

CHAPTER 55

(SB 32)

AN ACT relating to the Judicial Form Retirement System.

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

➔Section 1. KRS 21.525 is amended to read as follows:

- (1) The state, by appropriation to the Judicial Retirement Board, shall contribute annually to the Judicial Retirement System an amount equal to the percent as computed under subsection (2)(a) of this section of the creditable compensation of active members of the Judicial Retirement System, to be known as the "normal *cost contribution*~~[contributions]~~," and an additional amount *computed under subsection (2)(b) of this section*,~~[equal to one percent (1%) of the unfunded past service liabilities, plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board]~~ to be known as the "*actuarially accrued liability*~~[past service]~~ contribution."
- (2) (a) The normal *cost* contribution ~~[rate]~~ shall be determined *using*:~~[either by]~~
 1. The entry age normal cost funding method;
 2. *An asset smoothing method that smooths investment gains and losses over a five (5) year period; and*
 3. *Other funding methods and assumptions established*~~[or the unit credit actuarial method, as selected]~~ by the board.

(b) *The actuarially accrued liability contribution shall be computed as follows:*

 1. *The total unfunded actuarially accrued liability shall be amortized over a closed period of twenty (20) years beginning with the 2023 actuarial valuation;*
 2. *Any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2023 actuarial valuation shall be amortized over a closed period of twenty (20) years beginning with the actuarial valuation in which the increase or decrease in the unfunded actuarially accrued liability is recognized. An increase or decrease in the unfunded actuarially accrued liability may result from, but not be limited to, legislative changes to benefits, changes in actuarial methods or assumptions, or actuarial gains or losses;*
 3. *If the annual valuation determines that the plan has surplus actuarial assets, the prior amortization bases established under subparagraph 2. of this paragraph shall be eliminated, and one (1) base equal to the amount of surplus actuarial assets shall be established and amortized over an open period of twenty (20) years; and*
 4. The *actuarially accrued liability contribution*~~[past service liability]~~ shall be determined by actuarial methods consistent with the methods prescribed for determining the normal *cost* contribution, *except that beginning with the 2023 actuarial valuation the level dollar amortization method shall be utilized*~~[rate]~~.

(c) The board shall adopt the actuarial assumptions that are to be used in making the determinations.
- (3) *The* normal *cost contribution*~~[contributions]~~ and the *actuarially accrued liability*~~[past service liability]~~ contribution for each fiscal biennium shall be determined on the basis of the actuarial valuation last preceding the commencement of the biennium.
- (4) Employer costs for the hybrid cash balance plan as provided by KRS 21.402 shall be incorporated into the employer contribution rate of the Legislators' Retirement Plan and the Judicial Retirement Plan as a new benefit tier within the plans.

➔Section 2. KRS 21.540 is amended to read as follows:

- (1) (a) Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of *KRS 6.500 to 6.577*~~[that system]~~ and~~[of KRS]~~ 21.350 to 21.510.

- (b) ***The Judicial Form Retirement System*** ~~[-and]~~ shall have all powers necessary ***to administer KRS 6.500 to 6.577 and 21.350 to 21.510*** ~~[-thereto,]~~ including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, ~~[-and]~~ to contract for fiduciary liability insurance, ~~[-and for]~~ investment counseling, ***and*** actuarial, auditing, and other professional services subject to the limitations of KRS Chapters 45, 45A, 56, and 57.
- (c) ***1.*** The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.
- 2.*** ***Authorization for all administrative expenses relating to the operations of the Judicial Form Retirement System shall be contained in the biennial budget unit request, branch budget recommendations, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.***
- 3.*** ***The request from the Judicial Form Retirement System shall include any specific administrative expenses requested by the board of trustees that are not otherwise specified by this subsection.***
- (2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.
- (b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
1. Solely by the participant;
 2. Solely by the alternate payee; or
 3. Equally shared by the participant and alternate payee.
- (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
1. Is issued by a court or administrative agency; and
 2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.
- (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).
- (4) In order to improve public transparency regarding the administration of the Legislators' Retirement Plan and the Judicial Retirement Plan, the board of trustees of the Judicial Form Retirement System shall adopt a best-practices model by posting the following information to the system's Web site and shall make it available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the system's Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
 - (b) A list of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (c) A list of system staff and each staff's salary;

- (d) A list of the fund's professional consultants and their respective fees and commissions paid by the system;
- (e) A list of the system's expenditures;
- (f) The annual financial audit of the system, which shall include but not be limited to a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
- (g) All external audits;
- (h) The annual actuarial valuation report of pension and retiree health benefits of each retirement plan administered by the system, which shall include a general statistical section and information on contributions, benefit payouts, and retirement plan demographic data;
- (i) All board minutes or other materials that require adoption or ratification by the board of trustees or committees of the board. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification by the board or committees;
- (j) All bylaws, policies, or procedures adopted or ratified by the board of trustees or by committees of the board;
- (k) The summary plan description for each plan administered by the system;
- (l) A document or a link to documents containing an unofficial copy of the statutes governing the plans administered by the Judicial Form Retirement System;
- (m) Investment information, including all investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
 1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;
 2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
 3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;

- (n) An update of net investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager over a historical period. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;
- (o) All contracts or offering documents for services, goods, or property purchased or utilized by the system. Notwithstanding KRS 61.878, all contracts, including investment contracts, shall be subject to review by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705. If any public record contains material which is not excepted under KRS 61.878, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination; and
- (p) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public.

Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

- (5) No trustee or employee of the board shall:

ACTS OF THE GENERAL ASSEMBLY

- (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;
 - (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;
 - (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;
 - (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or
 - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 - 1. A trustee from serving as a judge or member of the General Assembly; or
 - 2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.
- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.
- (7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
- (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
 - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
 - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
 - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
 - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
 - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (8) (a) 1. Upon request by any person, the Judicial Form Retirement System shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or

the Judicial Retirement Plan, if the member or retiree is a current or former officeholder in the Kentucky General Assembly:

- a. The first and last name of the member or retiree;
 - b. The plan or plans in which the member has an account or from which the retiree is receiving a monthly retirement allowance;
 - c. The status of the member or retiree, including but not limited to whether he or she is a contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;
 - d. If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
 - e. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.
2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.
- (b) The release of information under paragraph (a) of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

➔Section 3. KRS 6.505 is repealed, reenacted, and amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his *or her* monthly creditable compensation, as defined in KRS 61.510(13), ~~or the amount specified by paragraph (d) of this subsection~~. The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he *or she* makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he *or she* shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his *or her* election such sum as, when added to any member's contribution by him *or her* that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his *or her* election after February 1, 1981, he *or she* shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.
- (b) 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530, ~~except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 6.500 to 6.577 that become effective on or after July 1, 2018~~.
2. a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.

- c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
- (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator ~~except as provided by KRS 21.374 or 21.385(3)~~, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
 - (d) Notwithstanding the provisions of this subsection:
 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his *or her* monthly creditable compensation, as defined in KRS 61.510(13);
 2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577 ~~except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 6.500 to 6.577 that become effective on or after July 1, 2018~~.
 - (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his *or her* active membership in the Kentucky Employees Retirement System shall terminate, as of the date his *or her* membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he *or she* then has or which he *or she* subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he *or she* then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee 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. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his *or her* active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his *or her* membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he *or she* then has or which he *or she* subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he *or she* then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 4. KRS 6.518 is repealed, reenacted, and 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 member in the four (4) years immediately prior to the final five (5) annual years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member 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 in which a legislator participating in the Legislators' Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems.
- (2) (a) For members retiring on or after January 1, 2018, the plan shall, for each of the retiring member's last five (5) annual years of service in the General Assembly or with any employer participating in any of the state-administered retirement systems, identify any annual year in which the creditable compensation used to calculate benefits in the Legislators' Retirement Plan increased at a rate of ten percent (10%) or more annually over the immediately preceding annual year's creditable compensation.
- (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for an annual year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding annual year shall not be included in the creditable compensation used to calculate the member's monthly pension benefits. If the creditable compensation for a specific annual year identified

under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring member's monthly pension benefits, then no reduction in creditable compensation shall occur for that annual year. Reductions to creditable compensation as provided by this paragraph shall include any creditable compensation used to calculate the retiring member's benefits, including creditable compensation earned in another state-administered retirement system.

- (c) If the creditable compensation of the retiring member is reduced as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.
- (3) 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 member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.
- (5) The Judicial Form Retirement System board of trustees shall determine whether increases in creditable compensation during the last five (5) annual 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.
- (6) This section shall not apply to ~~§~~
 - (a) ~~employees participating in the hybrid cash balance plan[plans] as provided by KRS 21.402[or 61.597];~~
 - ~~or~~
 - (b) ~~Service earned in the 401(a) money purchase plan as provided by KRS 61.5956].~~

➔Section 5. KRS 6.520 is repealed, reenacted, and amended to read as follows:

- (1) A member of the Legislators' Retirement Plan who retires on or after his *or her* normal retirement date shall receive a service retirement allowance, payable monthly during his *or her* lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his *or her* final compensation multiplied by the number of years of his *or her* service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.
- (3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his *or her* normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his *or her* final compensation multiplied by the number of years of his *or her* service, but in no event to exceed one hundred percent (100%) of ~~his~~ final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the three (3) years during which the member had the highest creditable legislative compensation.
- (4) ~~Subsections (1) and (2) of this section~~ [Notwithstanding any other provision of KRS 6.500 to 6.577 or 21.345 to 21.580] to the contrary **notwithstanding**, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 but prior to January 1, 2014, who retires on or after his *or her* normal retirement date, shall receive a service retirement allowance, payable monthly during his *or her* lifetime, in an amount per month equal to ~~§~~
 - (a) ~~two and seventy-five one-hundredths percent (2.75%) of his *or her* final compensation multiplied by the number of years of his *or her* service, but [accrued prior to January 1, 2019; and~~

~~(b) One and ninety-seven one-hundredths percent (1.97%) of his or her final compensation multiplied by the number of years of his or her service accrued on or after January 1, 2019.~~

~~— [in no event to] shall the benefit provided by this subsection] exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.~~

(5) Subsections (1) to (4) of this section shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.

➔ Section 6. KRS 6.525 is repealed, reenacted, and amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1), 21.345(3) to (6), 21.357, 21.360(1), 21.370 to 21.410, 21.374, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, 21.540, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2) (a) A member of the Legislators' Retirement Plan may combine his *or her* service credit with his *or her* service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his *or her* retirement, according to the procedure of KRS 61.680(2)(a), except that the salary used to determine final compensation, if applicable, shall be based on the creditable compensation in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.
- (b) ~~[1. —] For members contributing on or after June 20, 2005, but prior to January 1, 2014, who have service credit in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, or Teachers' Retirement System prior to January 1, 2019]: Upon 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 shall be consolidated for the purpose of determining eligibility and amount of benefits as provided in KRS 61.680(2)(a) and in the same manner as for the other retirement systems using the highest salary regardless of the system in which it was earned. [except that any salary earned in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, or Kentucky Teachers' Retirement System on or after January 1, 2019, shall not be used to determine benefits in the Legislators' Retirement Plan.~~
- ~~2. — The consolidation of accounts as provided by this paragraph shall not apply to accounts in the State Police Retirement System, the Kentucky Employees Retirement System, the County Employees Retirement System, and the Teachers' Retirement System, from which the member is receiving a retirement benefit.~~
- ~~3. —] For purposes of this paragraph, "retirement" means the month in which the member elects to begin receiving benefits or benefits become payable due to the member's death.~~
- (c) A member who has an account in the Legislators' Retirement Plan and the Judicial Retirement Plan may combine his *or her* service in both plans for purposes of determining:
 1. Eligibility and the amount of benefits; and
 2. Final compensation, provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, ~~and except that any salary earned in the Judicial Retirement Plan on or after January 1, 2019, shall not be used to determine final compensation in the Legislators' Retirement Plan].~~
- (d) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, may retire at the completion of twenty-seven (27) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).
- (e) For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

- (3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

➔Section 7. KRS 21.360 is repealed, reenacted, and amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or
 3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
 - a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.
- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510~~, except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 21.345 to 21.580 that become effective on or after July 1, 2018.~~
- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his *or her* active membership in the Kentucky Employees Retirement System shall terminate, as of the date his *or her* membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he *or she* then has or which he *or she* subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.

- (b) Any credit he *or she* then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.
- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices ~~{(other than judges of the District Court)}~~, and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section ~~{(and KRS 21.355 and 21.365)}~~ prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement Plan in accordance with this section, his *or her* membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he *or she* earned for service as a judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee 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. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan ~~{, except as provided by KRS 21.374 and 21.385(3)}~~, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 8. KRS 21.385 is repealed, reenacted, and amended to read as follows:

- (1) In a situation in which, by reason of federal tax law, the failure to commence the payment of retirement benefits to a vested member of the Kentucky Judicial Retirement Plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he *or she* would have been entitled to had he *or she* retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, may, at his *or her* option, continue to be a participating member of the plan thereafter until he *or she* retires, or, may elect to cease to be a participating member of the plan, in which latter event he *or she* shall not be required to become a participating member of the Kentucky Employees Retirement System.
- (2) A member drawing benefits from the Kentucky Judicial Retirement Plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he *or she* retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he *or she* commenced drawing the initial

benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if married to the member at the time of his *or her* ultimate retirement, shall be considered to be the surviving spouse with respect to both the additional and the initial benefits.

~~[(3) Notwithstanding any other provision of KRS 6.500 to 6.577 or 21.345 to 21.580 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Kentucky Retirement Systems, the Teachers' Retirement System, or the Judicial Form Retirement System on or after January 1, 2019, shall not be eligible to earn benefits in the Legislators' Retirement Plan or Judicial Retirement Plan for service as a judge, justice, or legislator that occurs on or after January 1, 2019.]~~

➔Section 9. KRS 21.402 is repealed, reenacted, and amended to read as follows:

- (1) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement Plan begins on or after January 1, 2014, **or a member making an election pursuant to KRS 21.374**, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 6.520 and 21.400. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by KRS 6.505(1)(d)2.b. and 21.360(1)(a)3.b.;
 - (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3)
 - (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the plan.
 - (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4)
 - (a) On June 30 of each fiscal year, the plan shall determine if the member contributed to the hybrid cash balance plan ~~or another state administered retirement system~~ during the fiscal year.
 - (b) If the member contributed to the hybrid cash balance plan ~~or another state administered retirement system~~ during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
 1. **Four percent (4%); plus**
 2. **Seventy-five percent (75%)** ~~eighty five percent (85%)~~ of the plan's geometric average net investment return ~~in excess of a four percent (4%) rate of return~~ ~~but in no case shall be less than zero percent (0%)~~.
 - (c) If the member did not contribute to the hybrid cash balance plan ~~or another state administered retirement system~~ during the fiscal year, ~~the then no~~ interest credit ~~shall be~~ added to the member's account for that fiscal year **shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%)**.
 - (d) For purposes of this subsection, "plan's geometric average net investment return":
 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 2. Shall be expressed as a percentage and based upon the plan in which the member has an account.
- (5)
 - (a) Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or

her accumulated account balance as provided by KRS 21.460, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.

- (b) Upon termination of employment, a member who has five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
- (a) Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system; or
 - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement plan in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 21.420(8)(b); or
 - (c) Take a refund of his or her accumulated account balance as provided by KRS 21.460.
- (8) The board of the Judicial Form Retirement System shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The Judicial Form Retirement System may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.
- (9) The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, *except for those members who make an election pursuant to KRS 21.374.*

➔Section 10. KRS 21.480 is repealed, reenacted, and amended to read as follows:

- (1) For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced judges and commissioners to continue in service, KRS 21.350 to 21.510, except as provided in KRS 6.696, shall constitute an inviolable contract of the Commonwealth, and the rights and benefits provided therein shall, not be subject to reduction or impairment by alteration, amendment or repeal, ~~except~~ *as provided in KRS 6.696*
 - ~~(a) As provided in KRS 6.696; and~~
 - ~~(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 21.345 to 21.580 that become effective on or after July 1, 2018.~~
- (2) (a) For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 21.345 to 21.580 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 21.345 to 21.580, for members who begin

participating in the Judicial Retirement Plan on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Judicial Retirement Plan as provided by KRS 21.345 to 21.580 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

Signed by Governor March 30, 2022.