

**CHAPTER 36****(HB 519)**

AN ACT relating to retirement.

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

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "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 member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;
- (8) "Creditable compensation" means all salary and wages, 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 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but 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)*~~{employer}~~. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the 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;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member 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 16.545(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 (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;
- (15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;
- (16) "Disability retirement date" means the first day of the month following ***the last day of paid employment***~~[total and permanent disability or hazardous disability]~~;
- (17) "Dependent child" means a child ***in the womb***~~[en ventre sa mere]~~ and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.510 to 16.652 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;
- (24) "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 pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by 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" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, 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 be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can 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 diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and
- (34) "Month" means a calendar month.

Section 2. KRS 16.510 is amended to read as follows:

There is hereby created and established:

- (1) A retirement system for state police to be known as the "State Police Retirement System" by and in which name it shall, pursuant to the provisions of KRS 16.510 to 16.652, transact all of its business, and shall have the powers and privileges of a corporation; and
- (2) A ~~state~~ fund, to be known as the "State Police Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 16.555. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 16.505 to KRS 16.652.***

Section 3. KRS 16.578 is amended to read as follows:

- (1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the

member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635.

- (5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus or the administrator or executor of the estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.
- (6) The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.
- (7) In the case of a single beneficiary who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity, for payments for sixty (60) months certain, for payments for one hundred twenty (120) months certain, for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

Section 4. KRS 16.582 is amended to read as follows:

- (1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be 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.

- (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 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
  - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; 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 as a regular full-time officer or in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
- (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (b) The incapacity is deemed to be permanent; and
  - (c) The incapacity does not result directly or indirectly from:
    - 1. Injury intentionally self-inflicted while sane or insane;
    - 2. Injury or disease resulting from military service; or
    - 3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
      - a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
      - b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.
- For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.
- (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for 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:
1. 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.
  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) The disability retirement allowance shall be determined as provided in KRS 16.576, *except* ~~subject to the following:~~

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

~~[(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.]~~

- (6) 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, the member's retirement allowance shall be calculated as follows:
- (a) 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 twenty-five percent (25%) of the member's monthly final rate of pay; and
  - (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
- (7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.
- (8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.
- (9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 5. KRS 16.642 is amended to read as follows:

- (1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.
- (2) All ~~registered~~ securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by



KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.

- (3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 6. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Transfer of dormant accounts, as provided for by KRS 61.626;
- (14) Member's account, confidential, as provided for by KRS 61.661;
- (15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (16) Correction of errors in records, as provided for by KRS 61.685;
- (17) Maximum disability benefit, as provided for by KRS 61.607;
- (18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (19) Employer contributions, as provided for by KRS 61.565;
- (20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (21) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (22) Refund of contributions, conditions, as provided by KRS 61.625;
- (23) Hospital and medical insurance plan, as provided by KRS 61.702;
- (24) Death benefit, as provided by KRS 61.705;
- (25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (26) Service credit, Armed Forces, as provided by KRS 61.555;

- (27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;~~and~~
- (33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637; *and*
- (34) ***Medical examination and financial review after disability retirement, staff review, as provided in Section 17 of this Act.***

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (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 61.515 to 61.705;
- (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;
- (7) "State" means the Commonwealth of Kentucky;
- (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 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;

- (10) "Current service" means the number of years and months of employment as an 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' contribution 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;
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax 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), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars (\$27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but 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)*~~employer~~. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (14) "Final compensation" of a member means:

- (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars (\$27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
  - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, 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; or
  - (c) For a member 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 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;
- (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). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. 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;
  - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except 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. No disability retirement option shall be less than the same option computed under early retirement;
  - (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. ***The term shall also apply to ~~and the~~ assistants who were ~~if~~ employed by the General Assembly for at least one (1) regular legislative session prior to the effective date of this Act, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after the effective date of this Act shall be designated as interim employees;***
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions 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 which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
  - (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;
  - (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) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (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;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (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 pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by 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" does not mean an estate, trust, or trustee;

- (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 be considered a recipient only for purposes of KRS 61.691;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can 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 diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and
- (35) "Month" means a calendar month.

Section 8. KRS 61.515 is amended to read as follows:

There is hereby created and established:

- (1) A retirement system for employees to be known as the "Kentucky Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 61.510 to 61.705, transact all its business and shall have the powers and privileges of a corporation; and
- (2) A ~~state~~ fund, called the "Kentucky Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 61.510 to KRS 61.705.***

Section 9. KRS 61.542 is amended to read as follows:

- (1) Prior to the time the first retirement allowance payment is issued by the State Treasurer:
  - (a) Each member may designate *on the form prescribed by the board* one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.
  - (b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.
    1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries. *If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.*
    2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.
    3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the State Treasurer, the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.
  - (c) This designation shall remain in full force and effect until changed by the member, except:
    1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.
    2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.
    3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries, *except that if the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member.*
    4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.
- (2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.
  - (b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.
  - (c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.
  - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.
- (3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.
- (4) When a notification of retirement has been filed at the retirement office:
- (a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.
  - (b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.
  - (c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the State Treasurer, the member may designate another beneficiary on the member's notification of retirement.
- (5) After the first retirement allowance payment is issued by the State Treasurer and subsequent thereto, a member shall not have the right to change his beneficiary, except that:
- (a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.
  - (b) The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death.
  - (c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 10. KRS 61.545 is amended to read as follows:

- (1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.



- (2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, ***a participating community action agency***, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment. Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment.
- (b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.
- (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
- (3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.
- (b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.
- (c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 11. KRS 61.552 is amended to read as follows:

- (1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the

system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, *who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and* who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, *who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and* who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, *who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,* may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, *who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,* may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

- (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.
- (6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.
- (7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.
- (8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit or defined contribution retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.
- (9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);
- (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who

were employees on the participation date of the department and elected coverage under KRS 61.525(2);

- (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;
  - (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;
  - (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- (10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.
- (11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).
- (12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

- (b) Any non certified<sup>27</sup> employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).
- (13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:
- (a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
- (b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.
- (14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of ~~authorized~~<sup>approved</sup> maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of ~~authorized~~<sup>approved</sup> sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

- (16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.
- (a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.
  - (b) One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
  - (c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.
  - (d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
  - (e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.
  - (f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave

or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

- (g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.
- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.
- (18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.
- (19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the

other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

- (20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.
- (21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.
- (22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).
- (23)
  - (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.
  - (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.



- (24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.
- (25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.
- (26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.
- (27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations

Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

- (28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).
- (29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- (a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
  - (b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
  - (c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (30) *An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given, by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).*

Section 12. KRS 61.555 is amended to read as follows:

- (1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated contributions, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent

termination of any total disability which existed at the expiration of the two (2) years after discharge.

- (2) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years.
- (3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.
- (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.
- (5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.
- (6)~~(a)~~ Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

~~[(b) Notwithstanding any other provision to the contrary, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has at least one hundred eighty (180) months of service in the systems administered by Kentucky Retirement Systems shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under this section, by paying the retirement system fifty percent (50%) of the cost under KRS 61.5525 no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement under KRS 61.552. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.]~~

- (7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 13. KRS 61.590 is amended to read as follows:

- (1) A member or beneficiary 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 have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.
- (2) Within ten (10) days of the receipt of the notification of retirement form submitted within two (2) months of the effective date of retirement, the 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. If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.
- (3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.
- (4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

- (5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office or a future month designated by the member, if employment in a regular full-time position has been terminated and if the member files the "Estimated Retirement Allowance Form" no later than six (6) months following termination.
- (6) 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 wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his 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 retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 14. KRS 61.595 is amended to read as follows:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:
  - (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;
  - (b) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;

- (c) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;
  - (d) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;
  - (e) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512); and
  - (f) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.
- (2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.
- (b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

- (3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.
- (4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars (\$2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars (\$100) greater or less than the amount of the initial retirement payment.

Section 15. KRS 61.600 is amended to read as follows:

- (1) Any person may qualify to retire on disability, subject to the following conditions:
  - (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);
  - (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 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510; *and*
  - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665.~~;~~
- ~~(2)(e)~~ A person's disability *reapplication*~~[application]~~ based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The *reapplication*~~[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 position~~;~~ *and*
- ~~(f)~~ ~~A person who had previously applied for and was denied disability benefits by the board on or before December 31, 1996, because of the pre-existing disease of poliomyelitis may file a new application for disability benefits no later than December 31, 2002, at the office of the retirement systems, and subsection(2)(d) of this section shall not apply to the new application if the person applying under this paragraph has at least ten (10) years of current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems].~~
- ~~(3)(2)~~ Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
  - (a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

- (b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (c) The incapacity is deemed to be permanent; and
  - (d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.
- ~~(4)~~~~(3)~~ Paragraph (d) of subsection **(3) of this section**~~(2)~~ shall not apply if:
- (a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
  - (b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.
- ~~(5)~~~~(4)~~
- (a)
    - 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.
    - 2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
  - (b) The person's residual functional capacity shall be the person's capacity for 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:
    - 1. 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.
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.

Section 16. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the *person's*~~employee's~~ total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the *person*~~employee~~ had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, *a person*~~an employee~~ has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

Section 17. KRS 61.610 is amended to read as follows:

- (1) Once each year following the retirement of a *person*~~member~~ on a disability retirement allowance, 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 normal retirement date, to undergo *an employment*~~a financial~~ and medical staff review and, if necessary, be required to *file at the retirement office on the review form prescribed by the board*~~submit~~ current *employment information and current* medical information *for the bodily injury, mental illness, or disease for which he receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system mailed the review form to the person's last address on file in the retirement office 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 Section 18 of this Act.*

- (2) *If, after good faith efforts, the person informs the system that he 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.*
- (3) *If the person fails or ~~he~~ refuses ~~to submit~~ to file at the retirement office the review form, including the current employment and medical information ~~[a medical examination]~~, his 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 mailed the review form to the person's last address on file in the retirement office. The system 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. If the person's benefits are discontinued or reduced under this section, his rights to further disability retirement allowances shall cease, except as provided by Section 18 of this Act ~~[until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease].~~*
- ~~[(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.]~~

Section 18. KRS 61.615 is amended to read as follows:

- (1) *If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his 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 was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the system ~~board~~ 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 ~~[it is determined]~~ that a ~~[any disabled]~~ recipient of a disability retirement allowance is, prior to his normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance ~~[able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified].~~*
- (3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize ~~the~~ ~~[procedures consistent with KRS 61.665, including]~~ services of a medical examiner as provided in Section 26 of this Act ~~[an examiner]~~, in determining *whether to continue, reduce, or discontinue a disability ~~[the amount of reduction in] 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.*
    - a. *The person shall have sixty (60) days from the day that the system 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 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 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 mailed the notice of the recommendation to the person's last address on file in the retirement office.*
- (d) *The medical examiner shall make a recommendation based upon the evaluation of additional supporting medical information submitted in accordance with paragraph (c)2.a. of this subsection.*
  - 1. *If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability 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 based upon the evaluation of additional supporting medical information, the system shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office.*
    - a. *The person shall have sixty (60) days from the day that the system 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 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 mailed the notice of the recommendation to the person's last address on file in the retirement office.*

- (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, except as provided in paragraph (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 mailed the order to the person's last address on file in the retirement office. 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 mailed to the person or his legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his 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.*
- (5) *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.*
- (6)~~(4)~~ *If a disability retirement allowance is reduced or discontinued, the ~~person~~~~member~~ may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:*
  - (a) *The ~~person~~~~member~~ may not change his beneficiary or payment option;*

- (b) If the *person*~~[member]~~ has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the *person's*~~[member's]~~ final compensation shall not be less than the final compensation last used in determining his retirement allowance;
  - (c) The benefit shall be reduced as provided by KRS 61.595(2);
  - (d) The *person*~~[member]~~ shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age. *The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. 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*~~[member]~~ shall receive the higher of either his disability retirement allowance or his early retirement allowance.
- (7)~~(5)~~ No disability retirement allowance shall be reduced or discontinued by the system after the *person's*~~[member'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*~~[member]~~ is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the *person's*~~[member's]~~ normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the *person*~~[recipient]~~ is receiving upon attainment of the *person's*~~[member's]~~ normal retirement age.

Section 19. 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 ***totally and permanently disabled to engage in any occupation for remuneration or profit*** 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.
- (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 20. KRS 61.623 is amended to read as follows:

- (1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.
- (2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an authorization for deposit of retirement payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.
- (3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.
- (4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new authorization for deposit of retirement payment form and filing the form at the retirement office in Frankfort. The last authorization for

deposit of retirement payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

- (5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a request for payment by check form.
- (b) The request shall be approved if:
1. The recipient certifies that he does not currently have an account with a financial institution; *or*
  2. The recipient's bank certifies that it does not participate in the electronic funds transfer program; ~~or~~
  3. ~~The recipient shows that the requirement would create an undue hardship].~~
- (c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an authorization for direct deposit of retirement payment form and file it with the retirement office.

Section 21. KRS 61.630 is amended to read as follows:

- (1) If a retired member who did not elect an optional retirement plan dies at any time after retirement but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to his accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the properly designated beneficiary. If a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. If a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.
- (2) If a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.
- (3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.
- (4) If a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS ~~16.576~~, 16.578, or 61.640, *or* a beneficiary receiving a retirement allowance under ~~the life with ten (10) years certain option selected by the member under~~ KRS 61.635(5), (6) *or* (7), ~~or a beneficiary receiving a retirement allowance for the~~

~~duration of ten (10) years certain as prescribed in KRS 16.576] dies before receiving all payments under the plan, the executor or administrator of his estate shall [may elect to] receive a lump sum payment which shall be the actuarial equivalent to the remaining payments[, or the executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary].~~

- (5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

Section 22. KRS 61.640 is amended to read as follows:

- (1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary



may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

- (4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.
- (5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.
- (6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.
- (7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the ~~beneficiary~~ Social Security **adjustment option** ~~payment~~ shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.
- (8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 23. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
  - (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
  - (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
  - (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
  - (e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
  - (b) To make bylaws not inconsistent with the law;
  - (c) To conduct the business and promote the purposes for which it was formed;
  - (d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;
  - (e) To purchase fiduciary liability insurance;
  - (f) 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 without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and
  - (g) The board shall reimburse any trustee, ~~or~~ officer, *or employee* for any legal expense resulting from a civil action arising out of the performance of his official duties.
- (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than *five (5)* ~~three (3)~~ consecutive four (4) year terms. An elected trustee who has served *five (5)* ~~three (3)~~ consecutive terms may be elected again after an absence of four (4) years from the board.
- (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, 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;

- (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. Provisions shall also be made for write-in votes;
  - (d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;
  - (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;
  - (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;
  - (g) The board's contracted auditing 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.
- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.
- (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 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.
- (7) Trustees who do not otherwise receive a 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.
- (8) 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 or the executive director. It shall elect a chair and a vice chair. 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 an executive director and fix the compensation and other terms of employment for this position without

limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

- (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.
- (c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:
  1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;
  2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;
  3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;
  4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;
  5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
  6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;
  7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
  8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an

employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
  10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
  11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:
1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
  2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
  3. A classification plan including provisions describing class specifications, position actions, and employee actions;
  4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
  5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
  6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
  7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.

- (e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
  - (f) The board shall establish a system of accounting.
  - (g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 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 61.515 to 61.705, 16.510 to 16.652, and 78.520 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 61.515 to 61.705, 16.510 to 16.652, and 78.520 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). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.
- (10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
  - (11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
  - (12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant 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 discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems 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.
  - (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. Any

other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the 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.

- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:
1. In good faith;
  2. On an informed basis; and
  3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
  2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
  3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise 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:
1. 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 paragraphs (e)1. and (e)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.
- (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, the affected member, retired member, or recipient 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 reports of the hearing officer on behalf of the board. The member, retired member, or recipient 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.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 24. KRS 61.650 is amended to read as follows:

- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
- (b) The board may establish an investment committee whose members shall be appointed by the board chair. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee, *officer*, *employee*, or other fiduciary shall discharge duties with respect to the retirement system:
  1. Solely in the interest of the members and beneficiaries;
  2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
  3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
  4. Impartially, taking into account any differing interests of members and beneficiaries;
  5. Incurring any costs that are appropriate and reasonable; and
  6. In accordance with a good-faith interpretation of the law governing the retirement system.
- (2) All ~~registered~~ securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.



- (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 25. KRS 61.660 is amended to read as follows:

- (1) The State Treasurer shall be the custodian of the funds received under authority of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852 and shall be responsible for the safekeeping of all cash and securities in his custody. All payments from the fund shall be made by him on warrants issued by the Finance and Administration Cabinet. Payments may be in the form of checks, which shall clearly show on the envelope or other mailing device the name and address of the Kentucky Retirement Systems, or direct deposit bank transfers.
- (2) The board shall appoint a custodian or custodians of the *cash and* securities acquired under authority of KRS 61.510 to 61.705, 16.510 to 16.652, and 78.510 to 78.852; and the custodian or custodians shall be responsible for the safekeeping of *all cash and* securities in his custody.

Section 26. KRS 61.665 is amended to read as follows:

- (1) The board shall employ 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 board may employ one (1) or more licensed mental health professionals~~[as consultants to assist]~~ in making *recommendations regarding*~~[determinations where there is objective medical evidence of]~~ mental impairments.
- (2) (a) Each *person*~~[employee]~~ requesting disability retirement shall file at the retirement office *an application for disability retirement and supporting medical*~~[the names and addresses of all, but no fewer than two (2), physicians who have the necessary]~~ information to report the *person's*~~[employee's]~~ physical and mental condition. The *person*~~[employee]~~ shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the *person*~~[employee]~~ 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. *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 system that he 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*~~[an employee]~~ fails to file, at the retirement office within *one hundred*

*eighty (180) days*~~[six (6) months]~~ of the date the *person*~~[employee]~~ filed his notification of retirement, any of the *forms, certifications, or* information required by this subsection, the *person's*~~[employee's]~~ application for disability retirement~~[benefits]~~ 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 subsection (2) of Section 15 of this Act.*

- (b) The employer shall file at the retirement office a complete description of the job and duties for which the *person*~~[employee]~~ was last paid and shall submit a detailed description of reasonable accommodations attempted.
- ~~(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.~~
- ~~(d) The cost of [a] medical *examinations and the filing of the medical information, reports, or data with the retirement office*[examination] shall be paid by the *person applying for disability retirement*[employee]. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.~~
- (d)~~(e)~~ The system shall select *three (3)*~~[a]~~ medical *examiners*~~[examiner]~~ to evaluate the medical evidence submitted by the *person*~~[employee's physician]~~. The *medical examiners*~~[examiner]~~ shall recommend that disability retirement be approved, or that disability retirement be denied.~~[If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation.]~~ If there is~~[objective medical]~~ evidence of *a* mental *impairment*~~[impairments]~~, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment.~~[Recommendations by the examiners shall be submitted to the board for approval.]~~
- (e)~~(f)~~ If *two (2) or more of the three (3)* medical examiners recommend that the *person*~~[employee]~~ be approved for disability retirement, the *system*~~[executive director]~~ shall make retirement payments in accordance with the retirement plan selected by the *person*~~[employee]~~.
- (f)~~(g)~~ If *two (2) or more of the three (3)* medical examiners recommend that the *person*~~[employee]~~ be denied disability retirement, the *system*~~[executive director]~~ shall *send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office*~~[notify the employee of this recommendation]~~. The *person*~~[employee]~~ shall have *one hundred eighty (180)*~~[sixty (60)]~~ days *from the day that the system 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 denial ~~of [for]~~ disability retirement~~[benefits]~~ 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 subsection (2) of Section 15 of this Act*~~[An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing].~~

- (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 system shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office. The person shall have one hundred eighty (180) days from the day that the system mailed the notice to appeal his 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)~~(i)~~ Notwithstanding the foregoing provisions of this section, the system may 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*~~[direct that a specialist be sought].~~
- (3) ~~[Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.]~~
- (a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(f) or (2)(h)~~[(2)(g)]~~ of this section~~[ or KRS 61.615(1)]~~ may file at the retirement office a request for *a formal*~~[an administrative]~~ hearing *to be conducted in accordance with KRS Chapter 13B*~~[with the system]~~. The right to demand a *formal* hearing shall be limited to a period of *one hundred eighty (180)*~~[sixty (60)]~~ days after the *person*~~[requester has]~~ had notice *of the system's determination*, as described in subsection (2)(f) or (2)(h)~~[(6)]~~ of this section~~[, of the system's determination]~~. The request *for a formal hearing* shall be filed with the executive director, at the *retirement*~~[system's central]~~ office in Frankfort. The request for a *formal* hearing shall include a short and plain statement of the reasons the~~[reduction, discontinuance, or]~~ denial of disability *retirement*~~[benefits]~~ is being contested.~~[The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.]~~

- (b) Failure of the *person*~~[member]~~ to request a formal hearing within the period of time specified shall preclude the *person*~~[member]~~ from proceeding any further with *the application for disability retirement*~~[his cause of action]~~, except as provided in KRS 61.600(2)~~(1)(e)]~~. This paragraph shall not limit the *person's*~~[member's]~~ right to appeal to a court.
- (c) The system may require the *person*~~[member]~~ 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 mailed to the *person*~~[member]~~ or his 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.
- ~~(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.~~
- ~~(f) 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.
- (5) 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.
- (6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if 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.
  - (b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 27. KRS 61.675 is amended to read as follows:

- (1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.
- (2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts,

reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

- (3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office *on or before* ~~[within twenty (20) days of]~~ the tenth day of the month following the period being reported. If the agency fails to forward all contributions *on or before the tenth day of the month following the period being reported* ~~[within the twenty (20) days]~~, interest *on the delinquent contributions* at the actuarial rate adopted by the board compounded annually ~~[on the delinquent contributions]~~, but not less than one *thousand* ~~[hundred]~~ dollars *(\$1,000)* ~~[\$100]~~, shall be added to the amount due the system.

Section 28. KRS 61.685 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS Chapter 413, upon discovery of any error *or omission* in system records, the system shall correct all records including, but not limited to, membership in the system, service credit, member and employer contributions, and benefits paid or payable. *The system may conduct audits to detect possible fraud, misrepresentation, and change in circumstance, which may result in errors or omissions in the system's records. The system, by its executive director or by representatives appointed in writing by the executive director, may take testimony or depositions, and may examine records, documents, or files of any person whose records, documents, or files may furnish knowledge concerning any system records, when the executive director or representative deems this reasonably necessary for purposes incident to the performance of the system's functions. The system may enforce these powers by application to the Franklin Circuit Court, which court may compel compliance with the orders of the executive director or representatives appointed by the executive director.*
- (2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.

Section 29. KRS 61.701 is amended to read as follows:

- (1) There is hereby created and established a ~~[state]~~ fund to be known as "Kentucky Retirement Systems Insurance Fund." *All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.*
- (2) The fund is created pursuant to 26 U.S.C. sec. 106 for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits as provided in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.
- (3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 30. KRS 61.702 is amended to read as follows:

- (1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.
  - (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
  - (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 (7) of this section.
- (2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance 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 to each respective retirement system determined under KRS 61.565.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
    1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
    2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
    3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. 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 Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.
5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits 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.***

- (b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.
1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance 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 total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund 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 under this subsection through more than one (1) of the state-administered retirement plans.
  3. A state-administered retirement plan 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.
- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, **each dependent child**~~[dependents]~~, and **each** disabled **child**~~[children]~~, 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~~[hospital and medical insurance]~~ is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and **for each dependent child**~~[dependents]~~ of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System~~[, or the beneficiary of the member, if the member designated only one (1) person as beneficiary]~~. The percentage of the monthly contribution paid for the spouse and **each dependent child**~~[dependents]~~ of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, 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.

- (c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or **each dependent child**~~[dependents or beneficiary]~~ of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or **each dependent child**~~[or beneficiary]~~ after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent **child**~~[or beneficiary]~~ is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) 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 insurance fund 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.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance 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 at 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 premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8) For employees **having a membership date**~~[hired]~~ on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems. An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be

entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

Section 31. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government 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;
- (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;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (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 qualifies as a regular full-time officer. The term shall not include persons 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 78.520 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected 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;
- (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 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (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;
- (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, 1958, for which creditable compensation was paid. 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. Twelve (12) months of current service in the 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' contribution 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;
- (13) "Creditable compensation" means all salary, wages, 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 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but 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)***~~[employer]~~. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (14) "Final compensation" means:
- (a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
  - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, 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. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or
  - (c) For a member 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 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;

- (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;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean 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 six (6) months in any event;
  - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
  - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
  - (d) 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 be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "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 pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by 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 shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, 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 be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and
- (32) "Month" means a calendar month.

Section 32. KRS 78.520 is amended to read as follows:

There is hereby created and established:

- (1) A retirement system for employees to be known as the "County Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 78.510 to 78.852, transact all of its business and shall have the powers and privileges of a corporation; and

- (2) A ~~state~~ fund, called the "County Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 78.510 to 78.852. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 78.510 to KRS 78.852.***

Section 33. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, ~~which operates in more than one (1) state,~~ may decline prior to their participation in the system;
- (2)
  - (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;
  - (b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;
- (3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
- (4) All persons electing coverage in the system under KRS 78.530(3)(d).
- (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.
- (6) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 34. KRS 78.625 is amended to read as follows:

- (1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

- (2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.
- (3) (a) If the agency reporting official fails to forward all contributions *on or before*~~[by]~~ the *tenth*~~[twentieth]~~ day of the month following the period being reported, interest *on the delinquent contributions* at the actuarial rate adopted by the board compounded annually~~[- on the delinquent contributions]~~, but not less than one *thousand*~~[hundred]~~ dollars (*\$1,000*)~~[\$100]~~, shall be added to the amount due the system.
- (b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.
- (4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions, *with interest at the rate adopted by the board compounded annually, or penalties* have been *paid to the system*~~[made]~~.

Section 35. KRS 78.790 is amended to read as follows:

- (1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.
- (2) All~~[- registered]~~ securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and executive director of the systems.
- (3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 36. The following KRS sections are repealed:

- 16.537 Service credit for other public employment by delayed contribution payment --  
Recalculation of benefits for retirees.
- 16.596 Medical examinations after disability retirement.
- 61.558 Service credit for other public employment by delayed contribution payment --  
Recalculation of benefits for retirees.

78.605 Service credit for other public employment by delayed contribution payment --  
Recalculation of benefits for retirees.

**Approved April 2, 2004**