

**CHAPTER 176****(HB 438)**

AN ACT relating to retirement.

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

Section 1. KRS 61.621 is amended to read as follows:

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes disabled as a result of a duty-related injury.
- (2) (a) For purposes of this section, "duty-related injury" means:
  1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or
  - b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and
  2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
- (b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.
- (3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.
- (b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death ~~or until the spouse remarries, whichever occurs first~~.
- (4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.
- (5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed

forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

- (6) This section shall be known as "The Fred Capps Memorial Act."

Section 2. KRS 16.601 is amended to read as follows:

- (1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death~~[or until the spouse remarries, whichever occurs first]~~.
- (2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).
- (3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.
- (4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

**Approved April 2, 2002**