular full-time position occurred, provided the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following the date the notification of approval for disability retirement benefits is sent by United States first-class mail to the member's last address on file in the retirement office, by electronic mail to the member's last electronic mail address on file in the retirement office, or by other electronic means [mailed]. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months of the date the notification of approval for disability retirement benefits is sent[mailed], then the member's form entitled "Notification of Retirement" shall be void. The member shall be required to submit a new form entitled "Notification of Retirement" to apply for disability retirement and reestablish eligibility for disability retirement benefits.

(c) The effective date of early retirement shall be the first month following the month a correctly completed form entitled "Notification of Retirement" is filed at the retirement office or a future month designated by the member, if employment from all employers participating in any of the systems administered by Kentucky Retirement Systems <u>and all employers</u> <u>participating in the County Employees Retirement System</u> has been terminated and if the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following termination. If the member

Page 41 of 170

XXXX

Proposed House Substitute

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fails to file the form entitled "Estimated Retirement Allowance" within six (6) months following the effective retirement date of the member, then the member's form entitled "Notification of Retirement" shall be void and the member shall be required to submit a new form entitled "Notification of Retirement" to apply for early retirement.

- The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he <u>or she</u> wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his <u>or her</u> retirement allowance, the effective date of retirement shall be the month following the member's death.
- (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his or her beneficiary becomes eligible for payments under KRS 16.578 or 61.640.
  - → Section 7. KRS 61.610 is amended to read as follows:
- (1) Once each year following the retirement of a person on a disability retirement allowance, except for persons who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621 in which case shall be once every three (3) years following retirement, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his or her normal retirement date, to undergo an employment and medical staff review and, if necessary, be required to file at the retirement office on the review form prescribed by the board current employment

Page 42 of 170

XXXX

Proposed House Substitute

(3)

information and current medical information for the bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system <u>sent</u>[mailed] the review form <u>by United States first-class mail</u> to the person's last address on file in the retirement office, <u>by electronic mail to the person's last electronic mail address</u> on file in the retirement office, or by other electronic means, to file at the retirement office the review form and the current employment and medical information. The person shall certify to the retirement office that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with KRS 61.615.

- (2) If, after good faith efforts, the person informs the system that he or she has been unable to obtain the employment or medical information, the system shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records.
  - If the person fails or refuses to file at the retirement office the review form, including the current employment and medical information, his or her retirement allowance shall be discontinued or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the system <code>sent[mailed]</code> the review form <code>by United States first-class mail</code> to the person's last address on file in the retirement office, <code>by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.</code> The <code>Authority[system]</code> shall send notice of the discontinuance or reduction of the disability retirement allowance by United States first-class mail to the person's last address on file in the retirement office, <code>by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means</code>. If the person's benefits are discontinued or reduced under this section, his or her rights to further disability retirement allowances shall cease,

Page 43 of 170
XXXX
Proposed House Substitute

1 except as provided by KRS 61.615.

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The Kentucky Public Pensions Authority[system] shall hire or contract for the (4) services of <u>one (1) or more investigators[an investigator]</u> to investigate potential fraud involving disability benefits with the system. The *investigators* [investigator] shall evaluate potential cases of disability fraud and conduct spot audits for potential fraud as determined by the system in cases involving members who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621.

→ Section 8. KRS 61.615 is amended to read as follows:

- If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his or her normal retirement date, employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he or she was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment.
- (2) If the board's medical examiner determines that a recipient of a disability retirement 22 allowance is, prior to his or her normal retirement date, no longer incapacitated by 23 the bodily injury, mental illness, or disease for which he or she receives a disability 24 retirement allowance, the board may reduce or discontinue the retirement 25 allowance.
- 26 (3)The system shall have full power and exclusive authority to reduce or discontinue a 27 disability retirement allowance and the system shall utilize the services of a medical

Page 44 of 170 XXXX Proposed House Substitute

examiner as provided in KRS 61.665, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.

- (a) The system shall select a medical examiner to evaluate the forms and medical information submitted by the person. If there is objective medical evidence of a mental impairment, the medical examiner may request the board's licensed mental health professional to assist in determining the level of the mental impairment.
- (b) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
- (c) The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued.
  - 1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.
  - 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.
    - a. The person shall have sixty (60) days from the day that the system <u>sent</u>[mailed] the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or to appeal the recommendation of the medical examiner to reduce or discontinue

Page 45 of 170

XXXX

Proposed House Substitute

		the disability retirement allowance by filing at the retirement office
		a request for a formal hearing.
	b.	If the person fails or refuses to file at the retirement office the
		forms, the additional supporting employment information, and
		current medical information or to appeal the recommendation of
		the medical examiners to reduce or discontinue the disability
		retirement allowance, his or her retirement allowance shall be
		discontinued on the first day of the month following the expiration
		of the period of the sixty (60) days from the day the system
		<u>sent</u> [mailed] the notice of the recommendation <u>by United States</u>
		<u>first-class mail</u> to the person's last address on file in the retirement
		office, by electronic mail to the person's last electronic mail
		address on file in the retirement office or by other electronic
		address on file in the retirement office, or by other electronic
		means.
(d)	The med	
(d)		means.
(d)	evaluation	means.  ical examiner shall make a recommendation based upon the
(d)	evaluation accordance	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in
(d)	evaluation accordance  1. If the	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in the with paragraph (c)2.a. of this subsection.
(d)	evaluation accordance 1. If the	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in the with paragraph (c)2.a. of this subsection.  the medical examiner recommends that the disability retirement
(d)	evaluation accordance 1. If the allow payr	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in the with paragraph (c)2.a. of this subsection.  the medical examiner recommends that the disability retirement wance be continued, the system shall make disability retirement
(d)	evaluation accordance  1. If the allow pays  2. If the	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in the with paragraph (c)2.a. of this subsection.  the medical examiner recommends that the disability retirement wance be continued, the system shall make disability retirement ments in accordance with the retirement plan selected by the person.
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(d)	evaluation accordance  1. If the allow pays  2. If the allow addition of the accordance	means.  ical examiner shall make a recommendation based upon the of additional supporting medical information submitted in the with paragraph (c)2.a. of this subsection.  The medical examiner recommends that the disability retirement wance be continued, the system shall make disability retirement ments in accordance with the retirement plan selected by the person. The medical examiner recommends that the disability retirement wance be reduced or discontinued based upon the evaluation of tional supporting medical information, the system shall send notice
		b.

Page 46 of 170
XXXX
Proposed House Substitute

by other electronic means.

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a.	The person shall have sixty (60) days from the day that the system
	sent[mailed] the notice of the recommendation to appeal the
	recommendation to reduce or discontinue the disability retirement
	allowance by filing at the retirement office a request for formal
	hearing.

b. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system <a href="mailed">sent[mailed]</a> the notice of the recommendation <a href="mailed">by United States</a> <a href="mailed">first-class mail</a> to the person's last address on file in the retirement office, <a href="mailed">by electronic mail</a> to the person's last electronic mail <a href="mailed">address on file in the retirement office</a>, <a href="mailed">of the person's last electronic mail</a> <a href="mailed">address on file in the retirement office</a>, <a href="mailed">or by other electronic mail</a> <a href="mailed">means</a>.

(e) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.
(f) Failure of the person to request a formal hearing within the period of time

specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance,

Page 47 of 170  $$\operatorname{YXXX}$$  Proposed House Substitute

except as provided in subsection (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.

- (g) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system sent[mailed] the order by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.
- (h) Notwithstanding any other provisions of this section, the system may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be <a href="mailed">provided</a>[mailed] to the person or his or her legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his or her rights to further disability retirement allowance shall cease.
- (i) All requests for a hearing pursuant to this section shall be made in writing.
- (4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

Page 48 of 170
XXXX Proposed House Substitute

1 (5) Any person aggrieved by a final order of the board may seek judicial review after all 2 administrative appeals have been exhausted by filing a petition for judicial review 3 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

- 4 (6) If a disability retirement allowance is reduced or discontinued for a person who 5 began participating in the system prior to January 1, 2014, the person may apply for 6 early retirement benefits as provided under KRS 61.559, subject to the following 7 provisions:
  - The person may not change his or her beneficiary or payment option, except (a) as provided by KRS 61.542(5);

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- If the person has returned to employment with an employer participating in (b) one (1) of the systems administered by Kentucky Retirement Systems, the service and creditable compensation shall be used in recomputing his or her benefit, except that the person's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance;
- The benefit shall be reduced as provided by KRS 61.595(2); (c)
- (d) The person shall remain eligible for reinstatement of his or her disability allowance upon reevaluation by the medical review board until his or her normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. An application for reinstatement of disability benefits shall be administered as an application under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability

XXXX Proposed House Substitute

retirement benefits, shall not be considered. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and

- (e) Upon attaining normal retirement age, the person shall receive the higher of either his or her disability retirement allowance or his or her early retirement allowance.
- 9 (7) If a disability retirement allowance is reduced or discontinued for a person who

  10 began participating in the system on or after January 1, 2014, the person shall

  11 remain eligible for reinstatement of his or her disability allowance as provided

  12 under subsection (6)(d) of this section.
  - (8) No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.
- **→** Section 9. KRS 61.635 is amended to read as follows:
  - (1) Each member shall have the right to elect to have his <u>or her</u> retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to <u>the member[him]</u> upon retirement under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to *the*

Page 50 of 170
XXXX
Proposed House Substitute

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2 (2) Survivorship one hundred percent (100%). The member may elect to receive a
3 decreased retirement allowance during his <u>or her</u> lifetime and have the retirement
4 allowance continued after <u>the member's his lighted</u> beneficiary during
5 the lifetime of the person.

- Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during his <u>or her</u> lifetime and have two-thirds (2/3) of the retirement allowance continue after <u>the member's [his]</u> death to his *or her* beneficiary during the lifetime of the person.
- 10 (4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his *or her* lifetime and have one-half (1/2) of the retirement allowance continued after *the member's* [his] death to his *or her* beneficiary during the lifetime of the person.
  - Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his <u>or her</u> lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, <u>the member's [his]</u> beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining monthly payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- 25 (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may 26 elect to receive a monthly retirement allowance during his <u>or her</u> lifetime which 27 shall guarantee payments for one hundred and eighty (180) months. If the member

Page 51 of 170
XXXX Proposed House Substitute

(7)

dies before receiving payments for one hundred and eighty (180) months, <u>the</u> <u>member's</u>[his] beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.

- Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his <u>or her</u> lifetime which shall guarantee payments for two hundred and forty (240) months. If the member dies before receiving payments for two hundred and forty (240) months, <u>the</u> <u>member's[his]</u> beneficiary shall receive the remaining payments for the duration of the two hundred and forty (240) months period. However, if the trust is beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- 20 (8) Social Security adjustment options. These options shall be available to any member 21 who has not attained age sixty-two (62) as follows:
  - (a) No survivor rights. The member may elect to receive an increased retirement allowance from his <u>or her</u> effective retirement date through the month he <u>or</u> <u>she</u> attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his <u>or her</u> lifetime;
  - (b) Survivor rights. The member may elect to receive an increased retirement allowance from his *or her* effective retirement date through the month he

Page 52 of 170

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Proposed House Substitute

attains age sixty-two (62) based on the option payable under subsection (2) of this section, if the retirement allowance shall be decreased in the month following the month he <u>or she</u> attains age sixty-two (62), or the month following the month he <u>or she</u> would have attained age sixty-two (62), in event of <u>the member's[his]</u> death, and have the retirement allowance continue after <u>the member's[his]</u> death to his <u>or her</u> beneficiary during the lifetime of the person.

- (9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his <u>or her</u> lifetime an increased retirement allowance based on his <u>or her</u> annual benefit payable for life. The payment shall begin on his <u>or her</u> effective retirement date and continue through the month he <u>or she</u> attains age sixty (60) at which time his <u>or her</u> retirement allowance shall be decreased for the remainder of his <u>or her</u> lifetime.
- (10) Pop-up option. The member may elect to receive a decreased retirement allowance during his <u>or her</u> lifetime and have the retirement allowance continued after <u>the</u> <u>member's</u>[his] death to his <u>or her</u> beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.
- 22 (11) Actuarial equivalent refund. A member who began participating in the system prior 23 to January 1, 2014, may elect to receive a one (1) time lump-sum payment which 24 shall be the actuarial equivalent of the amount payable for a period of sixty (60) 25 months under KRS 61.595 (1).
- 26 (12) Partial lump-sum option.

27 (a) No survivor rights. A member retiring on or before January 1, 2009, may elect

XXXX Proposed House Substitute

to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under the applicable retirement formula for the system and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable.

- (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his *or her* beneficiary during the lifetime of the person.
- (13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66-2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly began participating in the system prior to January 1, 2014, and has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.
- (14) A member of the General Assembly who began participating in the system prior to January 1, 2014, who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky *Public Pensions*<u>Authority[retirement systems]</u>:
  - (a) Within thirty (30) days after first becoming a member of the General Assembly if he *or she* is not a member of the General Assembly on July 15,

Page 54 of 170

XXXX

Proposed House Substitute

1	1980; or

2 (b) Within thirty (30) days after July 15, 1980, if he <u>or she</u> is a member of the General Assembly on July 15, 1980.

- 4 (15) The system shall forward to members of the General Assembly a form on which a
  5 member who began participating in the system prior to January 1, 2014, may elect
  6 the option provided for in subsections (13) and (14) of this section.
- 7 (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of 8 this section shall be extended to the member only if the designated beneficiary is a 9 person.
- Section 10. KRS 61.637 is amended to read as follows:
- 11 (1) A retired member who is receiving monthly retirement payments under any of the 12 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed 13 as an employee by a participating agency prior to August 1, 1998, shall have his or 14 her retirement payments suspended for the duration of reemployment. Monthly 15 payments shall not be suspended for a retired member who is reemployed if he or 16 she anticipates that he or she will receive less than the maximum permissible 17 earnings as provided by the Federal Social Security Act in compensation as a result 18 of reemployment during the calendar year. The payments shall be suspended at the 19 beginning of the month in which the reemployment occurs.
- 20 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- 26 (3) In the month following the termination of reemployment, retirement allowance 27 payments shall be reinstated under the plan under which the member was receiving

Page 55 of 170
XXXX
Proposed House Substitute

1 payments prior to reemployment.

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2 (4) Notwithstanding the provisions of this section, the payments suspended in 3 accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his or her estate, if he or she does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act 6 in compensation from participating agencies during any calendar year of reemployment.

- If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his or her period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
- If the retired member is not eligible to be paid suspended payments for his or (c) her period of reemployment as an employee, his or her retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
  - 1. The retired member's final compensation shall be recomputed using creditable compensation for his or her period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his or her retirement allowance was last determined;
  - 2. If the retired member initially retired on or subsequent to his or her normal retirement date, his or her retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
  - 3. If the retired member initially retired prior to his or her normal retirement date, his or her retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his or her age at the time of his or her

Page 56 of 170 XXXX Proposed House Substitute

initial retirement increased by the number of months of service credit earned for service performed during reemployment;

- 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. of this paragraph. The member shall not receive less in benefits as a result of the recomputation than he or she was receiving prior to reemployment or would receive as determined under KRS 61.691; and
- 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his or her estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his or her estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- 22 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a 23 retired member who has been ordered reinstated by the Personnel Board under 24 authority of KRS 18A.095.
  - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the

Page 57 of 170

XXXX

Proposed House Substitute

1 Kentucky Employees Retirement System or County Employees Retirement 2 System shall void his or her retirement by reimbursing the system in the full 3 amount of his or her retirement allowance payments received.

(7)

- (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his

Page 58 of 170
XXXX Proposed House Substitute

(9)

or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.

If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him or her prior to his or her voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

XXXX Proposed House Substitute

(11) (a)	If a member of the Kentucky Employees Retirement System retires from a
	department which participates in more than one (1) retirement system and is
	reemployed within one (1) month of his or her initial retirement date by the
	same department in a position participating in another retirement system, the
	retired member's retirement allowance shall be suspended for the first month
	of his or her retirement, and the member shall repay to the retirement system
	all benefits received for the month.

- (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- 11 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
  12 nonhazardous member who retired prior to age sixty-five (65), is reemployed
  13 within six (6) months of the member's termination by the same employer, the
  14 member shall obtain from his or her previous and current employers a copy of
  15 the job description established by the employers for the position and a
  16 statement of the duties performed by the member for the position from which
  17 he or she retired and for the position in which he or she has been reemployed.
  - (b) The job descriptions and statements of duties shall be filed with the retirement office.
  - (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
- 23 (a) The member's retirement allowance shall be suspended during the period that
  24 begins on the month in which the member is reemployed and ends six (6)
  25 months after the member's termination;
  - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems or County Employees

Page 60 of 170
XXXX Proposed House Substitute

1		Retirement System under reciprocity, including medical insurance benefits,
2		that the member received after reemployment began;
3	(c)	Upon termination, or subsequent to expiration of the six (6) month period
4		from the date of termination, the retired member's retirement allowance based
5		on his or her initial retirement account shall no longer be suspended, and the
6		member shall receive the amount to which he or she is entitled, including an
7		increase as provided by KRS 61.691;
8	(d)	Except as provided in subsection (7) of this section, if the position in which a
9		retired member is employed after initial retirement is a regular full-time
10		position, the retired member shall contribute to a second member account
11		established for him or her in the retirement system. Service credit gained after
12		the member's date of reemployment shall be credited to the second member
13		account; and
14	(e)	Upon termination, the retired member shall be entitled to benefits payable
15		from his or her second retirement account.
16	(14) (a)	If the retirement system determines that the retired member has not been
17		reemployed in a position with the same principal duties as the position from
18		which he or she retired, the retired member shall continue to receive his or her
19		retirement allowance.
20	(b)	If the position is a regular full-time position, the member shall contribute to a
21		second member account in the retirement system.
22	(15) (a)	If a retired member is reemployed at least one (1) month after initial
23		retirement in a different position, or at least six (6) months after initial
24		retirement in the same position, and prior to normal retirement age, the retired
25		member shall contribute to a second member account in the retirement system
26		and continue to receive a retirement allowance from the first member account.
27	(b)	Service credit gained after reemployment shall be credited to the second

Page 61 of 170 XXXX Proposed House Substitute

1 member account. Upon termination, the retired member shall be entitled to 2 benefits payable from the second member account.

3 (16) A retired member who is reemployed and contributing to a second member account 4 shall not be eligible to purchase service credit under any of the provisions of KRS 5 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was 6 eligible to purchase prior to his or her initial retirement.

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- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System on or after September 1, 2008:
  - Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
    - 1. The member shall contribute to a member account established for him or

Page 62 of 170
XXXX

Proposed House Substitute

her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and

- 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
  - 1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office [and has retired from the elected office] within twelve (12) months of his or her retirement date [prior to taking the new term of office], he or she shall be deemed by the

Page 63 of 170
XXXX
Proposed House Substitute

<u>Authority</u>[system] as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;

- 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
- 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
- 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the

Page 64 of 170

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Proposed House Substitute

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If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System:

- The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and
- Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police

Page 65 of 170
XXXX
Proposed House Substitute

Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office and has retired from the elected office within twelve (12) months of his or her retirement date prior to taking the new term of office, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to

Page 66 of 170
XXXX

Proposed House Substitute

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the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

- 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems;
- 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
  - Prior to the retired member's most recent retirement date, he or she did
    not receive creditable compensation from the participating employer in
    which the retired member is performing volunteer services;
  - 2. Any reimbursement or nominal fee received prior to the retired

Page 67 of 170
XXXX
Proposed House Substitute

member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

- 3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
- 4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by Kentucky Retirement Systems or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body if the mayor or member of a city legislative body:
  - 1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky

Page 68 of 170
XXXX
Proposed House Substitute

1		Employees Retirement System or the State Police Retirement System; or
2		2. Has been or is participating in the County Employees Retirement System
3		and is at least sixty-two (62) years of age. If a mayor or member of a city
4		legislative body who is at least sixty-two (62) years of age retires from
5		the systems administered by Kentucky Retirement Systems but remains
6		in office after his or her effective retirement date, the mayor or member
7		of the city legislative body shall not accrue any further service credit or
8		benefits in the systems administered by Kentucky Retirement Systems
9		for any employment occurring on or after the effective retirement date;
10	(g)	If a member is receiving a retirement allowance from any of the retirement
11		systems administered by the Kentucky Retirement Systems or County
12		Employees Retirement System and enters into a contract or becomes a leased
13		employee of an employer under contract with an employer participating in one
14		(1) of the systems administered by the Kentucky Retirement Systems or
15		County Employees Retirement System:
16		1. At any time following retirement, if the Authority determines the
17		employment arrangement does qualify as an independent contractor or
18		leased employee, the member may continue to receive his or her
19		retirement allowance during the period of the contract;
20		2. Within three (3) months following the member's initial retirement date,
21		if the Authority determines the employment arrangement does not
22		qualify as an independent contractor or leased employee, the member's
23		retirement shall be voided in accordance with paragraph (a) of this
24		subsection;
25		3. After three (3) months but within twelve (12) months following the

Page 69 of 170
XXXX
Proposed House Substitute

member's initial retirement, if the Authority determines the employment

arrangement does not qualify as an independent contractor or leased

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1 employee and that a prearranged agreement existed between the member 2 and the agency for the member to return to work with the agency, the 3 member's retirement shall be voided in accordance with paragraph (a) of 4 this subsection; and 4. After a twelve (12) month period following the member's initial 5 6 retirement, the member may continue to receive his or her retirement 7 allowance during the period of the contract and the member shall not be required to notify the system or submit any documentation for purposes 8 9 of this section to the system. 10 The initiation of a contract or the initial date of the leased employment of a 11 retired member by a participating agency that occurs after twelve (12) months 12 or more following the retired member's retirement date shall not constitute a 13 prearranged agreement under this subsection; and 14 (h) The Authority shall issue a final determination regarding a certification of the 15 absence of a prearranged agreement or the retired member's qualification as an 16 independent contractor or leased employee as required under this section no 17 later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the 18 19 Authority. 20 (18) The Authority shall promulgate administrative regulations to implement the 21 requirements of this section, including incorporating by reference board-prescribed 22 forms that a retired member and participating agency shall provide the systems 23 under subsections (8), (9), and (17) of this section. 24 → Section 11. KRS 61.645 is amended to read as follows: 25 (1) The Kentucky Employees Retirement System and State Police Retirement System

XXXX Proposed House Substitute

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

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shall be administered by the board of trustees of the Kentucky Retirement Systems

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

Page 71 of 170

XXXX

Proposed House Substitute

one (1) of the following areas of expertise:

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1			1. Experience in retirement or pension plan management;
2			2. A certified public accountant with relevant experience in retirement or
3			pension plan accounting;
4			3. An actuary with relevant experience in retirement or pension plan
5			consulting;
6			4. An attorney licensed to practice law in the Commonwealth of Kentucky
7			with relevant experience in retirement or pension plans; or
8			5. A current or former university professor whose primary area of emphasis
9			is economics or finance.
10	(2)	The	board is hereby granted the powers and privileges of a corporation, including
11		but 1	not limited to the following powers:
12		(a)	To sue and be sued in its corporate name;
13		(b)	To make bylaws not inconsistent with the law;
14		(c)	To conduct the business and promote the purposes for which it was formed;
15		(d)	Except as provided in KRS 61.650(6), to contract for investment counseling,
16			auditing, medical, and other professional or technical services as required to
17			carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,
18			and 57. Actuarial consulting services shall be provided by a firm hired by the
19			Kentucky Public Pensions Authority;
20		(e)	To purchase fiduciary liability insurance;
21		(f)	Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,
22			pledge, lease, or mortgage, the goods or property necessary to exercise the
23			board's powers and perform the board's duties subject to KRS Chapters 45,
24			45A, and 56; and
25		(g)	The board shall reimburse any trustee, officer, or employee for any legal
26			expense resulting from a civil action arising out of the performance of his or
27			her official duties. The hourly rate of reimbursement for any contract for legal

Page 72 of 170

XXXX

Proposed House Substitute

(3)

services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

- (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
  - (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four (4) digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.

Page 73 of 170
XXXX
Proposed House Substitute

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

- (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.
- (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.
- (g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
- (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
- 27 (i) Each individual who submits a request to be nominated by the board under

Page 74 of 170
XXXX

Proposed House Substitute

1			paragraph (a) of this subsection and each individual who is nominated by the
2			membership under paragraph (b) of this subsection shall:
3			1. Complete an application developed by the retirement systems which
4			shall include but not be limited to a disclosure of any prior felonies and
5			any conflicts of interest that would hinder the individual's ability to
6			serve on the board;
7			2. Submit a resume detailing the individual's education and employment
8			history and a cover letter detailing the member's qualifications for
9			serving as trustee to the board; and
10			3. Authorize the systems to have a criminal background check performed.
11			The criminal background check shall be performed by the Department of
12			Kentucky State Police.
13		(j)	In lieu of the ballots mailed to members and retired members as provided by
14			this subsection, the systems may by promulgation of administrative regulation
15			pursuant to KRS Chapter 13A conduct trustee elections using electronic
16			ballots, except that the systems shall mail a paper ballot upon request of any
17			eligible voter.
18	(5)	(a)	Any vacancy which may occur in an appointed position during a term of office
19			shall be filled in the same manner which provides for the selection of the
20			particular trustee, and any vacancy which may occur in an elected position
21			during a term of office shall be filled by appointment by a majority vote of the
22			remaining elected trustees with a person selected from the system in which the
23			vacancy occurs; however, any vacancy shall be filled only for the duration of
24			the unexpired term. In the event of a vacancy of an elected trustee during a
25			term of office, Kentucky Retirement Systems shall notify members of the

Page 75 of 170

XXXX

Proposed House Substitute

system in which the vacancy occurs of the vacancy and the opportunity to be

considered for the vacant position. Any vacancy during a term of office shall

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1 be filled within ninety (90) days of the position becoming vacant.

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2 Any appointments or reappointments to an appointed position on the board 3 shall be made no later than thirty (30) days prior to an appointed member's 4 term of office ending.

- (6)(a) Membership on the board of trustees shall not be incompatible with any other 6 office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more 8 than one (1) position as trustee on the board, he or she shall resign a position.
  - A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
  - A current or former employee of Kentucky Retirement Systems, County Employees Retirement System, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the board.
  - Trustees who do not otherwise receive a salary from the State Treasury shall receive (7) a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- 19 (8) (a) The board shall meet at least once in each quarter of the year and may meet in 20 special session upon the call of the chair or the chief executive officer.
- 21 (b) The board shall elect a chair and a vice chair. The chair shall not serve more 22 than four (4) consecutive years as chair or vice-chair of the board. The vice-23 chair shall not serve more than four (4) consecutive years as chair or vice-24 chair of the board. A trustee who has served four (4) consecutive years as 25 chair or vice-chair of the board may be elected chair or vice-chair of the board 26 after an absence of two (2) years from the positions.
  - A majority of the trustees shall constitute a quorum and all actions taken by (c)

Page 76 of 170 XXXX Proposed House Substitute

1 the board shall be by affirmative vote of a majority of the trustees present.

2 (9) The board of trustees shall appoint or contract for the services of a chief (a) 3 executive officer and general counsel and fix the compensation and other 4 terms of employment for these positions without limitation of the provisions 5 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer 6 shall serve as the legislative and executive adviser to the board. The general 7 counsel shall serve as legal adviser to the board. The chief executive officer 8 and general counsel shall work with the executive director of the Kentucky 9 Public Pensions Authority to carry out the provisions of KRS 16.505 to 10 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public 11 Pensions Authority shall be the chief administrative officer of the board.

- Prior to April 1, 2021, the board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. Effective April 1, 2021, the responsibility of appointing employees and managing personnel needs shall be transferred to the Kentucky Public Pensions Authority established by KRS 61.505.
- The board shall require the chief executive officer and may require the general (c) counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
- The board shall have a system of accounting established by the Kentucky (d) Public Pensions Authority.
  - (e) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652 and

Page 77 of 170 XXXX Proposed House Substitute

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61.510 to 61.705 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).

- (f) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 16.505 to 16.652 and 61.510 to 61.705 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Retirement Systems board of trustees.
- 17 (10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- 19 (11) The Attorney General, or an assistant designated by him or her, may attend each
  20 meeting of the board and may receive the agenda, board minutes, and other
  21 information distributed to trustees of the board upon request. The Attorney General
  22 may act as legal adviser and attorney for the board, and the board may contract for
  23 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- 24 (12) (a) The <u>Kentucky Public Pensions Authority</u>[system] shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities <u>for</u>
  26 <u>the systems</u>. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by

Page 78 of 170  $$\operatorname{YXXX}$$  Proposed House Substitute

paragraph (b) of this subsection, the board may select <u>the</u>[an] independent certified public accountant <u>hired by the Kentucky Public Pensions Authority</u> or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The <u>Kentucky Public Pensions Authority</u>[system] shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the Kentucky Public Pensions Authority and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS 61.505. The board shall submit any administrative expenses that are specific to the Kentucky Retirement Systems that are not otherwise covered by KRS 61.505(11)(a).
- 27 (14) Any person adversely affected by a decision of the board, except as provided under

Page 79 of 170
XXXX Proposed House Substitute

1	subs	ection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and
2	61.5	10 to 61.705, may appeal the decision of the board to the Franklin Circuit Court
3	with	in sixty (60) days of the board action.
4	(15) (a)	A trustee shall discharge his or her duties as a trustee, including his or her
5		duties as a member of a committee:
6		1. In good faith;
7		2. On an informed basis; and
8		3. In a manner he or she honestly believes to be in the best interest of the
9		Kentucky Retirement Systems.
10	(b)	A trustee discharges his or her duties on an informed basis if, when he or she
11		makes an inquiry into the business and affairs of the Kentucky Retirement
12		Systems or into a particular action to be taken or decision to be made, he or
13		she exercises the care an ordinary prudent person in a like position would
14		exercise under similar circumstances.
15	(c)	In discharging his or her duties, a trustee may rely on information, opinions,
16		reports, or statements, including financial statements and other financial data,
17		if prepared or presented by:
18		1. One (1) or more officers or employees of the Kentucky Retirement
19		Systems whom the trustee honestly believes to be reliable and competent
20		in the matters presented;
21		2. Legal counsel, public accountants, actuaries, or other persons as to
22		matters the trustee honestly believes are within the person's professional
23		or expert competence; or
24		3. A committee of the board of trustees of which he or she is not a member
25		if the trustee honestly believes the committee merits confidence.
26	(d)	A trustee shall not be considered as acting in good faith if he or she has

Page 80 of 170
XXXX
Proposed House Substitute

27

knowledge concerning the matter in question that makes reliance otherwise

1 permitted by paragraph (c) of this subsection unwarranted.

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

- The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
- 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
- (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and

Page 81 of 170

XXXX

Proposed House Substitute

1	reports of the hearing officer on behalf of the board. The member, retire	d member,
2	recipient, or employer aggrieved by a final order of the board following t	he hearing
3	may appeal the decision to the Franklin Circuit Court, in accordance	with KRS
4	Chapter 13B. The board may establish a joint administrative appeals	committee
5	with the County Employees Retirement System and may also establish	sh a joint
6	disability appeals committee with the County Employees Retirement Syst	em.
7	(17) The board shall give the Kentucky Education Support Personnel A	ssociation
8	twenty-four (24) hours notice of the board meetings, to the extent possible	<b>.</b>
9	(18) The board shall establish a formal trustee education program for all trus	tees of the
10	board. The program shall include but not be limited to the following:	
11	(a) A required orientation program for all new trustees elected or appoint	nted to the
12	board. The orientation program shall include training on:	
13	1. Benefits and benefits administration;	
14	2. Investment concepts, policies, and current composit	tion and
15	administration of retirement systems investments;	
16	3. Laws, bylaws, and administrative regulations pertaining	g to the
17	retirement systems and to fiduciaries; and	
18	4. Actuarial and financial concepts pertaining to the retirement sy	stems.
19	If a trustee fails to complete the orientation program within one (1)	year from
20	the beginning of his or her first term on the board, the retirement sys	stems shall
21	withhold payment of the per diem and travel expenses due to	the board
22	member under this section and KRS 16.640 until the trustee has con	ipleted the
23	orientation program;	
24	(b) Annual required training for board members on the administration	ı, benefits,
25	financing, and investing of the retirement systems. If a truste	e fails to
26	complete the annual required training during the calendar or fisca	l year, the

Page 82 of 170
XXXX
Proposed House Substitute

27

retirement systems shall withhold payment of the per diem and travel

1		expenses due to the board member under this section and KRS 16.640 until
2		the board member has met the annual training requirements; and
3	(c)	The retirement systems shall incorporate by reference in an administrative
4		regulation, pursuant to KRS 13A.2251, the trustee education program.
5	(19) In or	der to improve public transparency regarding the administration of the systems,
6	the 1	oard of trustees shall adopt a best practices model by posting the following
7	info	mation to the Kentucky Public Pensions Authority's Web site and shall make
8	avai	able to the public:
9	(a)	Meeting notices and agendas for all meetings of the board. Notices and
10		agendas shall be posted to the Kentucky Public Pensions Authority's Web site
11		at least seventy-two (72) hours in advance of the board or committee
12		meetings, except in the case of special or emergency meetings as provided by
13		KRS 61.823;
14	(b)	The Comprehensive Annual Financial Report with the information as follows:
15		1. A general overview and update on the retirement systems by the
16		executive director;
17		2. A listing of the board of trustees;
18		3. A listing of key staff;
19		4. An organizational chart;
20		5. Financial information, including a statement of plan net assets, a
21		statement of changes in plan net assets, an actuarial value of assets, a
22		schedule of investments, a statement of funded status and funding
23		progress, and other supporting data;
24		6. Investment information, including a general overview, a list of the
25		retirement system's professional consultants, a total net of fees return on
26		retirement systems investments over a historical period, an investment
27		summary, contracted investment management expenses, transaction

Page 83 of 170
XXXX
Proposed House Substitute

1		commissions, and a schedule of investments;
2		7. The annual actuarial valuation report on the pension benefit and the
3		medical insurance benefit; and
4		8. A general statistical section, including information on contributions,
5		benefit payouts, and retirement systems' demographic data;
6	(c)	All external audits;
7	(d)	All board minutes or other materials that require adoption or ratification by
8		the board of trustees. The items listed in this paragraph shall be posted within
9		seventy-two (72) hours of adoption or ratification of the board;
10	(e)	All bylaws, policies, or procedures adopted or ratified by the board of trustees;
11	(f)	The retirement systems' summary plan description;
12	(g)	A document containing an unofficial copy of the statutes governing the
13		systems administered by Kentucky Retirement Systems;
14	(h)	A listing of the members of the board of trustees and membership on each
15		committee established by the board, including any investment committees;
16	(i)	All investment holdings in aggregate, fees, and commissions for each fund
17		administered by the board, which shall be updated on a quarterly basis for
18		fiscal years beginning on or after July 1, 2017. The systems shall request from
19		all managers, partnerships, and any other available sources all information
20		regarding fees and commissions and shall, based on the requested information
21		received:
22		1. Disclose the dollar value of fees and commissions paid to each
23		individual manager or partnership;
24		2. Disclose the dollar value of any profit sharing, carried interest, or any
25		other partnership incentive arrangements, partnership agreements, or any
26		other partnership expenses received by or paid to each manager or
27		partnership; and

Page 84 of 170
XXXX
Proposed House Substitute

1			3. As applicable, report each fee or commission by manager or partnership
2			consistent with standards established by the Institutional Limited
3			Partners Association (ILPA).
4			In addition to the requirements of this paragraph, the systems shall also
5			disclose the name and address of all individual underlying managers or
6			partners in any fund of funds in which system assets are invested;
7		(j)	An update of net of fees investment returns, asset allocations, and the
8			performance of the funds against benchmarks adopted by the board for each
9			fund, for each asset class administered by the board, and for each manager.
10			The update shall be posted on a quarterly basis for fiscal years beginning on or
11			after July 1, 2017;
12		(k)	A searchable database of the systems' expenditures and a listing of each
13			individual employed by the systems along with the employee's salary or
14			wages. In lieu of posting the information required by this paragraph to the
15			Kentucky Public Pensions Authority's Web site, the systems may provide the
16			information through a Web site established by the executive branch to inform
17			the public about executive branch agency expenditures and public employee
18			salaries and wages;
19		(1)	All contracts or offering documents for services, goods, or property purchased
20			or utilized by the systems; and
21		(m)	Information regarding the systems' financial and actuarial condition that is
22			easily understood by the members, retired members, and the public.
23	(20)	Noty	withstanding the requirements of subsection (19) of this section, the retirement
24		syste	ems shall not be required to furnish information that is protected under KRS
25		61.6	61, exempt under KRS 61.878, or that, if disclosed, would compromise the

Page 85 of 170
XXXX
Proposed House Substitute

26

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retirement systems' ability to competitively invest in real estate or other asset

classes, except that no provision of this section or KRS 61.878 shall exclude

disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.

- (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.
  - → Section 12. KRS 61.661 is amended to read as follows:
- 17 Each current, former, or retired member's account shall be administered in a (1) (a) 18 confidential manner, and specific data regarding a current, former, or retired 19 member shall not be released for publication, except that:
  - The member or recipient may authorize the release of his or her account 1. information;
  - 2. The Kentucky Public Pensions Authority [Kentucky Retirement Systems] may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; or
  - 3. a. Upon request by any person, the systems shall release the following information from the accounts of any member or retired

Page 86 of 170 XXXX Proposed House Substitute

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1		mem	ber of the Kentucky Employees Retirement System, the
2		Cou	nty Employees Retirement System, or the State Police
3		Reti	rement System, if the member or retired member is a current
4		or fo	rmer officeholder in the Kentucky General Assembly:
5		i.	The first and last name of the member or retired member;
6		ii.	The system or systems in which the member has an account
7			or from which the retired member is receiving a monthly
8			retirement allowance;
9		iii.	The status of the member or retired member, including but
10			not limited to whether he or she is a contributing member, a
11			member who is not currently contributing to the systems but
12			has not retired, a retired member, or a retired member who
13			has returned to work following retirement with an agency
14			participating in the systems;
15		iv.	If the individual is a retired member, the monthly retirement
16			allowance that he or she was receiving at the end of the most
17			recently completed fiscal year;
18		v.	If the individual is a member who has not yet retired, the
19			estimated monthly retirement allowance that he or she is
20			eligible to receive at his or her normal retirement date based
21			upon his or her service credit, final compensation, and
22			accumulated account balance at the end of the most recently
23			completed fiscal year; and
24		vi.	The current employer or last participating employer of the
25			member or retired member, if applicable.
26	b.	No i	nformation shall be disclosed under this subparagraph from an
27		acco	unt that is paying benefits to a beneficiary due to the death of

 $\begin{array}{c} \text{Page 87 of 170} \\ \text{XXXX} \end{array}$  Proposed House Substitute

1	a member or	retired member

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2 (b) A current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.

(c) The release of information under paragraph (a)3. of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

When a subpoena is served upon any employee of the Kentucky Retirement Systems, the County Employees Retirement System, or the Kentucky Public Pensions Authority, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the Kentucky Public Pensions Authority[Retirement Systems] charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems, the County Employees Retirement System, or the Kentucky Public Pensions Authority, unless, after the production of documents or affidavit, a separate subpoena is served upon the systems or the Authority specifically directing the testimony of an employee of the systems or of the Authority. When a subpoena is served on any employee of the systems or of the Authority requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems or the Authority may designate an employee to be deposed upon the matter referred to in the subpoena.

(b) The certification required by this subsection shall be signed before a notary public by the employee and shall include the full name of the member or recipient, the member's or recipient's Social Security number, and a legend

Page 88 of 170
XXXX Proposed House Substitute

substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."

- (c) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his <u>or her</u> signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.
- (d) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky *Public Pensions Authority*[Retirement Systems] charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.
- (e) Records of the Kentucky <u>Public Pensions Authority</u>[Retirement Systems] that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this subsection.
- → Section 13. KRS 61.665 is amended to read as follows:

Page 89 of 170
XXXX
Proposed House Substitute

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(1) The Authority shall employ <u>or contract for the services of</u> at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The Authority may employ <u>or contract for the services of</u> one (1) or more licensed mental health professionals in making recommendations regarding mental impairments.

Each person requesting disability retirement shall file at the retirement office an application for disability retirement and supporting medical information to report the person's physical and mental condition. The person shall also file at the retirement office a complete description of the job and duties from which he or she received his or her last pay as well as *information regarding* whether[evidence that] the person has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 or reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 has been offered to the person. The person shall certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners in accordance with paragraph (d) of this subsection. If, after good faith efforts, the person informs the Authority that he or she has been unable to obtain the employment or medical information, the Authority shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to

Page 90 of 170
XXXX
Proposed House Substitute

file, at the retirement office within one hundred eighty (180) days of the date the person filed his or her notification of retirement, any of the forms, certifications, or information required by this subsection, the person's application for disability retirement shall be void. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in paragraph (f) of this subsection or KRS 61.600(2), 78.5522, or 78.5524.

- (b) The employer shall file at the retirement office a complete description of the job and duties for which the person was last paid and shall submit a detailed description of *any* reasonable accommodations attempted.
- (c) The cost of medical examinations and the filing of the medical information, reports, or data with the retirement office shall be paid by the person applying for disability retirement.
- (d) The Authority shall select three (3) medical examiners to evaluate the medical evidence submitted by the person. The medical examiners shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the medical examiners may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.
- (e) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement, the system shall make retirement payments in accordance with the retirement plan selected by the person.
- (f) If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic

Page 91 of 170

XXXX

Proposed House Substitute

means. The person shall have one hundred eighty (180) days from the day that the Authority <u>sent</u>[mailed] the notice to file at the retirement office additional supporting medical information and certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners or to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in KRS 61.600(2), 78.5522, or 78.5524.

- (g) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall make retirement payments in accordance with the retirement plan selected by the person.
- (h) If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The person shall have one hundred eighty (180) days from the day that the Authority sent[mailed] the notice to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing.
- (i) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
- (j) Notwithstanding the foregoing provisions of this section, the Authority may

Page 92 of 170
XXXX
Proposed House Substitute

(3)

pay for one (1) or more medical examinations of the person requested by the medical examiners for the purpose of providing medical information deemed necessary by the medical examiners. The system may require the person to submit to one (1) or more medical examinations.

- (a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(f) or (2)(h) of this section may file at the retirement office a request for a formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of one hundred eighty (180) days after the person had notice of the system's determination, as described in subsection (2)(f) or (2)(h) of this section. The request for a formal hearing shall be filed with the executive director, at the retirement office in Frankfort. The request for a formal hearing shall include a short and plain statement of the reasons the denial of disability retirement is being contested.
  - (b) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with the application for disability retirement, except as provided in KRS 61.600(2), 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal to a court.
  - (c) The system may require the person requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be *provided*[mailed] to the person or his or her legal representative. The system shall be responsible for the cost of the examination.
  - (d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

Page 93 of 170
XXXX
Proposed House Substitute

All requests for a hearing pursuant to this section shall be made in writing.

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- The board boards of the Kentucky Retirement Systems and the County **Employees Retirement Systems** may **each** establish an appeals committee whose members shall be appointed by the chair and that [who] shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of each respective [the] board. The boards [Authority may, upon the joint approval of the board of the Kentucky Retirement Systems and the County Employees Retirement System may[,] establish a joint[an] appeals committee that shall be authorized to select a chair from among its committee members and whose members shall be appointed by the chair of the Authority and who have the authorization to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of both boards.
- Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- 16 (6) The system, pursuant to regulations, may refer an employee determined by it to be 17 disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if 18 appropriate, retraining.
  - (a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.
- 21 (b) The member shall perform all acts that are necessary to enroll in and satisfy 22 the requirements of Vocational Rehabilitation as prescribed by the board. This 23 shall include the exchange of confidential information between Kentucky 24 Retirement Systems and the Kentucky Office of Vocational Rehabilitation as 25 necessary to conduct the rehabilitation process. Failure of the member to 26 cooperate with the system or Vocational Rehabilitation may result in his or 27 her disability allowance being discontinued, reduced, or denied until the

Page 94 of 170 XXXX Proposed House Substitute

1			member complies with the agency requests. If the refusal continues for one (1)
2			year, all his or her rights to any further disability allowance shall cease.]
3		<b>→</b> S	ection 14. KRS 61.702 is amended to read as follows:
4	(1)	For 1	purposes of this section:
5		(a)	"Hospital and medical insurance plan" may include, at the board's discretion,
6			any one (1) or more of the following:
7			1. Any hospital and medical expense policy or certificate, provider-
8			sponsored integrated health delivery network, self-insured medical plan,
9			health maintenance organization contract, or other health benefit plan;
10			2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health
11			reimbursement arrangement or a similar account as may be permitted by
12			26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's
13			discretion, may reimburse any medical expense permissible under 26
14			U.S.C. sec. 213; or
15			3. A medical insurance reimbursement program established by the board
16			through the promulgation of administrative regulation under which
17			members purchase individual health insurance coverage through a health
18			insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
19		(b)	"Monthly contribution rate" is the amount determined by the board based
20			upon the requirements of subsection (4)(a) to (c) of this section, except that
21			for members who began participating in the system on or after July 1, 2003,
22			the term shall mean the amount determined in subsection (4)(d) of this
23			section; and
24		(c)	"Months of service" means the total months of combined service used to
25			determine benefits under the system, except service added to determine
26			disability benefits or service otherwise prohibited from being used to
27			determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to

Page 95 of 170
XXXX
Proposed House Substitute

(2)

61.705 shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
  - a. Present and future recipients of a retirement allowance from the Kentucky Employees Retirement System and the State Police Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.
  - 2. Any recipient who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.
- (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare, the board may authorize these participants to be included in the Kentucky Employees Health Plan as

Page 96 of 170
XXXX
Proposed House Substitute

1		provided by KRS 18A.225 to 18A.2287 and shall provide benefits for
2		recipients in the plan equal to those provided to state employees having
3		the same Medicare hospital and medical insurance eligibility status.
4		Notwithstanding the provisions of any other statute, system recipients
5		shall be included in the same class as current state employees for
6		purposes of determining medical insurance policies and premiums in the
7		Kentucky Employees Health Plan as provided by KRS 18A.225 to
8		18A.2287.
9	2.	Regardless of age, if a recipient or the spouse or dependent child of a
10		recipient who elects coverage becomes eligible for Medicare, he or she
11		shall participate in the plans offered by the systems for Medicare eligible
12		recipients. Individuals participating in the Medicare eligible plans may
13		be required to obtain and pay for Medicare Part A and Part B coverage,
14		in order to participate in the Medicare eligible plans offered by the
15		system.
16	3.	The system shall continue to provide the same hospital and medical
17		insurance plan coverage for recipients and qualifying dependents after
18		the age of sixty-five (65) as before the age of sixty-five (65), if:
19		<u>a.</u> The recipient is not eligible for Medicare coverage: <u>or</u>
20		b. The recipient would otherwise be eligible for Medicare coverage
21		but is subject to the Medicare Secondary Payer Act under 42
22		U.S.C. sec. 1395y(b) and has been reemployed by a participating
23		agency which offers the recipient a hospital and medical
24		insurance benefit or by a participating agency which is prevented
25		from offering a hospital and medical benefit to the recipient as a
26		condition of reemployment under KRS 70.293, 95.022, or

Page 97 of 170
XXXX Proposed House Substitute

<u>164.952</u>.

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(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.

- (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.
- (3) (a) Each employer participating in the Kentucky Employees Retirement System or the State Police Retirement System as provided in KRS 16.505 to 16.652 or 61.510 to 61.705 shall contribute to the insurance trust fund established under KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 61.565.
  - (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, and the insurance trust fund established under KRS 61.701 shall not be allowed.

Page 98 of 170
XXXX
Proposed House Substitute

> 2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.

- 3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
- 4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior

Page 99 of 170 XXXX Proposed House Substitute

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to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652 or 61.510 to 61.705.

- 5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
  - 1. The recipient of a retirement allowance, by payroll deduction from his or her retirement allowance, or by other method;
  - 2. The insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515;
  - 3. Another state-administered retirement system, *including the County Employees Retirement System*, under a reciprocal arrangement, except that any portion of the premium paid from the funds specified by subparagraph 2. of this paragraph under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in the systems administered by the Kentucky Retirement Systems. *If the board provides for cross-referencing of*

Page 100 of 170
XXXX
Proposed House Substitute

	insurance premiums, the employer's contribution for the working
	member or spouse shall be applied toward the premium, and the
	insurance trust fund established under KRS 61.701 or accounts
	established pursuant to 26 U.S.C. sec. 401(h) within the funds
	established in KRS 16.510 and 61.515 shall pay the balance; or
4.	A combination of the fund sources described by subparagraphs 1. to 3.
	of this paragraph.

Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance, electronic funds transfer, or by another method. For purposes of this subsection only, a child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

- (b) For a member who began participating in the system prior to July 1, 2003, the monthly contribution rate shall be paid by the system from the funds specified under paragraph (a)2. of this subsection and shall be equal to a percentage of the single premium to cover the retired member as follows:
  - 1. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee became disabled as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a

Page 101 of 170

XXXX

Proposed House Substitute

duty-related injury as defined in KRS 61.621;

2. Seventy-five percent (75%) of the monthly premium for single coverage shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;

- 3. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
- 4. Twenty-five percent (25%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.

Notwithstanding the foregoing provisions of this paragraph, an employee participating in the system prior to July 1, 2003, who is killed as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621, shall have the monthly premium paid for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child as defined by KRS 16.505, so long as they individually

Page 102 of 170

XXXX

Proposed House Substitute

remain eligible for a monthly retirement benefit.

(c) 1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the Kentucky Employees Retirement System or in a position in the State Police Retirement System, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.

- 2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection.
- (d) For members who begin participating in the system on or after July 1, 2003:
  - 1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1) or 61.543(1), or another state-administered retirement system.
  - 2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf from the funds specified under paragraph (a)2. of this subsection:
    - a. For members with service in a nonhazardous position, a monthly

Page 103 of 170
XXXX Proposed House Substitute

insurance contribution of ten dollars (\$10) for each year of service
as a participating employee in a nonhazardous position; and

- b. For members with service in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position.
- 3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who becomes disabled as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in the position for which the disabling condition occurred.
- 4. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, and the premium for the member's spouse and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as they individually remain eligible for a monthly retirement benefit.
- 5. Except as provided by subparagraph 4. of this paragraph, the monthly

Page 104 of 170

XXXX

Proposed House Substitute

> insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.

- 6. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652 or 61.692. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands.
- 7. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the County Employees Retirement System shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.
- For members with service in another state-administered retirement system (e) who select hospital and medical insurance plan coverage through the system:
  - 1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to (d) of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly contribution for single coverage

Page 105 of 170 XXXX Proposed House Substitute

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for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the Kentucky Retirement Systems from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;

- 2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
- 3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (6) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility

Page 106 of 170

XXXX

Proposed House Substitute

status. An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

→ Section 15. KRS 61.703 is amended to read as follows:

- (1) Upon the death of a member, retiree, or recipient who has an existing account or other benefit in a retirement system administered by the Kentucky Retirement Systems that totals no more than one thousand dollars (\$1,000), the surviving spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a surviving brother or sister, may without formal administration of the estate collect the account subject to the provisions of this section.
- 15 (2) The surviving spouse, child, parent, or brother or sister who makes demand for the
  16 deceased member, retiree, or recipient account shall file with the retirement office
  17 an affidavit stating that he or she is entitled to payment of the account. The affidavit
  18 shall conform to the requirements of the administrative regulation promulgated by
  19 the board.
- After having paid the account to the surviving spouse, child, parent, or brother or sister, the retirement system shall be discharged and held harmless to the same extent as if conducting business with a personal representative. The retirement system shall not be required to inquire into the truth or veracity of any statement made in the affidavit. In the event any person or entity establishes a superior right to the account, the surviving spouse, child, parent, or brother or sister, and not the retirement system or the Kentucky Public Pensions Authority (Kentucky Retirement Systems], shall be answerable and accountable to any appointed

Page 107 of 170

XXXX

Proposed House Substitute

- 1 personal representative for the estate.
- 2 → Section 16. KRS 78.510 is amended to read as follows:
- 3 As used in KRS 78.510 to 78.852, unless the context otherwise requires:
- 4 (1) "System" means the County Employees Retirement System;
- 5 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 6 (3) "County" means any county, or nonprofit organization created and governed by a
- 7 county, counties, or elected county officers, sheriff and his or her employees, county
- 8 clerk and his or her employees, circuit clerk and his or her deputies, former circuit
- 9 clerks or former circuit clerk deputies, or political subdivision or instrumentality,
- including school boards, cities, charter county governments, urban-county
- governments, consolidated local governments, or unified local governments
- participating in the system by order appropriate to its governmental structure, as
- provided in KRS 78.530, and if the board is willing to accept the agency,
- organization, or corporation, the board being hereby granted the authority to
- determine the eligibility of the agency to participate;
- 16 (4) "School board" means any board of education participating in the system by order
- appropriate to its governmental structure, as provided in KRS 78.530, and if the
- board is willing to accept the agency or corporation, the board being hereby granted
- the authority to determine the eligibility of the agency to participate;
- 20 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 21 (6) "Employee" means every regular full-time appointed or elective officer or employee
- of a participating county and the coroner of a participating county, whether or not he
- or she qualifies as a regular full-time officer. The term shall not include persons
- 24 engaged as independent contractors, seasonal, emergency, temporary, and part-time
- workers. In case of any doubt, the board shall determine if a person is an employee
- within the meaning of KRS 78.510 to 78.852;
- 27 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected

XXXX Proposed House Substitute

officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

- 3 (8) "Member" means any employee who is included in the membership of the system or 4 any former employee whose membership has not ceased under KRS 78.535;
- 5 (9) "Service" means the total of current service and prior service as defined in this section;
- 7 (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- 10 (11) "Prior service" means the number of years and completed months, expressed as a
  11 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
  12 creditable compensation was paid. An employee shall be credited with one (1)
  13 month of prior service only in those months he received compensation for at least
  14 one hundred (100) hours of work. Twelve (12) months of current service in the
  15 system shall be required to validate prior service;
  - (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);
- 24 (13) "Creditable compensation":

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25 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages, 26 and fees, including payments for compensatory time, paid to the employee as 27 a result of services performed for the employer or for time during which the

Page 109 of 170
XXXX Proposed House Substitute

> member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers who receive salary, fees, maintenance, or other perquisites as a result of their official duties is the gross amount received decreased by the cost of salary paid deputies and clerks and the cost of office supplies and other official expenses;

## Includes: (b)

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

Page 110 of 170 XXXX Proposed House Substitute

1			earned or should have been paid by the employer;
2		4	. Amounts which are not includable in the member's gross income by
3			virtue of the member having taken a voluntary salary reduction provided
4			for under applicable provisions of the Internal Revenue Code; and
5		5	. Elective amounts for qualified transportation fringes paid or made
6			available on or after January 1, 2001, for calendar years on or after
7			January 1, 2001, that are not includable in the gross income of the
8			employee by reason of 26 U.S.C. sec. 132(f)(4); and
9	(c	e) E	Excludes:
10		1	. Living allowances, expense reimbursements, lump-sum payments for
11			accrued vacation leave, sick leave except as provided in KRS 78.616(5),
12			and other items determined by the board;
13		2	. For employees who begin participating on or after September 1, 2008,
14			lump-sum payments for compensatory time;
15		3	. Training incentive payments for city officers paid as set out in KRS
16			64.5277 to 64.5279;
17		4	. For employees who begin participating on or after August 1, 2016,
18			nominal fees paid for services as a volunteer; and
19		5	. Any salary or wages paid to an employee for services as a Kentucky
20			State Police school resource officer as defined by KRS 158.441;
21	(14) "I	Final	compensation" means:
22	(a	ı) F	for a member who begins participating before September 1, 2008, who is
23		e	mployed in a nonhazardous position, the creditable compensation of the
24		n	nember during the five (5) fiscal years he or she was paid at the highest
25		a	verage monthly rate divided by the number of months of service credit during
26		t	nat five (5) year period multiplied by twelve (12). The five (5) years may be

Page 111 of 170

XXXX

Proposed House Substitute

fractional and need not be consecutive. If the number of months of service

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credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

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

Page 112 of 170
XXXX Proposed House Substitute

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

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

Page 113 of 170

XXXX

Proposed House Substitute

1	(17)	"Act	uarial equivalent" means a benefit of equal value when computed upon the
	(17)		
2		basis	s of the actuarial tables adopted by the board. In cases of disability retirement,
3		the c	options authorized by KRS 61.635 shall be computed by adding ten (10) years
4		to th	ne age of the member, unless the member has chosen the Social Security
5		adjus	stment option as provided for in KRS 61.635(8), in which case the member's
6		actua	al age shall be used. For members who begin participating in the system prior to
7		Janu	ary 1, 2014, no disability retirement option shall be less than the same option
8		comp	puted under early retirement;
9	(18)	"Nor	rmal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
10		mear	ns:
11		(a)	For a member with service in a nonhazardous position, the sixty-fifth birthday
12			of a member;
13		(b)	For a member with service in a hazardous position who begins participating
14			before September 1, 2008, the first day of the month following a member's
15			fifty-fifth birthday; or
16		(c)	For a member with service in a hazardous position who begins participating
17			on or after September 1, 2008, the first day of the month following a member's
18			sixtieth birthday;
19	(19)	"Fisc	cal year" of the system means the twelve (12) months from July 1 through the
20		follo	wing June 30, which shall also be the plan year. The "fiscal year" shall be the
21		limit	ation year used to determine contribution and benefits limits as set out in 26
22		U.S.	C. sec. 415;
23	(20)	"Age	ency reporting official" means the person designated by the participating
24		empl	loyer who shall be responsible for forwarding all employer and employee
25		conti	ributions and a record of the contributions to the system and for performing
26		other	r administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

Page 114 of 170

XXXX

Proposed House Substitute

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean

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all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
- (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
- (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
- (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or
- (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall

Page 115 of 170
XXXX
Proposed House Substitute

1		be eighty (80) hours of work per month, determined by using the number of
2		months actually worked in a calendar or school year, in the performance of
3		duty;
4	(22)	"Alternate participation plan" means a method of participation in the system as
5		provided for by KRS 78.530(3);
6	(23)	"Retired member" means any former member receiving a retirement allowance or
7		any former member who has on file at the retirement office the necessary
8		documents for retirement benefits and is no longer contributing to the system;
9	(24)	"Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
10		monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
11		pay. The rate shall be certified by the employer;
12	(25)	"Beneficiary" means the person, persons, estate, trust, or trustee designated by the
13		member in accordance with KRS 61.542 or 61.705 to receive any available benefits
14		in the event of the member's death. As used in KRS 78.5536, beneficiary shall not
15		mean an estate, trust, or trustee;
16	(26)	"Recipient" means the retired member, the person or persons designated as
17		beneficiary by the member and drawing a retirement allowance as a result of the
18		member's death, or a dependent child drawing a retirement allowance. An alternate
19		payee of a qualified domestic relations order shall not be considered a recipient,
20		except for purposes of KRS 61.623;
21	(27)	"Person" means a natural person;
22	(28)	"School term or year" means the twelve (12) months from July 1 through the
23		following June 30;
24	(29)	"Retirement office" means the Kentucky Public Pensions Authority office building
25		in Frankfort, unless otherwise designated by the Kentucky Public Pensions
26		Authority;
27	(30)	"Vested" for purposes of determining eligibility for purchasing service credit under

Page 116 of 170

XXXX

Proposed House Substitute

1	KRS 61.552 means the employee has at least forty-eight (48) months of service if
2	age sixty-five (65) or older or at least sixty (60) months of service if under the age
3	of sixty-five (65). For purposes of this subsection, "service" means service in the
4	systems administered by the Kentucky Retirement Systems and County Employees
5	Retirement System;
6	(31) "Participating" means an employee is currently earning service credit in the system

- 6 (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- 8 (32) "Month" means a calendar month;
- 9 (33) "Membership date" means the date upon which the member began participating in 10 the system as provided in KRS 78.615;
- 11 (34) "Participant" means a member, as defined by subsection (8) of this section, or a 12 retired member, as defined by subsection (23) of this section;
- 13 (35) "Qualified domestic relations order" means any judgment, decree, or order, 14 including approval of a property settlement agreement, that:
- 15 (a) Is issued by a court or administrative agency; and
- 16 (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- 18 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
  19 participant, who is designated to be paid retirement benefits in a qualified domestic
  20 relations order;
- 21 (37) "Accumulated employer credit" means the employer pay credit deposited to the 22 member's account and interest credited on such amounts as provided by KRS 23 78.5512 and 78.5516;
- 24 (38) "Accumulated account balance" means:
- 25 (a) For members who began participating in the system prior to January 1, 2014, 26 the member's accumulated contributions; or
- 27 (b) For members who began participating in the system on or after January 1,

Page 117 of 170
XXXX

Proposed House Substitute

1		2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
2		78.5516, the combined sum of the member's accumulated contributions and
3		the member's accumulated employer credit;
4	(39)	"Volunteer" means an individual who:
5		(a) Freely and without pressure or coercion performs hours of service for an
6		employer participating in one (1) of the systems administered by Kentucky
7		Retirement Systems or the County Employees Retirement System without
8		receipt of compensation for services rendered, except for reimbursement of
9		actual expenses, payment of a nominal fee to offset the costs of performing
10		the voluntary services, or both; and
11		(b) If a retired member, does not become an employee, leased employee, or
12		independent contractor of the employer for which he or she is performing
13		volunteer services for a period of at least twelve (12) months following the
14		retired member's most recent retirement date;
15	(40)	"Nominal fee" means compensation earned for services as a volunteer that does not
16		exceed five hundred dollars (\$500) per month. Compensation earned for services as
17		a volunteer from more than one (1) participating employer during a month shall be
18		aggregated to determine whether the compensation exceeds the five hundred dollars
19		(\$500) per month maximum provided by this subsection;
20	(41)	"Nonhazardous position" means a position that does not meet the requirements of
21		KRS 78.5520 or has not been approved by the board as a hazardous position;
22	(42)	"Hazardous position" means a position that meets the requirements of KRS 78.5520
23		and has been approved by the board as hazardous;
24	(43)	"Level-percentage-of-payroll amortization method" means a method of determining
25		the annual amortization payment on the unfunded actuarial accrued liability as
26		expressed as a percentage of payroll over a set period of years. Under this method,

Page 118 of 170
XXXX Proposed House Substitute

the percentage of payroll shall be projected to remain constant for all years

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(44) "Increment" means twelve (12) months of service credit which are purchased. The

projected to be fully amortized at the conclusion of the set period;

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remaining in the set period and the unfunded actuarially accrued liability shall be

twelve (12) months need not be consecutive. The final increment may be less than

5		twelve (12) months;
6	(45)	"Last day of paid employment" means the last date employer and employee
7		contributions are required to be reported in accordance with KRS 16.543, 61.543, or
8		78.615 to the retirement office in order for the employee to receive current service
9		credit for the month. Last day of paid employment does not mean a date the
10		employee receives payment for accrued leave, whether by lump sum or otherwise, if
11		that date occurs twenty-four (24) or more months after previous contributions;
12	(46)	"Objective medical evidence" means reports of examinations or treatments; medical
13		signs which are anatomical, physiological, or psychological abnormalities that can
14		be observed; psychiatric signs which are medically demonstrable phenomena
15		indicating specific abnormalities of behavior, affect, thought, memory, orientation,
16		or contact with reality; or laboratory findings which are anatomical, physiological,
17		or psychological phenomena that can be shown by medically acceptable laboratory
18		diagnostic techniques, including but not limited to chemical tests,
19		electrocardiograms, electroencephalograms, X-rays, and psychological tests. The
20		testimonial evidence of the person applying for disability retirement shall not
21		constitute or be deemed the equivalent of objective medical evidence;
22	(47)	"Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
23		results in an employee's total incapacity to continue as an employee in a hazardous
24		position, but the employee is not necessarily deemed to be totally and permanently
25		disabled to engage in other occupations for remuneration or profit;
26	(48)	"Act in line of duty" means, for employees in hazardous positions under KRS
27		78.5520:[, for purposes of members serving in a hazardous position,]
		Page 119 of 170
	XXXX	Proposed House Substitute

XXXX

1		(a) A single [an] act occurring which was required in the performance of the
2		principal duties of the hazardous position as defined by the job description; or
3		(b) A single act of violence committed against the employee that is found to be
4		related to his or her job duties, whether or not it occurs at his or her job site;
5	(49)	"Dependent child" means a child in the womb and a natural or legally adopted child
6		of the member who has neither attained age eighteen (18) nor married or who is an
7		unmarried full-time student who has not attained age twenty-two (22). Solely in the
8		case of a member who dies as a direct result of an act in line of duty as defined in
9		this section, [ or who] dies as a result of a duty-related injury as defined in KRS
10		61.621, becomes totally and permanently disabled as a direct result of an act in
11		the line of duty as defined in this section, or becomes disabled as a result of a
12		duty-related injury as defined in KRS 61.621 and is eligible for the benefits
13		provided by KRS 61.621(5)(a), "dependent child" also means a naturally or legally
14		adopted disabled child of the member, regardless of the child's age, if the child has
15		been determined to be eligible for federal Social Security disability benefits or is
16		being claimed as a qualifying child for tax purposes due to the child's total and
17		permanent disability;
18	(50)	"Normal retirement age" means the age at which the member meets the
19		requirements for his or her normal retirement date as provided by subsection (18) of
20		this section;
21	(51)	"Disability retirement date" means the first day of the month following the last day
22		of paid employment;
23	(52)	"Monthly average pay" means:
24		(a) In the case of a member who dies as a direct result of an act in line of duty as
25		defined in KRS 16.505 or who dies as a result of a duty-related injury as
26		defined in KRS 61.621, the higher of the member's monthly final rate of pay
27		or the average monthly creditable compensation earned by the deceased

1	member during his or her last twelve (12) months of employment; or
2	(b) In the case where a member becomes totally and permanently disabled as a
3	direct result of an act in line of duty as defined in KRS 16.505 or becomes
4	disabled as a result of a duty-related injury as defined in KRS 61.621 and is
5	eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
6	member's monthly final rate of pay or the average monthly creditable
7	compensation earned by the disabled member during his or her last twelve
8	(12) months of employment prior to the date the act in line of duty or duty-
9	related injury occurred;
10	(53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
11	61.505; and
12	(54) "Executive director" means the executive director of the Kentucky Public Pensions
13	Authority.
14	→ Section 17. KRS 78.5524 is amended to read as follows:
15	The disability retirement provisions contained in this section shall apply to a person
16	whose last date of paid employment was in a hazardous position.
17	(1) (a) For purposes of this section:
18	1. "Total and permanent disability" means a disability which results in the
19	member's incapacity to engage in any occupation for remuneration or
20	profit. Loss by severance of both hands at or above the wrists, or both
21	feet at or above the ankles, or one (1) hand above the wrist and one (1)
22	foot above the ankle, or the complete, irrevocable loss of the sight of
23	both eyes shall be considered as total and permanent; and

2. "Hazardous disability" means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit.

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Page 121 of 170
XXXX Proposed House Substitute

1	(b)	In determining whether the disability meets the requirement of this section,
2		any reasonable accommodation provided by the employer as provided in 42
3		U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.
4	(c)	If the board determines that the total and permanent disability of a member

- (c) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability as defined by KRS 78.510.
- 8 (2) Any person may qualify to retire on disability, subject to the following:

- (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
- (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
  - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 78.510, in a regular full-time position that has been approved as a hazardous position in accordance with KRS 78.5520;
- 20 (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; 21 and
  - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time hazardous position.
- 27 (3) Upon the examination of the objective medical evidence by licensed physicians

Page 122 of 170

XXXX

Proposed House Substitute

1		purs	uant t	to KRS 61.665, it shall be determined that:
2		(a)	The	incapacity results from bodily injury, mental illness, or disease. For
3			purp	poses of this section, "injury" means any physical harm or damage to the
4			hum	an organism other than disease or mental illness;
5		(b)	The	incapacity is deemed to be permanent; and
6		(c)	The	incapacity does not result directly or indirectly from:
7			1.	Injury intentionally self-inflicted while sane or insane; or
8			2.	Bodily injury, mental illness, disease, or condition which pre-existed
9				membership in the system or reemployment, whichever is most recent,
10				unless:
11				a. The disability results from bodily injury, mental illness, disease, or
12				a condition which has been substantially aggravated by an injury or
13				accident arising out of or in the course of employment; or
14				b. The person has at least sixteen (16) years' current or prior service
15				for employment with employers participating in the County
16				Employees Retirement System or the Kentucky Retirement
17				Systems.
18				For purposes of this subparagraph, "reemployment" shall not mean a
19				change of employment between employers participating in the County
20				Employees Retirement System or the Kentucky Retirement Systems
21				with no loss of service credit.
22	(4)	(a)	1.	An incapacity shall be deemed to be permanent for the purpose of
23				<u>hazardous disability</u> if it is expected to result in death or can be
24				expected to last for a continuous period of not less than twelve (12)
25				months from the person's last day of paid employment in a hazardous
26				position.
27			2.	The determination of a permanent incapacity for the purpose of

Page 123 of 170

XXXX

Proposed House Substitute

<u>hazardous disability</u> shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

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## 3. The determination of a total and permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity.

- The person's residual functional capacity shall be the person's capacity for (b) work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
  - Sedentary work shall be work that involves lifting no more than ten (10)
    pounds at a time and occasionally lifting or carrying articles such as
    large files, ledgers, and small tools. Although a sedentary job primarily
    involves sitting, occasional walking and standing may also be required
    in the performance of duties.
- 2. Light work shall be work that involves lifting no more than twenty (20)

Page 124 of 170

XXXX

Proposed House Substitute

pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

- 3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
- 4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
- 5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) Upon disability retirement, an employee may receive a disability retirement allowance payable during his or her lifetime which shall be:
  - (a) For a member who began participating in the system prior to August 1, 2004, an annual retirement allowance payable monthly and determined in the same

Page 125 of 170
XXXX
Proposed House Substitute

> manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his or her disability, except that service shall be added beginning with his or her last date of paid employment and continuing to his or her fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his or her last day of paid employment, and the maximum service credit for calculating his or her retirement allowance, including his or her total service and service added under this section, shall not exceed twenty (20) years;

- For a member who begins participating on or after August 1, 2004, but prior (b) to January 1, 2014, the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his or her disability; or
- (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 78.5516, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 78.5516.
- If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty as defined in KRS 78.510, the member's retirement allowance shall be calculated as follows:
  - For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than

Page 126 of 170 XXXX Proposed House Substitute

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1		twenty-five percent (25%) of the member's monthly final rate of pay; and
2		(b) For each dependent child of the member on his or her disability retirement
3		date, who is alive at the time any particular payment is due, a monthly
4		payment equal to ten percent (10%) of the disabled member's monthly final
5		rate of pay; however, total maximum dependent children's benefit shall not
6		exceed forty percent (40%) of the member's monthly final rate of pay. The
7		payments shall be payable to each dependent child, or to a legally appointed
8		guardian or as directed by the system.
9	(7)	If the member receives a satisfactory determination of total and permanent
10		disability pursuant to KRS 61.665 and the disability is the direct result of an act
11		in line of duty as defined in KRS 78.510, the member's retirement allowance shall
12		be calculated as follows:
13		(a) For the disabled member, the benefits as provided in subsection (5) of this
14		section, except that the monthly retirement allowance payable shall not be
15		less than seventy-five percent (75%) of the member's monthly average pay;
16		<u>and</u>
17		(b) For each dependent child of the member on his or her disability retirement
18		date, who is alive at the time any particular payment is due, a monthly
19		payment equal to ten percent (10%) of the disabled member's monthly
20		average pay, except that:
21		1. Member and dependent children payments under this subsection shall
22		not exceed one hundred percent (100%) of the member's monthly
23		average pay; and
24		2. Total maximum dependent children's benefits shall not exceed twenty-
25		five percent (25%) of the member's monthly average pay while the
26		member is living and forty percent (40%) of the member's monthly
27		average pay after the member's death. The payments shall be payable

Page 127 of 170

XXXX

Proposed House Substitute

1		to each dependent child, or to a legally appointed guardian or as
2		directed by the system, and shall be divided equally among all
3		dependent children.
4	<u>(8)</u>	No benefit provided in this section shall be reduced as a result of any change in the
5		extent of disability of any retired member who is normal retirement age or older.
6	<u>(9)</u> [(	[8] If a regular full-time member in a hazardous position has been approved for
7		benefits under a hazardous disability, the board shall, upon request of the member,
8		permit the member to receive the hazardous disability allowance while accruing
9		benefits in a nonhazardous position, subject to proper medical review of the
10		nonhazardous position's job description by the Authority's medical examiner.
11		→ Section 18. KRS 78.5526 is amended to read as follows:
12	(1)	Once each year following the retirement of a person on a disability retirement
13		allowance, except for persons who become totally and permanently disabled as a
14		direct result of an act in line of duty as defined in KRS 78.510 or become disabled
15		as a result of a duty-related injury as defined in KRS 61.621 in which case shall
16		be once every three (3) years following retirement, or less frequently as determined
17		by the Authority's medical examiner but not less than once every five (5) years, the
18		system may require the person, prior to his or her normal retirement date, to
19		undergo an employment and medical staff review and, if necessary, be required to
20		file at the retirement office on the review form prescribed by the Authority current
21		employment information and current medical information for the bodily injury,
22		mental illness, or disease for which he or she receives a disability retirement
23		allowance. The person shall have one hundred eighty (180) days from the day the
24		Authority <u>sent</u> [mailed] the review form <u>by United States first-class mail</u> to the
25		person's last address on file in the retirement office, by electronic mail to the
26		person's last electronic mail address on file in the retirement office, or by other
27		electronic means to file at the retirement office the review form and the current

Page 128 of 170

XXXX

Proposed House Substitute

employment and medical information. The person shall certify to the Authority that
the review form, including current employment and medical information, is ready to
be evaluated by the medical examiner in accordance with KRS 78.5528.

4 (2) If, after good faith efforts, the person informs the Authority that he or she has been unable to obtain the employment or medical information, the Authority shall assist the person in obtaining the records and may use the powers granted pursuant to KRS 61.685(1) to obtain the records.

- (3) If the person fails or refuses to file at the retirement office the review form, including the current employment and medical information, his or her retirement allowance shall be discontinued or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the Authority sent[mailed] the review form by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The Authority shall send notice of the discontinuance or reduction of the disability retirement allowance by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. If the person's benefits are discontinued or reduced under this section, his or her rights to further disability retirement allowances shall cease, except as provided by KRS 78.5528.
- (4) The Kentucky Public Pensions Authority shall hire or contract for the services of one (1) or more investigators to investigate potential fraud involving disability benefits with the system. The investigators shall evaluate potential cases of disability fraud and conduct spot audits for potential fraud as determined by the system in cases involving members who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 78.510 or become

XXXX Proposed House Substitute

## disabled as a result of a duty-related injury as defined in KRS 61.621.

2 → Section 19. KRS 78.5530 is amended to read as follows:

(1)

3 Notwithstanding any other provisions of KRS 78.510 to 78.852, a maximum disability

4 benefit is hereby established which shall apply, upon disability retirement, to any disabled

employee's account to which service credit is added to determine disability benefits or in

any case where disability benefits are determined by computing a percentage of the

disabled employee's final monthly rate of pay or monthly average pay. The maximum

disability benefit shall be determined by the following formula:

- Add the monthly benefit payable to the disabled employee from the County Employees Retirement System and the Kentucky Retirement Systems, using the monthly disability retirement allowance without any reduction due to the selection of an optional payment plan under KRS 61.635 but excluding dependent children's allowances, if any, to his or her monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his or her monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.
- (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his or her final compensation, whichever is greater, his or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems shall be reduced to an amount which would cause his or her projected combined monthly benefit to equal one hundred percent (100%) of his or her final rate of pay or his or her final compensation, whichever is greater; however, the disability retirement allowance

XXXX Proposed House Substitute

shall not be reduced below an amount which would result from a computation of his or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems using the disabled employee's actual total service.

- The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his or her Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his or her account corrected retroactive to his or her effective retirement date.
  - (4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.
    - (5) Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the Authority if his or her payments under the federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his or her effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase his or her retirement allowance by adding to his or her payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.
- 24 (6) The amount of combined disability benefit payments made to an individual on or 25 after April 1 2021, from the Kentucky Retirement Systems and the County 26 Employees Retirement System shall not be increased as a result of the passage of 27 2021 Ky. Acts ch. 102.

Page 131 of 170

XXXX

Proposed House Substitute

1	<u>(7)</u>	Subsequent to his or her effective retirement date, each disability recipient who is				
2		still eligible to receive disability payments based upon a total and permanent				
3		disability that occurred as a direct result of an act in line of duty as defined in				
4		KRS 78.510 or a disablement that occurred as a result of a duty-related injury as				
5		defined in KRS 61.621 shall annually file, on a form or via an electronic method				
6		established by the Authority, information on whether payments to the recipient				
7		have ceased or begun under the federal Social Security Act or Workers'				
8		Compensation Act and the Authority shall make any necessary adjustments as				
9		provided by this section.				
10		→ Section 20. KRS 78.5536 is amended to read as follows:				
11	(1)	For purposes of this section:				
12		(a) "Hospital and medical insurance plan" may include, at the board's discretion,				
13		any one (1) or more of the following:				
14		1. Any hospital and medical expense policy or certificate, provider-				
15		sponsored integrated health delivery network, self-insured medical plan,				
16		health maintenance organization contract, or other health benefit plan;				
17		2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health				
18		reimbursement arrangement or a similar account as may be permitted by				
19		26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's				
20		discretion, may reimburse any medical expense permissible under 26				
21		U.S.C. sec. 213; or				
22		3. A medical insurance reimbursement program established by the board				
23		through the promulgation of administrative regulation under which				
24		members purchase individual health insurance coverage through a health				
25		insurance exchange established under 42 U.S.C. sec. 18031 or 18041;				
26		(b) "Monthly contribution rate" shall be the amount determined by the board				

Page 132 of 170

XXXX

Proposed House Substitute

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based upon the requirements of subsection (4)(a) to (c) of this section, except

1			that	for members who began participating in the system on or after July 1,
2			2003	3, the term shall mean the amount determined in subsection (4)(d) of this
3			secti	ion; and
4		(c)	"Mo	onths of service" shall mean the total months of combined service used to
5			dete	rmine benefits under the system, except service added to determine
6			disa	bility benefits or service otherwise prohibited from being used to
7			dete	rmine retiree health benefits under KRS 78.510 to 78.852 shall not be
8			cour	nted as "months of service."
9	(2)	(a)	1.	The board of trustees of the system shall arrange by appropriate contract
10				or on a self-insured basis to provide a group hospital and medical
11				insurance plan coverage for:
12				a. Present and future recipients of a retirement allowance from the
13				County Employees Retirement System; and
14				b. The spouse and each qualified dependent of a recipient who is a
15				former member or the beneficiary, provided the spouse and
16				dependent meet the requirements to participate in the hospital and
17				medical insurance plans established, contracted, or authorized by
18				the system.
19			2.	Any recipient who chooses coverage under a hospital and medical
20				insurance plan shall pay, by payroll deduction from the retirement
21				allowance, electronic funds transfer, or by another method, the
22				difference between the premium cost of the hospital and medical
23				insurance plan coverage selected and the monthly contribution rate to
24				which he or she would be entitled under this section.
25		(b)	1.	For present and future recipients of a retirement allowance from the
26				system who are not eligible for Medicare, the board may authorize these
27				participants to be included in the Kentucky Employees Health Plan as

Page 133 of 170 XXXX Proposed House Substitute

27

1 provided by KRS 18A.225 to 18A.2287 and shall provide benefits for 2 recipients in the plan equal to those provided to state employees having 3 the same Medicare hospital and medical insurance eligibility status. 4 Notwithstanding the provisions of any other statute, system recipients shall be included in the same class as current state employees for 5 6 purposes of determining medical insurance policies and premiums in the 7 Kentucky Employees Health Plan as provided by KRS 18A.225 to 8 18A.2287. 9 Regardless of age, if a recipient or the spouse or dependent child of a 2. 10 recipient who elects coverage becomes eligible for Medicare, he or she 11 shall participate in the plans offered by the systems for Medicare eligible 12 recipients. Individuals participating in the Medicare eligible plans may 13 be required to obtain and pay for Medicare Part A and Part B coverage in order to participate in the Medicare eligible plans offered by the 14 15 system. 16 3. The system shall continue to provide the same hospital and medical 17 insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if: 18 19 The recipient is not eligible for Medicare coverage; or a. 20 The recipient would otherwise be eligible for Medicare coverage 21 but is subject to the Medicare Secondary Payer Act under 42 22 U.S.C. sec. 1395y(b) and has been reemployed by a participating 23 agency which offers the recipient a hospital and medical 24 insurance benefit or by a participating agency which is prevented 25 from offering a hospital and medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 26

Page 134 of 170

XXXX

Proposed House Substitute

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(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.

- (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.
- (3) (a) Each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund established by KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 78.635.
  - (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, and the insurance trust fund established under KRS 61.701 shall not be allowed.
    - 2. The employer shall file the contributions as provided by subparagraph 1.

Page 135 of 170

XXXX

Proposed House Substitute

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of this paragraph at the retirement office in accordance with KRS 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.

- 3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
  - Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member

XXXX Proposed House Substitute

and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 78.510 to 78.852.

- 5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
  - 1. The recipient of a retirement allowance, by payroll deduction from his or her retirement allowance, electronic funds transfer, or by other method;
  - 2. The insurance trust fund established by KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520;
  - 3. Another state-administered retirement system, including the systems administered by Kentucky Retirement Systems, under a reciprocal arrangement, except that any portion of the premium paid from the funds specified by subparagraph 2. of this paragraph under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in the County Employees Retirement System. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the

Page 137 of 170

XXXX

Proposed House Substitute

insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, shall pay the balance; or

4. A combination of the fund sources described by subparagraph 1. to 3. of this paragraph.

Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance, electronic funds transfer, or by another method. For purposes of this subsection only, a child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

- (b) For a member who began participating in the system prior to July 1, 2003, the monthly contribution rate shall be paid by the system from the funds specified under paragraph (a)2. of this subsection and shall be equal to a percentage of the single premium to cover the retired member as follows:
  - 1. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee was disabled as a direct result of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-related injury as defined in KRS 61.621;
  - 2. Seventy-five percent (75%) of the monthly premium for single coverage

Page 138 of 170
XXXX Proposed House Substitute

shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;

- 3. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
- 4. Twenty-five percent (25%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.

Notwithstanding the foregoing provisions of this paragraph, an employee participating in the system prior to July 1, 2003, who is killed as a direct result of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-related injury as defined in KRS 61.621, shall have the monthly premium paid for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child, so long as they individually remain eligible for a monthly retirement benefit.

(c) 1. For a member who began participating in the system prior to July 1,

Page 139 of 170

XXXX

Proposed House Substitute

> 2003, who was determined to be in a hazardous position in the County Employees Retirement System, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.

- 2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.
- (d) For members who begin participating in the system on or after July 1, 2003:
  - 1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS

Page 140 of 170 Proposed House Substitute

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1		78.615(1) or another state-administered retirement system.
2	2.	A member who meets the minimum service requirements as provided by
3		subparagraph 1. of this paragraph shall upon retirement be eligible for
4		the following monthly contribution rate to be paid on his or her behalf
5		from the funds specified under paragraph (a)2. of this subsection:
6		a. For members with service in a nonhazardous position, a monthly
7		insurance contribution of ten dollars (\$10) for each year of service
8		as a participating employee in a nonhazardous position; and
9		b. For members with service in a hazardous position, a monthly
10		insurance contribution of fifteen dollars (\$15) for each year of
11		service as a participating employee in a hazardous position. Upon
12		the death of the retired member, the beneficiary, if the beneficiary
13		is the member's spouse, shall be entitled to a monthly insurance
14		contribution of ten dollars (\$10) for each year of service the
15		member attained as a participating employee in a hazardous
16		position.
17	3.	The minimum service requirement to participate in benefits as provided
18		by subparagraph 1. of this paragraph shall be waived for a member who
19		is disabled as a result of an act in line of duty as defined in KRS
20		78.510(48) or as a result of a duty-related injury as defined by KRS
21		61.621 and the member shall be entitled to the benefits payable under
22		this subsection as though the member had twenty (20) years of service in
23		the position for which the disabling condition occurred.
24	4.	Notwithstanding the provisions of this paragraph, the minimum service
25		requirement to participate in benefits as provided by subparagraph 1. of
26		this paragraph shall be waived for a for a member who dies a as a result
27		of an act in line of duty as defined in KRS 78.510(48) or as a result of a

Page 141 of 170

XXXX

Proposed House Substitute

> duty-related injury as defined in KRS 61.621, and the premium for the member's spouse and for each dependent child as defined in KRS 78.510 shall be paid in full by the systems so long as they individually remain eligible for a monthly retirement benefit.

- 5. Except as provided by subparagraph 4. of this paragraph, the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- 6. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands.
- 7. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.
- (e) For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:
  - 1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate

XXXX Proposed House Substitute

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Page 142 of 170

to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to (d) of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the County Employees Retirement System from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;

- 2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
- A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Page 143 of 170

XXXX

Proposed House Substitute

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(6)

The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

→ Section 21. KRS 78.5540 is amended to read as follows:

A retired member whose disability retirement was discontinued pursuant to KRS 78.5528 and who is reemployed by an employer participating in the system or the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations.

(2) (a) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall

XXXX Proposed House Substitute

notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.

- (b) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- 20 (3) Retired members of the County Employees Retirement System who returned to
  21 work with an employer that participates in the County Employees Retirement
  22 System or Kentucky Retirement Systems prior to September 1, 2008, shall be
  23 governed by the provisions of KRS 61.637(1) to (16).
- 24 (4) The following shall apply to retired members of the County Employees Retirement
  25 System who are reemployed on or after September 1, 2008, by an agency
  26 participating in the systems administered by the County Employees Retirement
  27 System or the Kentucky Retirement Systems:

Page 145 of 170

XXXX

Proposed House Substitute

Except as provided by paragraphs (c) and (d) of this subsection, if a retired (a) member is receiving a retirement allowance from the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System, and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the retired member is returning to work in a regular full-time position required to participate in the County Employees Retirement System:

- 1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer to the system; and
- 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- Except as provided by paragraphs (c) and (d) of this subsection, if a retired (b) member is receiving a retirement allowance from the County Employees Retirement System and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her

Page 146 of 170 XXXX Proposed House Substitute

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retirement allowance during the period of reemployment subject to the following provisions:

- 1. If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. For purposes of this paragraph:
  - a. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office[and has retired from the elected office] within twelve (12) months of his or her retirement date[prior to taking the new term of office], he or she shall be deemed by the Authority as having a prearranged agreement; and
  - Employment that is accepted by the retired member after twelve
     (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
- Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system and shall not earn any additional benefits for any work performed during the period of reemployment;
- 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined

Page 147 of 170

XXXX

Proposed House Substitute

by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and

- 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) If a member is receiving a retirement allowance from hazardous position coverage with the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System for service in a hazardous position, and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems:
  - The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky

Page 148 of 170
XXXX

Proposed House Substitute

1 Retirement Systems, and employer contributions shall be paid on behalf 2 of the member by the participating employer; and 3 2. Upon subsequent retirement, the member shall be eligible for a 4 retirement allowance based upon total service and creditable 5 compensation, including any additional service or creditable 6 compensation earned after his or her initial retirement was voided; 7 If a member is receiving a retirement allowance from the hazardous position (d) 8 coverage with the County Employees Retirement System and is employed in a 9 regular full-time hazardous position required to participate in the County 10 Employees Retirement System or the Kentucky Retirement Systems after a 11 one (1) month period following the member's initial retirement date, the 12 member may continue to receive his or her retirement allowance during the 13 period of reemployment subject to the following provisions: 14 1. If a member is reemployed by a participating employer within twelve 15 (12) months of the member's retirement date, the participating employer 16 shall certify in writing on a form prescribed by the Authority that no 17 prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work 18 19 with the participating employer. If the participating employer fails to 20 complete the certification or the Authority determines a prearranged 21 agreement exists, the member's retirement shall be voided and the 22 provisions of paragraph (c) of this subsection shall apply to the member 23 and the employer. For purposes of this paragraph: 24 If an elected official is reelected to a new term of office in the a. 25 same position as the elected official held prior to retirement and takes office[and has retired from the elected office] within twelve 26

Page 149 of 170
XXXX
Proposed House Substitute

(12) months of his or her retirement date prior to taking the new

1	term of office], he or she shall be deemed by the
2	Authority[system] as having a prearranged agreement; and
3	b. Employment that is accepted by the retired member after twelve
4	(12) months following the member's retirement date shall not
5	constitute a prearranged agreement under this paragraph;
6	2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,
7	the member shall not contribute to the system or the Kentucky
8	Retirement Systems and shall not earn any additional benefits for any
9	work performed during the period of reemployment;
10	3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
11	except for any retiree employed as a school resource officer as defined
12	by KRS 158.441, the employer shall pay employer contributions as
13	specified by KRS 78.5536 and 78.635 on all creditable compensation
14	earned by the employee during the period of reemployment. The
15	additional contributions paid shall be used to reduce the unfunded
16	actuarial liability of the system; and
17	4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
18	except for any retiree employed as a school resource officer as defined
19	by KRS 158.441, the employer shall be required to reimburse the system
20	for the cost of the health insurance premium paid by the system to
21	provide coverage for the retiree, not to exceed the cost of the single
22	premium;
23 (e)	Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
24	who qualifies as a volunteer for an employer participating in the County
25	Employees Retirement System or the Kentucky Retirement Systems and who
26	is receiving reimbursement of actual expenses, a nominal fee for his or her
27	volunteer services, or both, shall not be considered an employee of the

Page 150 of 170
XXXX
Proposed House Substitute

1 participating employer and shall not be subject to paragraphs (a) to (d) of this 2 subsection if: 3 1. Prior to the retired member's most recent retirement date, he or she did 4 not receive creditable compensation from the participating employer in 5 which the retired member is performing volunteer services; 6 2. Any reimbursement or nominal fee received prior to the retired 7 member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of 8 9 the retired member's benefits; 10 3. The retired member has not purchased or received service credit under 11 any of the provisions of KRS 78.510 to 78.852 for service with the 12 participating employer for which the retired member is performing 13 volunteer services: and 14 4. Other than the status of volunteer, the retired member does not become 15 an employee, leased employee, or independent contractor of the 16 employer for which he or she is performing volunteer services for a 17 period of at least twelve (12) months following the retired member's most recent retirement date. 18 19 If a retired member, who provided volunteer services with a participating 20 employer under this paragraph violates any provision of this paragraph, then 21 he or she shall be deemed an employee of the participating employer as of the 22 date he or she began providing volunteer services and both the retired member 23 and the participating employer shall be subject to paragraphs (a) to (d) of this 24 subsection for the period of volunteer service; 25 Notwithstanding any provision of this section, any mayor or member of a city (f)

Page 151 of 170
XXXX Proposed House Substitute

legislative body shall not be required to resign from his or her position as

mayor or as a member of the city legislative body in order to begin drawing

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benefits from the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body, if the mayor or member of a city legislative body:

- 1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
- 2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems or the County Employees Retirement System but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System for any employment occurring on or after the effective retirement date;
- (g) If a member is receiving a retirement allowance from the County Employees
  Retirement System and enters into a contract or becomes a leased employee of
  an employer under contract with an employer participating in the County
  Employees Retirement System or the Kentucky Retirement Systems:
  - At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
  - 2. Within three (3) months following the member's initial retirement date, if the Authority determines the employment arrangement does not

Page 152 of 170
XXXX Proposed House Substitute

qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;

- 3. After three (3) months but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and
- 4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the Authority or submit any documentation for purposes of this section to the Authority. The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection;
- (h) The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Authority; and
- (i) Retired members of one (1) of the systems administered by Kentucky Retirement Systems who are reemployed by an employer in the County

Page 153 of 170

XXXX

Proposed House Substitute

1		Employees Retirement System on or after September 1, 2008, shall not be
2		eligible to earn a second retirement account in the County Employees
3		Retirement System for his or her service to the employer.
4	(5)	The Authority shall promulgate administrative regulations to implement the
5		requirements of this section, including incorporating by reference Authority-
6		prescribed forms that a retired member and participating agency shall provide the
7		systems under subsections (1) and (4) of this section.
8	(6)	"Reemployment" or "reinstatement" as used in this section shall not include a
9		retired member who has been ordered reinstated by the Personnel Board under
10		authority of KRS 18A.095. A retired member who has been ordered reinstated by
11		the Personnel Board under authority of KRS 18A.095 or by court order or by order
12		of the Human Rights Commission and accepts employment by an agency
13		participating in the Kentucky Employees Retirement System or County Employees
14		Retirement System shall void his or her retirement by reimbursing the system in the
15		full amount of his or her retirement allowance payments received.
16		→ Section 22. KRS 78.782 is amended to read as follows:
17	(1)	The County Employees Retirement System shall be administered by the board of
18		trustees composed of nine (9) members, who shall be selected as follows:
19		(a) Three (3) trustees, who shall be members or retired from the County
20		Employees Retirement System, elected by the members and retired members
21		of the County Employees Retirement System, of which:
22		1. Two (2) shall have a majority of his or her service credit earned in the
23		County Employees Retirement System in a nonhazardous position; and
24		2. One (1) shall have a majority of his or her service credit earned in the
25		County Employees Retirement System in a hazardous position;
26		(b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in

Page 154 of 170

XXXX

Proposed House Substitute

accordance with KRS 11.160 for each appointment or reappointment. Of the

1	six (6) trustees appointed by the Governor:
2	1. One (1) trustee with retirement experience shall be appointed from a list
3	of three (3) applicants submitted by the Kentucky League of Cities;
4	2. One (1) trustee with investment experience shall be appointed from a list
5	of three (3) applicants submitted by the Kentucky League of Cities;
6	3. One (1) trustee with retirement experience shall be appointed from a list
7	of three (3) applicants submitted by the Kentucky Association of
8	Counties;
9	4. One (1) trustee with investment experience shall be appointed from a list
10	of three (3) applicants submitted by the Kentucky Association of
11	Counties;
12	5. One (1) trustee with retirement experience shall be appointed from a list
13	of three (3) applicants submitted by the Kentucky School Boards
14	Association; and
15	6. One (1) trustee with investment experience shall be appointed from a list
16	of three (3) applicants submitted by the Kentucky School Boards
17	Association.
18	Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint
19	each individual trustee described by subparagraphs 1. to 6. of this paragraph
20	solely from each corresponding individual list required to be submitted by the
21	Kentucky League of Cities, the Kentucky Association of Counties, or the
22	Kentucky School Boards Association as provided by subparagraphs 1. to 6. of
23	this paragraph, and the Governor shall not be able to reject the list of
24	applicants submitted, request that another list be provided, or use a list
25	different from the one (1) individual list required to be submitted for each
26	specific appointment or reappointment;

(c) For purposes of paragraph (b) of this subsection, a trustee with "investment

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Page 155 of 170
XXXX Proposed House Substitute

1			experi	ence" means an individual who does not have a conflict of interest, as
2			provid	led by KRS 61.655, and who has at least ten (10) years of experience in
3			one (1	) of the following areas of expertise:
4			1.	A portfolio manager acting in a fiduciary capacity;
5			2.	A professional securities analyst or investment consultant;
6			3.	A current or retired employee or principal of a trust institution,
7			i	investment or finance organization, or endowment fund acting in an
8			i	investment-related capacity;
9			4.	A chartered financial analyst in good standing as determined by the CFA
10			]	Institute; or
11			5.	A university professor, teaching investment-related studies; and
12		(d)	For p	urposes of paragraph (b) of this subsection, a trustee with "retirement
13			experi	ence" means an individual who does not have a conflict of interest, as
14			provid	led by KRS 61.655, and who has at least ten (10) years of experience in
15			one (1	) of the following areas of expertise:
16			1. 1	Experience in retirement or pension plan management;
17			2.	A certified public accountant with relevant experience in retirement or
18			1	pension plan accounting;
19			3.	An actuary with relevant experience in retirement or pension plan
20			(	consulting;
21			4.	An attorney licensed to practice law in the Commonwealth of Kentucky
22			•	with relevant experience in retirement or pension plans; or
23			5.	A current or former university professor whose primary area of emphasis
24			i	is economics or finance.
25	(2)	The	board i	is hereby granted the powers and privileges of a corporation, including
26		but r	ot limi	ted to the following powers:

Page 156 of 170
XXXX
Proposed House Substitute

To sue and be sued in its corporate name;

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(a)

(b) To make bylaws not inconsistent with the law;

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- 2 (c) To conduct the business and promote the purposes for which it was formed;
- Except as provided in KRS 78.790(6), to contract for investment counseling, (d) auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to the provisions of KRS 6 Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;
  - (e) To purchase fiduciary liability insurance;
    - (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
    - The board shall reimburse any trustee, officer, or employee for any legal (g) expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
  - (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected or appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An elected or appointed trustee who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- 27 (4) The trustees selected by the membership of the system shall be elected by (a)

Page 157 of 170 XXXX Proposed House Substitute

1		ballot. For each trustee to be elected, the board may nominate, not less than
2		six (6) months before a term of office of a trustee is due to expire, three (3)
3		constitutionally eligible individuals.
4	(b)	Individuals may be nominated by the system members by presenting to the
5		executive director, not less than four (4) months before a term of office of a

number voting in the last election by the system members.

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

trustee is due to expire, a petition, bearing the name, last four (4) digits of the

Social Security number, and signature of no less than one-tenth (1/10) of the

- (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.
- (e) The ballots shall be addressed to the County Employees Retirement System in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic

Page 158 of 170

XXXX

Proposed House Substitute

1			ballots, shall be provided on the ballot.
2		(g)	The board's contracted firm shall report in writing the outcome to the chair of
3			the board of trustees. Costs of an election shall be payable from the funds of
4			the system.
5		(h)	For purposes of this subsection, an eligible voter shall be a person who was a
6			member of the system on December 31 of the year preceding the election year.
7		(i)	Each individual who submits a request to be nominated by the board under
8			paragraph (a) of this subsection and each individual who is nominated by the
9			membership under paragraph (b) of this subsection shall:
10			1. Complete an application developed by the system which shall include
11			but not be limited to a disclosure of any prior felonies and any conflicts
12			of interest that would hinder the individual's ability to serve on the
13			board;
14			2. Submit a resume detailing the individual's education and employment
15			history and a cover letter detailing the member's qualifications for
16			serving as trustee to the board; and
17			3. Authorize the system to have a criminal background check performed.
18			The criminal background check shall be performed by the Department of
19			Kentucky State Police.
20		(j)	In lieu of the ballots mailed to members and retired members as provided by
21			this subsection, the systems may by promulgation of administrative regulation
22			pursuant to KRS Chapter 13A conduct trustee elections using electronic
23			ballots, except that the systems shall mail a paper ballot upon request of any
24			eligible voter.
25	(5)	(a)	Any vacancy which may occur in an appointed position during a term of office
26			shall be filled in the same manner which provides for the selection of the

Page 159 of 170
XXXX
Proposed House Substitute

particular trustee, and any vacancy which may occur in an elected position

during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, the system shall notify members of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.

- (b) Any appointments or reappointments to an appointed position on the board shall be made at least thirty (30) days prior to an appointed member's term of office ending. The Governor's Office shall, with each appointment or reappointment, request lists to be submitted and base selections on those lists solely under the procedures and requirements provided by subsection (1)(b) of this section.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board and, if a trustee holds more than one (1) position as trustee on the board, he or she shall resign a position.
  - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
  - (c) A current or former employee of the County Employees Retirement System,
    Kentucky Retirement Systems, or the Kentucky Public Pensions Authority
    shall not be eligible to serve as a member of the board.
- 23 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive 24 a per diem of eighty dollars (\$80) for each day they are in session or on official 25 duty, and they shall be reimbursed for their actual and necessary expenses in 26 accordance with state administrative regulations and standards.
- 27 (8) (a) The board shall meet at least once in each quarter of the year and may meet in

Page 160 of 170
XXXX
Proposed House Substitute

1 special session upon the call of the chair or the chief executive officer.

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

- (c) A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 78.510 to 78.852. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.
  - (b) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
  - (c) The board shall have a system of accounting established by the Kentucky Public Pensions Authority.
- 25 (d) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS

Page 161 of 170
XXXX Proposed House Substitute

78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).

- (e) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 78.510 to 78.852 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the County Employees Retirement System board of trustees.
- 19 (10) The chief executive officer and general counsel of the board shall serve during its 20 will and pleasure. Notwithstanding any statute to the contrary, the chief executive 21 officer shall not be considered a legislative agent under KRS 6.611.
- 22 (11) The Attorney General, or an assistant designated by him or her, may attend each
  23 meeting of the board and may receive the agenda, board minutes, and other
  24 information distributed to trustees of the board upon request. The Attorney General
  25 may act as legal adviser and attorney for the board, and the board may contract for
  26 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- 27 (12) (a) The <u>Kentucky Public Pensions Authority</u>[system] shall publish an annual

Page 162 of 170

XXXX

Proposed House Substitute

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

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the County Employees Retirement System by KRS 61.505. The board shall submit any administrative expenses that are

Page 163 of 170

XXXX

Proposed House Substitute

1		spec	ific to	the County Employees Retirement System that are not otherwise covered
2		by K	RS 61	.505(11)(a).
3	(14)	Exce	ept as p	provided under subsection (16) of this section or KRS 61.665, any person
4		adve	ersely a	affected by a decision of the board involving KRS 78.510 to 78.852 may
5		appe	al the	decision of the board to the Franklin Circuit Court within sixty (60) days
6		of th	e boar	d action.
7	(15)	(a)	A tru	stee shall discharge his or her duties as a trustee, including his or her
8			dutie	s as a member of a committee:
9			1.	In good faith;
10			2.	On an informed basis; and
11			3.	In a manner he or she honestly believes to be in the best interest of the
12				County Employees Retirement System.
13		(b)	A tru	stee discharges his or her duties on an informed basis if, when he or she
14			make	es an inquiry into the business and affairs of the system or into a
15			partic	cular action to be taken or decision to be made, he or she exercises the
16			care a	an ordinary prudent person in a like position would exercise under similar
17			circu	mstances.
18		(c)	In dis	scharging his or her duties, a trustee may rely on information, opinions,
19			repor	ts, or statements, including financial statements and other financial data,
20			if pre	pared or presented by:
21			1.	One (1) or more officers or employees of the system or
22				Authority[authority] whom the trustee honestly believes to be reliable
23				and competent in the matters presented;
24			2.	Legal counsel, public accountants, actuaries, or other persons as to
25				matters the trustee honestly believes are within the person's professional
26				or expert competence; or
27			3.	A committee of the board of trustees of which he or she is not a member

Page 164 of 170

XXXX

Proposed House Substitute

1			if the trustee honestly believes the committee merits confidence.
2		(d)	A trustee shall not be considered as acting in good faith if he or she has
3			knowledge concerning the matter in question that makes reliance otherwise
4			permitted by paragraph (c) of this subsection unwarranted.
5		(e)	Any action taken as a trustee, or any failure to take any action as a trustee,
6			shall not be the basis for monetary damages or injunctive relief unless:
7			1. The trustee has breached or failed to perform the duties of the trustee's
8			office in compliance with this section; and
9			2. In the case of an action for monetary damages, the breach or failure to
10			perform constitutes willful misconduct or wanton or reckless disregard
11			for human rights, safety, or property.
12		(f)	A person bringing an action for monetary damages under this section shall
13			have the burden of proving by clear and convincing evidence the provisions of
14			paragraph (e)1. and 2. of this subsection, and the burden of proving that the
15			breach or failure to perform was the legal cause of damages suffered by the
16			system.
17		(g)	In discharging his or her administrative duties under this section, a trustee
18			shall strive to administer the system in an efficient and cost-effective manner
19			for the taxpayers of the Commonwealth of Kentucky and shall take all actions
20			available under the law to contain costs for the trusts, including costs for
21			participating employers, members, and retirees.
22	(16)	Whe	n an order by the system substantially impairs the benefits or rights of a
23		mem	ber, retired member, or recipient, except action which relates to entitlement to
24		disal	pility benefits, or when an employer disagrees with an order of the system as
25		prov	ided by KRS 61.598, the affected member, retired member, [or] recipient, or
26		empl	lover may request a hearing to be held in accordance with KRS Chapter 13B.

Page 165 of 170
XXXX
Proposed House Substitute

27

The board may establish an appeals committee whose members shall be appointed

	by the chair and who shall have authority to act upon the recommendations and
	reports of the hearing officer on behalf of the board. The member, retired member,
	recipient, or employer aggrieved by a final order of the board following the hearing
	may appeal the decision to the Franklin Circuit Court, in accordance with KRS
	Chapter 13B. The board may establish a joint administrative appeals committee
	with the Kentucky Retirement Systems and may also establish a joint disability
	appeals committee with the Kentucky Retirement Systems.
17)	The board shall establish a formal trustee education program for all trustees of the

- ( board. The program shall include but not be limited to the following:
  - A required orientation program for all new trustees elected or appointed to the (a) board. The orientation program shall include training on:
    - 1. Benefits and benefits administration:
    - 2. Investment concepts, policies, and current composition and administration of system investments;
    - 3. Laws, bylaws, and administrative regulations pertaining to the system and to fiduciaries; and
    - 4. Actuarial and financial concepts pertaining to the system.

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

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

Page 166 of 170 XXXX Proposed House Substitute

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(c) The system shall incorporate by reference in an administrative regulation,

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2		purs	uant to KRS 13A.2251, the trustee education program.
3	(18) In o	rder to	o improve public transparency regarding the administration of the system,
4	the	board	of trustees shall adopt a best practices model by posting the following
5	info	rmatio	on to the Kentucky Public Pensions Authority's Web site and shall make
6	avai	lable 1	to the public:
7	(a)	Mee	eting notices and agendas for all meetings of the board. Notices and
8		ager	ndas shall be posted to the Kentucky Public Pensions Authority's Web site
9		at l	east seventy-two (72) hours in advance of the board or committee
10		mee	tings, except in the case of special or emergency meetings as provided by
11		KRS	S 61.823;
12	(b)	The	Comprehensive Annual Financial Report with the information as follows:
13		1.	A general overview and update on the system by the executive director;
14		2.	A listing of the board of trustees;
15		3.	A listing of key staff;
16		4.	An organizational chart;
17		5.	Financial information, including a statement of plan net assets, a
18			statement of changes in plan net assets, an actuarial value of assets, a
19			schedule of investments, a statement of funded status and funding
20			progress, and other supporting data;
21		6.	Investment information, including a general overview, a list of the
22			system's professional consultants, a total net of fees return on system
23			investments over a historical period, an investment summary, contracted
24			investment management expenses, transaction commissions, and a
25			schedule of investments;
26		7.	The annual actuarial valuation report on the pension benefit and the
27			medical insurance benefit; and

Page 167 of 170

XXXX

Proposed House Substitute

1		8. A general statistical section, including information on contributions,
2		benefit payouts, and retirement system demographic data;
3	(c)	All external audits;
4	(d)	All board minutes or other materials that require adoption or ratification by
5		the board of trustees. The items listed in this paragraph shall be posted within
6		seventy-two (72) hours of adoption or ratification of the board;
7	(e)	All bylaws, policies, or procedures adopted or ratified by the board of trustees;
8	(f)	The system's summary plan description;
9	(g)	A document containing an unofficial copy of the statutes governing the
10		system;
11	(h)	A listing of the members of the board of trustees and membership on each
12		committee established by the board, including any investment committees;
13	(i)	All investment holdings in aggregate, fees, and commissions for each fund
14		administered by the board, which shall be updated on a quarterly basis for
15		fiscal years beginning on or after July 1, 2021. The system shall request from
16		all managers, partnerships, and any other available sources all information
17		regarding fees and commissions and shall, based on the requested information
18		received:
19		1. Disclose the dollar value of fees and commissions paid to each
20		individual manager or partnership;
21		2. Disclose the dollar value of any profit sharing, carried interest, or any
22		other partnership incentive arrangements, partnership agreements, or any
23		other partnership expenses received by or paid to each manager or
24		partnership; and
25		3. As applicable, report each fee or commission by manager or partnership
26		consistent with standards established by the Institutional Limited
27		Partners Association (ILPA).

Page 168 of 170
XXXX
Proposed House Substitute

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

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- (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2021;
- (k) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the Kentucky Public Pensions Authority's Web site, the system may provide the information through a Web site established by the executive branch to inform the public about public employee salaries and wages;
- All contracts or offering documents for services, goods, or property purchased or utilized by the system for contracts or offering documents entered into on or after July 1, 2021; and
- (m) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public.
- 20 (19) Notwithstanding the requirements of subsection (18) of this section, the system 21 shall not be required to furnish information that is protected under KRS 61.661, 22 exempt under KRS 61.878, or that, if disclosed, would compromise the system's 23 ability to competitively invest in real estate or other asset classes, except that no 24 provision of this section or KRS 61.878 shall exclude disclosure and review of all 25 contracts, including investment contracts, by the board, the Auditor of Public 26 Accounts, and the Government Contract Review Committee established pursuant to 27 KRS 45A.705 or the disclosure of investment fees and commissions as provided by

Page 169 of 170
XXXX
Proposed House Substitute

this section. If any public record contains material which is not excepted under this 2 section, the system shall separate the excepted material by removal, segregation, or 3 redaction, and make the nonexcepted material available for examination.

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

→ Section 23. Whereas the prompt administration of retirement benefits by the Kentucky Public Pensions Authority is a matter of the utmost importance to state and local employees and retirees and the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

XXXX Proposed House Substitute