

**CHAPTER 78****(HB 470)**

AN ACT relating to teacher retirement and declaring an emergency.

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

➔Section 1. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2)
  - (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.
  - (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.
  - (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems *or Kentucky Teachers' Retirement System* shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

➔Section 2. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
  - (a) Local boards of education;
  - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
  - (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
  - (d) ~~{The State Department of Education, the}~~ Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
  - (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
  - (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;
  - (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
  - (h) The Office of Career and Technical Education, except that the executive director shall not be a member;
  - (i) The Office of Vocational Rehabilitation;
  - (j) The Kentucky Educational Collaborative for State Agency Children;
  - (k) The Governor's Scholars Program;
  - (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;
  - (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; ~~and~~
  - (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000; *and*
  - (p) ***Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional position as defined by the department.***
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
  - (6) "New teacher" means any member not a present teacher;
  - (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
  - (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
  - (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:
    - (a) The member's actual salary; or
    - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS *157.197(2)(c)*, 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;
- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;
- (13) "Regular interest" means interest at three percent (3%) per annum;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and
- (23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the

member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

➔Section 3. KRS 161.310 is amended to read as follows:

- (1) The board of trustees shall from time to time promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business.
- (2) All rules, regulations, or policies adopted by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to the retirement system shall conform to this chapter.
- (3) All rules, regulations, or policies adopted, or decisions made, by school districts, universities, or other employers participating in the Teachers' Retirement System that pertain to retirement incentives for members as defined in KRS 161.220(4) shall contain provisions for the school district, university, or other employer to make full payment to the retirement system at the time a member retires for all actuarial obligations that occur to the retirement system as a result of retirement incentive payments. ***Any payment made by the employer to a member on the condition that the member terminate employment with the employer shall be deemed a retirement incentive for purposes of this subsection if the member retires within six (6) months following the member's termination in employment.*** This subsection shall not apply to retirement incentive plans adopted by local boards of education prior to December 31, 1997, and to those employees of local school districts who retired on or before July 1, 1998.

➔Section 4. KRS 161.340 is amended to read as follows:

- (1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.
- (2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.
- (3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57, and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.
- (4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.
- (6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.
- (7) ***Notwithstanding any statute to the contrary, the executive branch of government shall accept from the Kentucky Teachers' Retirement System all accrued annual and sick leave balances and service credits of employees leaving the Kentucky Teachers' Retirement System and accepting appointments within the executive branch. These leave balances shall be attested to by the Kentucky Teachers' Retirement System and shall not exceed those limits established by statute or administrative regulation for employees of the executive branch.***

➔Section 5. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. ***In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

➔Section 6. KRS 161.515 is amended to read as follows:

- (1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.
- (2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. ~~With the exception of university faculty members.~~ All members who elect to purchase this service shall pay to the retirement system ***the full actuarial cost as provided under KRS 161.220(22)*** ~~an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out of state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out of state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2).~~ For each year of which the retirement system shall accept ***payment*** ~~the contribution and interest~~, one (1) year of service credit shall be given. ***For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005,*** this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;
- (b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

- (c) A member having service referred to in subsection (2)(a) or (2)(b) of this section *who purchased this service under the cost formula as it existed under those subsections on June 30, 2005*, may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.
- (3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.
- (4) A member, having 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 on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.
- (5) *Service purchased under this section by members who at the time of purchase are employed by employers other than those described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2.0%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a), with a retirement factor of two percent (2.0%) for each year of service, regardless of when the service was performed.* ~~Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost.~~

➔Section 7. 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) (a) 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.

- (b) *Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary and:*
1. *Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or*
  2. *Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.*
- (c) *To elect a lump-sum refund of the member's account under paragraph (b) of this subsection, the surviving spouse, who is designated as the primary beneficiary, must sign a waiver on forms prescribed by the retirement system of his or her rights, and the member's children's rights, to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.*
- (3) (a) 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). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.
- (b) *Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:*
1. *The surviving spouse is designated as the primary beneficiary;*
  2. *The surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and*
  3. *Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf as attested to by two (2) physicians' statements consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.*
- (c) *If eligible to elect a lump-sum refund of the member's account, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and 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, ***or in the event that the surviving spouse elects not to receive survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section***, the board of trustees shall pay to the estate or ***the designated beneficiaries***~~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 ***designated beneficiaries***~~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 8. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the ***primary*** beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. ***This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5).*** In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990.

➔Section 9. KRS 161.540 is amended to read as follows:

- (1) Effective July 1, 1988, each member shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university ***employees who participate in the Kentucky Teachers' Retirement System***~~faculty~~ members shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation. Payments authorized by statute that are made to retiring members for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on

the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 10. KRS 161.545 is amended to read as follows:

- (1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence **during a period of full-time employment as defined in subsection (21) of Section 2 of this Act** may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
- (2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence **during a period of full-time employment as defined in subsection (21) of Section 2 of this Act** since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not **purchase** ~~qualify at the time of the leave of absence to make contributions to the retirement system for~~ the leave of absence as provided in subsection (1) of this section~~],~~ may obtain credit for the leave of absence **as provided under the administrative regulations of the board of trustees and** under the following conditions:
- (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and
- (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.
- (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.
- (3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

➔Section 11. 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, ~~2010~~~~2008~~:
- (a) Cost-of-Living ~~2008-2009~~~~2006-2007~~ Each Succeeding Fiscal Year  
 Allowance  
~~{1992-1994 \$2,229,400 \$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  
 \$7,938,600 ~~in~~~~through~~ 2013-2014
  
- 2000-2002 \$12,511,400 \$12,511,400 through 2014-2015  
 and  
 \$7,227,700 in 2015-2016
  
- 2002-2004 \$21,405,700  
 \$21,405,700 through 2021-2022  
 and  
 \$11,204,100 in 2022-2023
  
- 2004-2006 \$15,413,700 \$15,413,700 through 2023-2024  
 and  
 \$7,421,400 in 2024-2025
  
- 2006-2008 \$15,730,200 \$15,730,200 through 2025-2026**  
**and**  
**\$7,104,600 in 2026-2027**
  
- (b) Minimum Value ~~2008-2009~~~~[2006-2007]~~ Each Succeeding Fiscal Year  
 Annuities  
~~{1992-1994 \$2,217,700}~~  
 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 ~~2008-2009~~~~[2006-2007]~~ Each Succeeding Fiscal Year  
 Allowance  
 1998-2000 \$4,660,300 \$4,660,300 through 2012-2013  
 and  
 \$2,425,900 ~~in~~~~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 \$5,337,000 through 2021-2022  
 and  
**\$3,022,800**~~[\$3,968,300]~~ in 2022- 2023
  
- 2004-2006 ~~\$5,480,300~~~~[7,261,100]~~ **\$5,480,300**~~[\$7,261,100]~~ through 2023-2024  
 and  
**\$2,558,700**~~[\$4,339,500]~~

in 2024-2025  
 2006-2008 ~~\$7,232,400~~ ~~[\$4,293,800]~~ ~~\$7,232,400~~ ~~[\$9,211,000]~~  
 through 2025-2026  
 and  
 \$4,917,200 in 2026-2027  
**2008-2010 \$5,684,000 \$11,965,300 through 2027-2028**  
*and*  
**\$6,281,300 in 2028-2029**

- (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:

Amortization of	<del>2008-2009</del> <del>[2006-2007]</del>	Each Succeeding Fiscal Year
Transitional Funding		
<b>2004-2006</b>	\$13,325,100	\$13,325,100 through 2014-2015
		and
		\$9,075,500 in 2015-2016
<b>2006-2008</b>	<b>\$28,438,200</b>	<b>\$28,438,200 through 2016-2017</b>
		<i>and</i>
		<b>\$18,280,000 in 2017-2018</b>

- ~~(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 the 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 12. KRS 161.580 is amended to read as follows:

- (1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's contribution and interest accumulations. Such individual accounts shall be identified in the records of the system by name, date of birth, and Social Security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.
- (2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the Teachers' Retirement System. ***The board may furnish the summary plan description by posting it on the retirement system's Web site.***
- (3) The summary plan description shall include:

- (a) The name of the retirement system, the name and address of the executive secretary, and the name, address, and title of each member of the board of trustees;
  - (b) The name and address of the person designated for the service of legal process;
  - (c) The system's requirements for participation and benefits;
  - (d) A description of retirement formulas for normal, early, and disability retirement, and survivor benefits;
  - (e) A description of the requirements for vesting of pension benefits;
  - (f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;
  - (g) The sources of financing retirement benefits, and statutory requirements for funding;
  - (h) A statement after each actuarial valuation as to whether funding requirements are being met;
  - (i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.
- (4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

➔Section 13. KRS 161.600 is amended to read as follows:

- (1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:
- (a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;
  - (b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;
  - (c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or
  - (d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).
- (2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.
- (3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon

determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

- (4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. ***A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if these elections are made no later than the fifteenth day of the month in which the member has made application for retirement.***
- (5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

➔Section 14. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

- (1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. ***Nonqualified*** service credit purchased under the provisions of KRS 161.5465 ***or elsewhere with any state-administered retirement system shall*** ~~may~~ not be used to meet the thirty (30) year requirement set forth in this subsection. ***Out-of-state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system.***
- (2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.
- (3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.
- (4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase

allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, “full-time” means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.

- (5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account, ***or any other account from which the member is eligible to draw a retirement allowance***. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The ~~new~~~~second~~ account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this ~~new~~~~second~~ account shall be calculated pursuant to KRS 161.620(1)(b). This ~~new~~~~second~~ account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7)~~, 161.655,~~ or 161.675, nor shall this ~~new~~~~second~~ account provide the benefits offered by KRS 161.520, 161.525, ***161.620(3), 161.655***, 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.
- (6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. ***Notwithstanding any other provision of law to the contrary, a member retiring from a local school district who returns to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to his or her retirement allowance or any other retirement benefit, to earn a minimum amount equal to the base contract salary for a beginning Rank III teacher on the certified teachers' salary schedule effective at the school district for which the retiree returns to work.***
- (7) (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.
- (b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member

returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

- (c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.
- (8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.
- (b) The Department of Education may employ retired members in full-time or part-time teaching *or nonteaching* positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School, *to serve on scholastic audit teams, and to provide technical assistance to schools and districts required under federal law*. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection, *except the Kentucky Teachers' Retirement System shall determine the maximum number of employees that may be employed under this paragraph*.
- ~~(9) — Members who retired on or before June 30, 2002, may, for the fiscal year concluding on June 30, 2007, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf~~

~~since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar for dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.~~

~~(10)~~ The return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, *or a position described in KRS 161.046* or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

~~(10)~~~~(11)~~ The provisions of subsections (1) to ~~(8)~~~~(9)~~ of this section are not subject to KRS 161.714.

~~(11)~~~~(12)~~ Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to ~~(8)~~~~(9)~~ of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.

~~(12)~~~~(13)~~ When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection ~~(11)~~~~(12)~~ of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection ~~(11)~~~~(12)~~ of this section.

~~(13)~~~~(14)~~ For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

➔Section 15. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions *and only to the extent* set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its

actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620, *except that the provisions of KRS 161.620(3) shall not apply*. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

- (2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may *permit* ~~adopt eligibility conditions under which~~ members providing part-time or substitute services ~~to~~ *may* participate in other benefits offered by the retirement system *by promulgating administrative regulations that establish eligibility conditions for participation in these benefits*. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.
- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.
- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.
- (7) The provisions of this section are not subject to KRS 161.714.

➔Section 16. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

- (1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.
- (2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted

under KRS 161.220(9) and (10). The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.

- (3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.
- (4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.
- (5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level ***and legally binding arbitration awards*** shall be considered as court orders for the purposes of this section.
- (6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS 161.500.

➔Section 17. 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, ~~2008~~~~[2006]~~, 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 **three and one-half percent (3.5%)**~~[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 **2008-2010**~~[2006-2008]~~ biennium budget appropriation.
- (6) Effective July 1, ~~2009~~~~[2007]~~, 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 **seven-tenths of one percent (0.7%)**~~[six-tenths of one percent (0.6%)]~~ 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 **2008-2010**~~[2006-2008]~~ 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 18. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.

- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. ***Notwithstanding any statute to the contrary, [Such] sick-leave credit that is accredited under this section or by one (1) of the other state-administered retirement systems shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance from Kentucky Teachers' Retirement System.***
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.
- (4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.
- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).

➔Section 19. KRS 161.630 is amended to read as follows:

- (1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).
- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:
  - (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
  - (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.
- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance option or the predetermined years certain and life thereafter option. ***A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.***
- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

➔Section 20. KRS 161.640 is amended to read as follows:

- (1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal

year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.

- (2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.
- (3) (a) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All *retiree, beneficiary, [annuity]* and survivor monthly allowance payments, *except as otherwise provided in paragraph (b) of this subsection*, shall be made by electronic fund transfer ~~by December 31, 1998~~. *Except as provided in paragraph (b) of this subsection, all monthly payments shall be made payable only to an account solely in the name of the retiree, beneficiary, or survivor as an individual and natural person, or to a joint account in the name of the retiree, beneficiary, or survivor as an individual and natural person and another individual and natural person.*
- (b) *If the retiree, beneficiary, or survivor is a resident of a nursing or assisted-care home, monthly payments may be made to the order of the nursing or assisted-care home for the benefit of the retiree, beneficiary, or survivor by including the retiree's, beneficiary's, or survivor's name. Monthly annuity checks so paid to a nursing or assisted-care home may be sent by mail rather than electronic fund transfer.*

➔Section 21. KRS 161.650 is amended to read as follows:

- (1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.
- (2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. *Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. Cobeneficiaries shall be composed of a single class of individuals, or trusts where permitted, who will share in equal proportions in any payment that may become available under this section.* Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary *or all designated beneficiaries predecease the member*, any remaining accumulated member contributions shall be payable to the member's estate.

➔Section 22. KRS 161.655 is amended to read as follows:

- (1) Effective July 1, 2000, the Teachers' Retirement System shall:
  - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
  - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. *Members may designate as beneficiaries only presently identifiable and*

*existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary.*

Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
- (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

➔Section 23. KRS 161.675 is amended to read as follows:

- (1) The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65) to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225. Members who are sixty-five (65) or older and retired for service shall not be eligible to participate in the state employee health insurance program as described in KRS 18A.225.
- (2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage and eligibility conditions to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for but not be limited to hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. An annuitant whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years' creditable Kentucky service in the Teachers' Retirement System or five (5) years of combined creditable service in the state-administered retirement systems if the member is retiring under the reciprocity provisions of KRS 61.680 and 61.702. **An annuitant shall**~~A member retiring under the reciprocity provisions of KRS 61.680 and 61.702 may~~ not elect coverage through more than one (1) of the state-administered retirement systems. The board of trustees shall offer coverage to the disabled child of an annuitant regardless of the disabled child's age if the annuitant pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (3) All expenses for benefits under this section shall be paid from the funding provisions contained in KRS 161.420(5), premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.
- (4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible annuitants in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible annuitants. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible annuitants. In order to qualify for health insurance supplements made by the retirement system, the annuitant must agree to pay the difference between the

insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

- (b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible annuitants not otherwise eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.
  - (c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of an annuitant, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for federal Social Security disability benefits.
- (5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.
  - (6) The board of trustees may approve health insurance supplement payments to eligible annuitants who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by annuitants for their individual coverage. Eligible annuitants or recipients are those annuitants who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the annuitant lived in Kentucky. Eligible annuitants or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.
  - (7) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.
  - (8) The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.
  - (9) 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.
  - (10) In the event that a member is providing services on less than a full-time basis under KRS 161.605, the retirement system may pay the full cost of the member's health insurance coverage for the full fiscal year that the member is providing those services, at the conclusion of which, the retirement system may then bill the active employer and the active employer shall reimburse the retirement system for the cost of the health insurance coverage incurred by the retirement system on a pro rata basis for the time that the member was employed by the active employer.

➔Section 24. KRS 161.046 is amended to read as follows:

- (1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a specific subject area and who has met the requirements for certification as an adjunct instructor established by the Education Professional Standards Board.
- (2) The Education Professional Standards Board shall adopt administrative regulations governing the qualifications and utilization of adjunct instructors. These administrative regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate.
- (3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714, *except that the return to work limitations set forth in KRS 161.603 and 161.605 shall apply to any retired member of the Kentucky Teachers' Retirement System who resumes employment as an*

**adjunct instructor.** The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

- (4) Local school boards may contract with certificated adjunct instructors for part-time services on an hourly, daily, or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position that will result in the displacement of a qualified teacher with a regular certificate who is already employed in the district.
- (5) An orientation program shall be developed and implemented for adjunct instructors by the local school board.

➔Section 25. KRS 161.567 is amended to read as follows:

- (1) An optional retirement plan is hereby authorized for designated employees of public postsecondary education institutions who are also eligible for membership in the Kentucky Teachers' Retirement System under KRS 161.220(4)(b) and 161.470(1). The purpose of the optional retirement plan shall be to provide suitable retirement and death benefits, while affording the maximum portability of these benefits to the eligible employees as an alternative to membership in the retirement system. Benefits shall be provided by the purchase of annuity contracts, **mutual fund accounts, or similar investment products** ~~[fixed or variable in nature]~~, or a combination thereof, **collectively referred to as contracts or annuity contracts**, at the option of the participant **and offered by the selected provider for plans established under Section 403(b) of the Internal Revenue Code**. The specific provisions of **provider** ~~[annuity]~~ contracts with respect to the benefits payable to members and their beneficiaries shall prevail over specific provisions relating to the same subjects found in KRS 161.220 to 161.716, other than this section.
- (2) The boards of regents of those institutions identified in KRS 161.220(4)(b) shall select no less than two (2) but no more than **four (4)** ~~three (3)~~ companies from which to purchase contracts under the optional retirement plan. As criteria for this selection, the boards of regents shall consider, among other things, **and as appropriate for the type of contract provider**, the following:
  - (a) The portability of the contracts offered or to be offered by a company, based on the number of states in which the company provides contracts under similar plans;
  - (b) The efficacy of the contracts in the recruitment and retention of employees for the various state public postsecondary education institutions;
  - (c) The nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;
  - (d) The relation of the rights and benefits to the amount of contributions required;
  - (e) The suitability of the rights and benefits to the needs and interests of eligible employees and the various state public postsecondary education institutions; and
  - (f) The ability of the designated companies to provide the rights and benefits under those contracts.

➔Section 26. Whereas it is necessary for the effective administration of retirement system funds in accordance with the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2008.

**Signed by Governor April 11, 2008.**