

**CHAPTER 153****( HB 144 )**

AN ACT relating to Kentucky Public Employees Deferred Compensation Authority.

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

➔Section 1. KRS 18A.245 is amended to read as follows:

- (1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:
  - (a) Secretary, Finance and Administration Cabinet, ex officio;
  - (b) Secretary of personnel, ex officio;
  - (c) The state controller, ex officio;
  - (d) *The State Treasurer, ex officio*; and
  - (e) ~~[(d)]~~ *Three (3)* ~~Four (4)]~~ at-large members appointed by the Governor, who do not have a conflict of interest as provided by KRS 18A.262, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.
- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office. Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.
- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
  - (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
  - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
  - (c) Establish a system of accounting;
  - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
  - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:

1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
  2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A;
  3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees; and
  4. Upon the request of the Kentucky Retirement Systems board of trustees, establishing an investment program for the 401(a) defined contribution plan as provided by KRS 61.5956; and
- (f) Contract with persons or companies duly licensed by the state of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund, to provide investment advice to participants in the plans, with respect to their selection of permitted investments in the plans.
- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

➔Section 2. KRS 18A.275 is amended to read as follows:

***The board shall select a custodian of the funds collected under KRS 18A.230 to 18A.275 and the authority shall administer the funds so collected as provided in this chapter.*** ~~[The State Treasurer shall be the custodian of the funds collected under KRS 18A.235 and shall upon warrants issued by the Finance and Administration Cabinet pay to the board the amounts so collected to be administered as provided in KRS 18A.230 to 18A.275. The treasurer of the local unit of government shall likewise be the custodian of any funds created by KRS 18A.270 and shall pay to the board the amounts so collected to be administered as provided in KRS 18A.230 to 18A.275.]~~

➔Section 3. KRS 18A.250 is amended to read as follows:

- (1) The authority shall establish and maintain a deferred compensation plan for the employees of the State of Kentucky. Participation in such plan shall be by agreement between such employees and the authority and shall provide for the deferral of such amount of compensation as requested by the employee. Participating employees must authorize that such deductions be made from their wages for the purpose of participation in such program. ~~[Amounts so deducted shall be deposited in the State Treasury to the credit of the trust fund.]~~
- (2) The board is directed to develop and obtain, for the benefit of employees, a qualified employee plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The board is directed to develop a program for participants to borrow from their account or accounts in the plan. The plan shall be in addition to other plans offered by the board, and shall be offered to employees upon receipt of appropriate approval of the Internal Revenue Service or on January 1, 1985, whichever occurs later.
- (3) Notwithstanding the provisions of KRS 337.060, agreements to participate and plan elections made by employees pursuant to subsections (1) and (2) of this section may be made in writing or by electronic record, signature, or contract as determined by the authority and in accordance with the provisions of KRS 369.101 to 369.120. Agreements and elections, including but not limited to hardship withdrawal applications, loan applications, beneficiary designations, and withdrawal requests made by participating employees under the plan, shall not be denied legal effect or enforceability if made electronically to the extent permitted by the authority.

**Signed by Governor March 26, 2019.**