

18A.245 Board of trustees -- Membership, terms, meetings -- Powers -- Executive director -- Annual financial report.

- (1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:
 - (a) Secretary, Finance and Administration Cabinet, ex officio;
 - (b) Secretary of personnel, ex officio;
 - (c) The state controller, ex officio;
 - (d) The State Treasurer, ex officio; and
 - (e) Three (3) at-large members appointed by the Governor, who do not have a conflict of interest as provided by KRS 18A.262, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.
- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office. Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) 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 applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chair. It shall elect a chair and a vice chair. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.
- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
 - (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The authority shall be headed by an executive director who shall be appointed by the board of trustees of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;

- (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
 - (c) Establish a system of accounting;
 - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
 - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:
 - 1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
 - 2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; and
 - 3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees;
 - (f) Contract with persons or companies duly licensed by the State of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund or individual participant accounts, to provide investment advice and financial planning to participants in the plans, with respect to their selection of investments. The board may promulgate administrative regulations for provision of financial planning to participants in the plans;
 - (g) Contract with companies duly licensed by the State of Kentucky and applicable federal regulatory agencies to provide self-directed brokerage accounts to participants for their individual selection of plan account investments. Such contracts with self-directed brokerage account vendors shall be exempt from KRS Chapters 45 and 45A. The board may promulgate administrative regulations in accordance with KRS Chapter 13A for the provision of self-directed brokerage accounts to participants; and
 - (h) Promulgate administrative regulations in accordance with KRS Chapter 13A, provided the regulations are not inconsistent with KRS 18A.230 to 18A.275, necessary or proper in order to carry out the provisions of this section and duties authorized by KRS 18A.230 to 18A.275.
- (8) The Attorney General, or an assistant designated by him or her, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

- (10) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 18A.230 to 18A.275 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. secs. 401(a) and 457(b), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Kentucky Public Employees 401(k) Deferred Compensation Plan and the Kentucky Employees 457(b) Deferred Compensation Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. secs. 401(a) and 457(b).

Effective: June 27, 2025

History: Amended 2025 Ky. Acts ch. 141, sec. 3, effective June 27, 2025. -- Amended 2021 Ky. Acts ch. 102, sec. 40, effective June 29, 2021; and repealed, reenacted, and amended 2021 Ky. Acts ch. 111, sec. 2, effective June 29, 2021. -- Amended 2019 Ky. Acts ch. 153, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 107, sec. 84, effective July 14, 2018. -- Amended 2012 Ky. Acts ch. 10, sec. 5, effective July 12, 2012. -- Amended 2008 Ky. Acts ch. 181, sec. 3, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 123, sec. 2, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 154, sec. 50, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 496, sec. 25, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 154, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 234, sec. 3, effective July 13, 1984. -- Repealed, reenacted, and amended as KRS 18A.245, 1982 Ky. Acts ch. 448, sec. 49, effective July 15, 1982. -- Created 1974 Ky. Acts ch. 143, sec. 5.

Formerly codified as KRS 18.540.

Legislative Research Commission Note (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.