

**CHAPTER 189**

**(HB 555)**

AN ACT relating to retired teachers, making an appropriation therefor, and declaring an emergency.

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

Section 1. KRS 161.553 is amended to read as follows:

- (1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ~~2008~~~~[2006]~~:

(a)	Cost of Living Allowance	<del>2006-2007</del> <del>[2004-2005]</del>	Each Succeeding Fiscal Year
			<del>1990-1992</del> \$4,901,700 <del>in 2005-2006</del>
			1992-1994 \$2,229,400 <del>through 2006-2007</del>
			<del>and</del>
			\$1,125,700 in 2007-2008
			1994-1996 \$6,142,000 \$6,142,000 through 2010-2011
			1996-1998 \$4,459,000 \$4,459,000 through 2010-2011
			1998-2000 \$15,333,900 \$15,333,900 through 2012-2013
			<del>and</del>
			\$7,938,600 through 2013-2014
			2000-2002 \$12,511,400 \$12,511,400 through 2014-2015
			<del>and</del>
			\$7,227,700 in 2015-2016
			2002-2004 \$21,405,700
			\$21,405,700 through 2021-2022
			<del>and</del>
			\$11,204,100 in 2022-2023
			<b>2004-2006 \$15,413,700 \$15,413,700 through 2023-2024</b>

*and*

**\$7,421,400 in 2024-2025**

(b) Minimum Value **2006-2007**~~[2004-2005]~~ Each Succeeding Fiscal Year

Annuities

<del>[</del>	<del>1990-1992</del>	<del>\$2,246,900</del>	<del>\$1,232,100 in 2005-2006]</del>
	1992-1994	\$2,217,700	<del>[\$2,217,700 through 2006-2007]</del>
	1994-1996	\$2,126,000	\$2,126,000 through 2008-2009
	2002-2004	\$3,375,900	

\$3,375,900 through 2016-2017

and

\$2,027,800 in 2017-2018

(c) Sick Leave **2006-2007**~~[2004-2005]~~ Each Succeeding Fiscal Year

Allowance

1998-2000 \$4,660,300 \$4,660,300 through 2012-2013

and

\$2,425,900 through 2013-2014

2000-2002 \$6,167,100 \$6,167,100 through 2014-2015

and

\$3,579,100 in 2015-2016

2002-2004 **\$5,337,000**~~[\$6,282,500]~~ **\$5,337,000**~~[\$6,282,500]~~ through 2021-2022

and

2004-2006 **\$7,261,100**~~[\$3,669,700]~~ **\$7,261,100**~~[\$8,009,200]~~ through 2023-2024

and

\$4,339,500 in 2024-2025

**2006-2008 \$4,293,800 \$9,211,000 through 2025-2026**

*and*

*\$4,917,200 in 2026-2027*

- (2) *The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:*

<i>Amortization of</i>	<i>2006-2007</i>	<i>Each Succeeding Fiscal Year</i>
<i>Transitional Funding</i>	<i>\$13,325,100</i>	<i>\$13,325,100 through 2014-2015</i>

*and*

*\$9,075,500 in 2015-2016*

- (3) *The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.*
- (4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	\$34,689,893
1990-1992	\$68,107,473
1992-1994	\$15,749,976

Section 2. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
- (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.
  - (b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.
  - (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for

meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

- (d) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.
- (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.
- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
- (5) Effective July 1, ~~2006~~~~[2004]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed eight-tenths of one percent (0.8%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ~~2006-2008~~~~[2002-2004]~~ biennium budget appropriation.
- (6) Effective July 1, ~~2007~~~~[2005]~~, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ~~six-tenths~~~~[seven-tenths]~~ of one percent (~~0.6%~~~~[(0.7%)]~~) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the ~~2006-2008~~~~[2002-2004]~~ biennium budget appropriation.
- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.
- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.

- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 3. KRS 161.661 is amended to read as follows:

- (1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only.
- (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.
- (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.
- (4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit. The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600 and 161.620.
- (5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- (6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.
- (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).

- (8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.
- (9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.
- (10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.
- (11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.
- (12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars (\$40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed forty thousand dollars (\$40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars (\$40,000). The board of trustees may annually increase the forty thousand dollar (\$40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%).
- (13) All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002, ***until July 1, 2006. Effective July 1, 2006, the twenty-seven thousand dollar (\$27,000) limitation shall be increased to forty thousand dollars (\$40,000) and may be adjusted by the board of trustees by the consumer price index in the manner described in this subsection (12) of this section.*** The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.
- ~~(14)~~~~(13)~~ The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).
- ~~(15)~~~~(14)~~ A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.
- ~~(16)~~~~(15)~~ Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

~~(17)(16)~~ No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

~~(18)(17)~~ Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

Section 4. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
  - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
  - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
  - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.
- (2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
- (3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661~~(14)(13)~~. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.
- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 5. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2006.

**Approved April 21, 2006.**