

CHAPTER 96**(HB 87)**

AN ACT relating to the state-administered retirement systems.

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

➔Section 1. KRS 16.578 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:
 - (a) The member was eligible to retire under KRS 16.576, 16.577, or 16.583(6);
 - (b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date; or
 - (c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:
 - (a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);
 - (b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (d) A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for:
 1. ***Sixty (60) months certain;***~~[a period of]~~
 2. One hundred twenty (120) months ***certain;***
 3. ***The actuarial equivalent refund; or***
 4. ***The Social Security adjustment option;***

that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
 - (f) The higher of a refund of the member's accumulated account balance and interest as described in KRS 61.625(1) or a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.
- (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of the member's accumulated account balance and interest

as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.

- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

➔Section 2. KRS 61.540 is amended to read as follows:

- (1) Under administrative regulations promulgated by the board, each member and each employer ~~may~~~~shall have on~~ file at the retirement office, in the form the board ~~may prescribe~~~~prescribes~~, a statement of the facts pertaining to the member and other information the system ~~may require~~~~requires~~. ~~Until the statement is filed, no member shall be eligible to receive any benefits under KRS 61.510 to 61.705 and 78.510 to 78.852.~~
- (2) The system shall prepare and make available upon request to all members a summary plan description, written in a manner that can be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.
- (3) The summary plan description shall include:
- (a) The name of the retirement system, the name and address of the executive director, 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 reasonable 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; and
 - (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 system 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 shall be made available upon request to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The system shall make available upon request to retirees and beneficiaries the summary plan description.

➔Section 3. KRS 61.542 is amended to read as follows:

- (1) Prior to the first day of the month in which the member receives his or her first retirement allowance and prior to the member filing a notification of retirement or a request for refund:
- (a) Each member may designate on the form prescribed by the board a principal beneficiary and contingent beneficiary for his or her account. The principal beneficiary or contingent beneficiary designated by the member shall be:
 1. One (1) or more persons; or
 2. The member's estate; or
 3. A trust;
 - (b) If multiple persons are designated as provided by paragraph (a)1. of this subsection, the member shall indicate the percentage of total benefits each person is to receive.
 1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.

2. If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.
 3. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member;
- (c) The principal and contingent beneficiary designation established by the member pursuant to paragraph (a) of this subsection shall remain in full force and effect until changed by the member, except:
1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;
 2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary; and
 3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his *or her* estate, or a trust, shall supersede the designation of all previous beneficiaries, unless the notification of retirement is withdrawn, invalid, or voided. If the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member; and
- (d) Except as provided by paragraph (c)3. of this subsection, if the member fails to designate a beneficiary for his or her account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.
- (2) If the member dies prior to the first day of the month in which the member would have received his or her first retirement allowance and prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:
- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (b) If the principal beneficiary is one (1) person and is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (c) If the member is survived by his *or her* principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries;
 - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary; and
 - (e) If the member dies as a direct result of an act in line of duty as defined in KRS 16.505 or dies as a result of a duty-related injury as defined in KRS 61.621, the surviving spouse shall supersede all previously designated principal or contingent beneficiaries, unless the deceased member files a valid beneficiary designation form with the retirement office after the date of marriage to the surviving spouse.
- (3) Prior to the first day of the month in which the member would have received his or her first retirement allowance, a monthly benefit payable for life shall not be offered if the beneficiary designated under subsection (1) of this section is more than one (1) person, the member's estate, or a trust.
- (4) When a notification of retirement *as provided by Section 5 of this Act or a form to change beneficiaries as provided by subsection (5)(a) and (b) of this section* has been filed at the retirement office:
- (a) The designation of beneficiary on the notification of retirement *or beneficiary change form* shall supersede the designation of all previous beneficiaries;

- (b) The beneficiary designated by the member on the member's notification of retirement *or beneficiary change form* shall be one (1) person, the member's estate, or a trust; and
 - (c) If the death of the beneficiary named on the notification of retirement precedes the first day of the month in which the member receives his or her first retirement allowance, the member may designate another beneficiary on the member's notification of retirement.
- (5) On or after the first day of the month in which the member receives his or her first retirement allowance, the member shall not have the right to change his *or her* beneficiary, except that:
- (a) *A retired member receiving the monthly retirement allowance under the basic payment option, a period certain option as provided by KRS 61.635(5) to (7), or the Social Security adjustment option without survivor rights as provided by KRS 61.635(8)(a) may elect to change his or her beneficiary at any time by filing a beneficiary change form as prescribed by the board with the retirement office. This paragraph shall not authorize a retired member to change the payment option he or she selected upon retirement;*
 - (b) *A retired member receiving a monthly retirement allowance who marries or remarries following retirement may make a one (1) time election within one hundred twenty (120) days of marriage or remarriage to provide monthly survivorship benefits to his or her new spouse by:*
 - 1. *Designating his or her new spouse as beneficiary by filing a beneficiary change form as prescribed by the board with the retirement office; and*
 - 2. *Selecting a new monthly retirement allowance option under one (1) of the survivorship options provided by KRS 61.635(2), (3), (4), and (8)(b). Any new survivorship payment option shall be actuarially equivalent to the monthly retirement allowance the retired member was receiving prior to the change and shall not impact any other benefits otherwise payable to an alternate payee under KRS 61.690;*
 - (c) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member, *and the retired member had not elected a new beneficiary under this subsection;*
 - ~~(d)(b)~~ The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death, *and the retired member had not elected a new beneficiary under this subsection.* An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death, *and the retired member had not elected a new beneficiary under this subsection;*~~and~~
 - ~~(e)(e)~~ The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b); *and*
 - (f) *For purposes of this subsection, "basic payment option" means the lifetime monthly retirement allowance otherwise provided to the retired member under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 that is not one (1) of the optional retirement plans provided under KRS 61.635.*
- (6) Following cessation of membership as provided by KRS 61.535, no beneficiary designation in one (1) account shall be effective for any new retirement account established pursuant to KRS 61.637 or 61.680. If the member fails to designate a beneficiary for his or her new retirement account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.

➔Section 4. KRS 61.545 is amended to read as follows:

- (1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.
- (2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, a participating community action agency, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive

service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14). Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14).

- (b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.
 - (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
 - (d) This subsection shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.
- (3) (a) If an employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.
- (b) *1. If an employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation, except as provided by subparagraph 2. of this paragraph.*
 - 2. If an employee is participating in a hazardous position, as defined by KRS 61.592, that meets the definition of a regular full-time position under KRS 61.510(21) or 78.510(21) based solely upon his or her service in a hazardous position, and is simultaneously employed in a nonhazardous position with a different participating employer that would not be considered a regular full-time position based solely upon his or her service in the nonhazardous position, the employee may make a one (1) time irrevocable election within thirty (30) days of employment in the nonhazardous position to not participate in the system for his or her employment in the nonhazardous position with that employer.*

→Section 5. KRS 61.590 is amended to read as follows:

- (1) (a) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, a correctly completed notification of retirement, giving his or her name, address, Social Security number or Kentucky Retirement Systems member identification number, last day of employment, and other information the system may require. The form entitled "Notification of Retirement" shall not be filed more than six (6) months before the member's effective retirement date.
- (b) A member eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify in writing on the "Notification of Retirement" form or another form prescribed by the board that no prearranged agreement existed prior to the member's retirement between the member and any participating agency in the systems administered by the Kentucky Retirement Systems for the member to return to employment with the participating agency.

No retirement benefits shall be paid to the member until the member completes the certification required by this paragraph.

- (2) After receipt of the correctly completed form entitled "Notification of Retirement", the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary.
- (3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he *or she* has checked one (1) payment option of his *or her* choice, signed the document, and had his *or her* signature witnessed. A member shall not have the right to select a different payment option on or after the first day of the month in which the member receives his or her first retirement allowance or after the effective date of a deferred retirement option as provided by subsection (6) of this section, *except as provided by subsection (5) of Section 3 of this Act*. A beneficiary shall not have the right to select a different payment option after the effective date of the beneficiary's retirement allowance as provided in subsection (7) of this section.
- (4) A member or beneficiary choosing a monthly payment option shall have on file at the retirement office his *or her* birth certificate or other acceptable evidence of date of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.
- (5)
 - (a) The effective date of normal retirement shall be the first month following the month in which employment from all employers participating in any of the systems administered by Kentucky Retirement Systems was terminated.
 - (b) The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred, provided the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following the date the notification of approval for disability retirement benefits is mailed. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months of the date the notification of approval for disability retirement benefits is mailed, then the member's form entitled "Notification of Retirement" shall be void. The member shall be required to submit a new form entitled "Notification of Retirement" to apply for disability retirement and reestablish eligibility for disability retirement benefits.
 - (c) The effective date of early retirement shall be the first month following the month a correctly completed form entitled "Notification of Retirement" is filed at the retirement office or a future month designated by the member, if employment from all employers participating in any of the systems administered by Kentucky Retirement Systems has been terminated and if the member files the form entitled "Estimated Retirement Allowance" no later than six (6) months following termination. If the member fails to file the form entitled "Estimated Retirement Allowance" within six (6) months following the effective retirement date of the member, then the member's form entitled "Notification of Retirement" shall be void and the member shall be required to submit a new form entitled "Notification of Retirement" to apply for early retirement.
- (6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.
- (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first day of the month in which the member would have received his or her first retirement allowance and his *or her* beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

➔Section 6. KRS 61.598 is amended to read as follows:

- (1) For purposes of this section, "bona fide promotion or career advancement":
 - (a) Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes

- a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
- (b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.
- (2) (a) For employees retiring from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System on or after January 1, 2018, the systems shall, for each of the retiring employee's last five (5) fiscal years of employment, identify any fiscal year in which the creditable compensation increased at a rate of ten percent (10%) or more annually over the immediately preceding fiscal year's creditable compensation. The employee's creditable compensation in the fiscal year immediately prior to the employee's last five (5) fiscal years of employment shall be utilized to compare the initial fiscal year in the five (5) fiscal year period.
- (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for a fiscal year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the employee's creditable compensation from the immediately preceding fiscal year shall not be included in the creditable compensation used to calculate the retiring employee's monthly retirement allowance. If the creditable compensation for a specific fiscal year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring employee's monthly retirement allowance, then no reduction in creditable compensation shall occur for that fiscal year.
 - (c) If the creditable compensation of the retiring employee is reduced as provided by paragraph (b) of this subsection, the retirement systems:
 - 1. Shall refund the employee contributions and interest attributable to the reduction in creditable compensation; and
 - 2. Shall not refund the employer contributions paid but shall utilize those funds to pay down the unfunded liability of the pension fund in which the retiring employee participated.
- (3) (a) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring employee on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring employee prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (b) ***If the reductions in creditable compensation during a retiring member's entire last five (5) years of employment results in a reduction in his or her monthly retirement allowance of less than twenty-five dollars (\$25) per month or an actuarially equivalent value under the various payment options, then no reduction in creditable compensation or retirement allowances shall occur under subsection (2) of this section.***
- (4) Subsection (2) of this section shall not apply to:
- (a) A bona fide promotion or career advancement as defined by subsection (1) of this section;
 - (b) A lump-sum payment for compensatory time paid to an employee upon termination of employment;
 - (c) A lump-sum payment made pursuant to an alternate sick leave program under KRS 78.616(5) that is paid to an employee upon termination of employment;
 - (d) Increases in creditable compensation in a fiscal year over the immediately preceding fiscal year, where in the immediately preceding fiscal year the employer reported the employee as being on leave without pay for any reason, including but not limited to sick leave without pay, maternity leave, leave authorized under the Family Medical Leave Act, and any period of time where the employee received workers' compensation benefit payments that were not reported to the plan as creditable compensation;
 - (e) Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime hours worked while serving as a participating employee under any state or federal grant, grant pass-through, or similar program that requires overtime as a condition or necessity of the employer's receipt of the grant; and

- (f) Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime performed during a state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky.
- (5)
 - (a) For employees retiring on or after January 1, 2014, but prior to July 1, 2017, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems.
 - (b) Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from this subsection.
 - (c) Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this subsection. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.
 - (d) For any additional actuarial costs charged to the employer under this subsection, the systems shall allow the employer to pay the costs without interest over a period of one (1) year from the date of receipt of the employer's final invoice.
- (6) The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.
- (7) Any employer who disagrees with a determination made by the system in accordance with this section regarding whether an increase in compensation constitutes a bona fide promotion or career advancement for purposes of subsection (5) of this section may request a hearing and appeal the decision in accordance with KRS 61.645(16).
- (8) For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky Retirement Systems shall provide a means for employers to separately report the specific exceptions provided in subsection (4) of this section within the reporting system utilized by the employers for making employer reports under KRS 16.645, 61.675, and 78.545. The Kentucky Retirement Systems shall continually provide communication, instructions, training, and educational opportunities for employers regarding how to appropriately report exemptions established by subsection (4) of this section.
- (9) This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 or to service in the 401(a) money purchase plan as provided by KRS 61.5956.

➔Section 7. KRS 61.615 is amended to read as follows:

- (1) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his *or her* normal retirement date, employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he *or she* was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment.
- (2) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his *or her* normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he *or she* receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance.
- (3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize the services of a medical examiner as provided in KRS 61.665, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.
 - (a) The system shall select a medical examiner to evaluate the forms and medical information submitted by the person. If there is objective medical evidence of a mental impairment, the medical examiner may

- request the board's licensed mental health professional to assist in determining the level of the mental impairment.
- (b) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
 - (c) The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued.
 - 1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.
 - 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or to appeal the recommendation of the medical examiner to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.
 - b. If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his *or her* retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
 - (d) The medical examiner shall make a recommendation based upon the evaluation of additional supporting medical information submitted in accordance with paragraph (c)2.a. of this subsection.
 - 1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.
 - 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting medical information, the system shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.
 - b. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his *or her* retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
 - (e) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.

- (f) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in subsection (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.
 - (g) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system mailed the order to the person's last address on file in the retirement office. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.
 - (h) Notwithstanding any other provisions of this section, the system may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be mailed to the person or his *or her* legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his *or her* rights to further disability retirement allowance shall cease.
 - (i) All requests for a hearing pursuant to this section shall be made in writing.
- (4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.
- (5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (6) If a disability retirement allowance is reduced or discontinued for a person who began participating in the system prior to January 1, 2014, the person may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:
- (a) The person may not change his *or her* beneficiary or payment option, ***except as provided by subsection (5) of Section 3 of this Act;***
 - (b) If the person has returned to employment with an employer participating in one (1) of the systems administered by Kentucky Retirement Systems, the service and creditable compensation shall be used in recomputing his *or her* benefit, except that the person's final compensation shall not be less than the final compensation last used in determining his *or her* retirement allowance;
 - (c) The benefit shall be reduced as provided by KRS 61.595(2);
 - (d) The person shall remain eligible for reinstatement of his *or her* disability allowance upon reevaluation by the medical review board until his *or her* normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. An application for reinstatement of disability benefits shall be administered as an application under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability retirement benefits, shall not be considered. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and
 - (e) Upon attaining normal retirement age, the person shall receive the higher of either his *or her* disability retirement allowance or his *or her* early retirement allowance.
- (7) No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS

61.637, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.

➔Section 8. KRS 61.630 is amended to read as follows:

- (1) If a retired member who did not elect an optional retirement plan dies at any time on or after the first day of the month in which the member received or would have received his or her first retirement allowance but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to his accumulated contributions as of the date of his *or her* retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the properly designated beneficiary. *Except as otherwise provided by subsection (5) of Section 3 of this Act*, if a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. *Except as otherwise provided by subsection (5) of Section 3 of this Act*, if a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.
- (2) If a retired member who elected an optional retirement plan and his *or her* beneficiary both die at any time on or after the first day of the month in which the member received or would have received his or her first retirement allowance but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his *or her* retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.
- (3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.
- (4) If a beneficiary receiving a retirement allowance for sixty (60) or one hundred twenty (120) months certain under KRS 16.576, 16.578, or 61.640, or a beneficiary receiving a retirement allowance under KRS 61.635(5), (6), or (7), dies before receiving all payments under the plan, the executor or administrator of his *or her* estate shall receive a lump sum payment which shall be the actuarial equivalent to the remaining payments.
- (5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

➔Section 9. KRS 61.640 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:
 - (a) The member was eligible to retire under KRS 61.559(2) or (3), 61.5956(5)(a) or (b), or 61.597(6)(a) or (b);
 - (b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date or was normal retirement age or older and had at least four (4) years of service credit; or
 - (c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:
 - (a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive

benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);

- (b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
- (c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
- (d) A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
- (e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for:
 - 1. *Sixty (60) months certain;*~~[a period of]~~
 - 2. One hundred twenty (120) months *certain;*
 - 3. *The actuarial equivalent refund; or*
 - 4. *The Social Security adjustment option;*

that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
- (f) The higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.

- (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.
- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

➔Section 10. KRS 61.680 is amended to read as follows:

Except as limited by KRS 6.525, 21.374, 61.5955, or 61.5956:

- (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, 16.505 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, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:
 - 1. 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, including those members who participate in the hybrid cash balance plan or 401(a) money purchase plans within the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Teachers' Retirement System;
 - 2. 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 for an employee who begins participating before September 1, 2008, but not the amount of benefits;

3. 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;
 4. If the member has prior service in more than one (1) system administered by Kentucky Retirement Systems, 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 subsection; and
 5. Upon the determination of benefits, each system shall pay the applicable amount of benefits due the member.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
1. 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; or
 2. Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.
- (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) 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.
- (b) 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.
- (c) 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) 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) *Except as provided by subsection (3)(b)2. of Section 4 of this Act*, 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) (a) 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.
- (b) Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky 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 11. 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 161.235(6) or 161.600(1), as applicable. 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 accumulated account balance 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 accumulated account balance 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. 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 accumulated account balance 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 accumulated account balance, 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 of the deceased member a refund of his accumulated account balance 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 account balance at the time of death, the board of trustees shall pay to the estate or designated beneficiaries of the deceased member the balance of the accumulated account balance;
- (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; and
- (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to July 15, 2008.

➔Section 12. The amendments to Sections 1 and 9 of this Act shall be retroactive to June 25, 2009.

➔Section 13. Notwithstanding any other provision to the contrary, a retired member receiving a monthly retirement allowance from one of the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System who married or remarried prior to the effective date of this Act, and who is married to

that same spouse on the effective date of this Act, may exercise a one (1) time election to select a survivorship payment option for their new spouse in accordance with subsection (5)(b) of Section 3 of this Act by filing a beneficiary change form with the retirement office on or before January 1, 2022.

➔Section 14. The amendments to subsection (3)(b) of Section 4 of this Act shall only apply to any initial employment on or after the effective date of this Act in a nonhazardous position that is not considered a regular full-time position by those members who are simultaneously participating in a hazardous duty position as provided by KRS 61.592 that is considered a regular full-time position. For purposes of this section, "regular full-time position" shall have the same meaning as provided in KRS 61.510(21) or 78.510(21).

➔Section 15. Notwithstanding the provisions of 2017 Ky. Acts ch. 32 to the contrary, the implementation date of the amendments in subsection (28) of Section 9 of 2017 Ky. Acts ch. 32 by the Kentucky Retirement Systems shall be December 1, 2019.

Signed by Governor March 24, 2021.