

**CHAPTER 216****( HB 297 )**

AN ACT relating to the retirement and declaring an emergency.

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

➔Section 1. KRS 16.582 is amended to read as follows:

- (1)
  - (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
  - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
  - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
  - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
  - (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
  - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
  - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
  - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
  - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
  - (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (b) The incapacity is deemed to be permanent; and
  - (c) The incapacity does not result directly or indirectly from:
    1. Injury intentionally self-inflicted while sane or insane; or
    2. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

- a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
- b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems or the County Employees Retirement System.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems or the County Employees Retirement System with no loss of service credit.

- (4) (a) 1. An incapacity shall be deemed to be permanent *for the purpose of hazardous disability* if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as *a* regular full-time officer or a hazardous position.
2. The determination of a permanent incapacity *for the purpose of hazardous disability* shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
3. ***The determination of a total and permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity.***
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
  1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
  2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
  3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
  4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
  5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his or her last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his or her last date of paid employment and continuing to his or her fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his or her last day of paid employment, and the maximum service credit for calculating his or her retirement allowance, including his or her total service and service added under this section, shall not exceed twenty (20) years.
- (b) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 16.583.
- (6) If the member receives a satisfactory determination of hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty as defined in KRS 16.505, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
- (b) For each dependent child of the member on his or her disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
- (7) If the member receives a satisfactory determination of total and permanent disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty as defined in KRS 16.505, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, the benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than seventy-five percent (75%) of the member's monthly average pay; and
- (b) For each dependent child of the member on his or her disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly average pay, except that:
1. Member and dependent children payments under this subsection shall not exceed one hundred percent (100%) of the member's monthly average pay; and
  2. Total maximum dependent children's benefits shall not exceed twenty-five percent (25%) of the member's monthly average pay while the member is living and forty percent (40%) of the member's monthly average pay after the member's death. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system, and shall be divided equally among all dependent children.
- (8) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is ***the age of normal retirement***~~age fifty-five (55)~~ or older.
- (9) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

- (10) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) to (7) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he or she is qualified.

➔Section 2. KRS 61.505 is amended to read as follows:

- (1) There is created an eight (8) member Kentucky Public Pensions Authority whose purpose shall be to administer and operate:
- (a) A single personnel system for the staffing needs of the Kentucky Retirement Systems and the County Employees Retirement System;
  - (b) A system of accounting that is developed by the Authority for the Kentucky Retirement Systems and the County Employees Retirement System;
  - (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to:
    1. Benefit counseling and administration;
    2. Information technology and services, including a centralized Web site for the Authority, the Kentucky Retirement Systems, and the County Employees Retirement System;
    3. Legal services;
    4. Employer reporting and compliance;
    5. Processing and distribution of benefit payments, and other financial, investment administration, and accounting duties as directed by the Kentucky Retirement Systems board of trustees or the County Employees Retirement System board of trustees;
    6. All administrative actions, **orders, decisions, and determinations** necessary to carry out benefit functions required by the Kentucky Retirement Systems and the County Employment Retirement System statutes, including but not limited to administration of reduced and unreduced retirement benefits, disability retirement, reemployment after retirement, service purchases, computation of sick-leave credit costs, **correction of system records, qualified domestic relations orders, and pension spiking determinations**, ~~and all other administrative decisions and orders~~; and
    7. Completing and compiling financial data and reports;
  - (d) Any jointly held assets used for the administration of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to real estate, office space, equipment, and supplies;
  - (e) **The hiring of** a single actuarial consulting firm who shall serve both the Kentucky Retirement Systems and the County Employees Retirement System;
  - (f) **The hiring of a single external certified public accountant who shall perform audits for both the Kentucky Retirement Systems and the County Employees Retirement System;**
  - (g) ~~The Authority may promulgate~~ **the promulgation of** administrative regulations as an authority or on behalf of the Kentucky Retirement Systems and the County Employees Retirement System, individually or collectively, provided such regulations are not inconsistent with the provisions of this section and KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of this section and duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
  - ~~(h)~~ **(g)** A **system of** contracting management for administrative services; and
  - ~~(i)~~ **(h)** Other tasks or duties as directed solely or jointly by the boards of the Kentucky Retirement Systems or the County Employees Retirement System.
- (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of the following individuals:
- (a) The chair of the Kentucky Retirement Systems board of trustees;
  - (b) The chair of the County Employees Retirement System board of trustees;
  - (c) The investment committee chair of the Kentucky Retirement Systems board of trustees, unless the investment committee chair is also the chair of the board of trustees in which case the chair of the Kentucky Retirement Systems shall appoint an individual who serves on the investment committee;

- (d) The investment committee chair of the County Employees Retirement System board of trustees, unless the investment committee chair is also the chair of the County Employees Retirement System board of trustees in which case the chair of the County Employees Retirement System shall appoint an individual who serves on the investment committee;
  - (e) Two additional (2) trustees of the Kentucky Retirement Systems board of trustees selected by the chair of the Kentucky Retirement Systems board of trustees of which one (1) shall be a trustee who was elected by the membership of one (1) of the systems administered by Kentucky Retirement Systems and one (1) shall be a trustee of Kentucky Retirement Systems who was appointed by the Governor; and
  - (f) Two additional (2) trustees of the County Employees Retirement System board of trustees selected by the chair of the County Employees Retirement System board of trustees of which one (1) shall be a trustee who was elected by the membership of the County Employees Retirement System and one (1) shall be a trustee of the County Employees Retirement System who was appointed by the Governor.
- (3) The Kentucky Public Pensions Authority is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
  - (b) To make bylaws not inconsistent with the law and in accordance with its duties as provided by this section;
  - (c) To conduct the business and promote the purposes for which it was formed;
  - (d) To carry out the obligations of the Authority subject to KRS Chapters 45, 45A, 56, and 57;
  - (e) To purchase fiduciary liability insurance; and
  - (f) The Kentucky Public Pensions Authority shall reimburse any Authority member, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (4) Any vacancy which may occur in an appointed position on the Kentucky Public Pensions Authority shall be filled in the same manner which provides for the selection of the particular member of the Authority. No person shall serve in more than one (1) position as a member of the Authority and if a person holds more than one (1) position as a member of the Authority, he or she shall resign a position.
- (5) (a) Membership on the Authority shall not be incompatible with any other office unless a constitutional incompatibility exists. No Authority member shall serve in more than one (1) position as a member of the Authority.
- (b) An Authority member shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
- (c) A current or former employee of the County Employees Retirement System, Kentucky Retirement Systems, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the Authority.
- (6) Kentucky Public Pensions Authority members who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards, except that the members shall not receive a per diem or receive reimbursements on the same day they receive a per diem or reimbursements for service to the Kentucky Retirement Systems board of trustees or County Employees Retirement Systems board of trustees.
- (7) (a) The Authority shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director of the Authority.
- (b) The Authority shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice chair of the Authority. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the Authority. A member who has served four (4)

consecutive years as chair or vice chair of the Authority may be elected chair or vice chair of the Authority after an absence of two (2) years from the positions.

- (c) A majority of the Authority members shall constitute a quorum and all actions taken by the Authority shall be by affirmative vote of a majority of the Authority members present.
  - (d) The Authority shall post on the Authority's Web site and shall make available to the public:
    1. All meeting notices and agendas of the Authority. Notices and agendas shall be posted to the Authority's Web site at least seventy-two (72) hours in advance of the Authority's meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
    2. All Authority minutes or other materials that require adoption or ratification by the Authority. The items listed in this subparagraph shall be posted within seventy-two (72) hours of adoption or ratification of the Authority;
    3. All bylaws, policies, or procedures adopted or ratified by the Authority; and
    4. A listing of the members of the Authority and membership on each committee established by the Authority.
- (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief administrative officer of the Authority, the Kentucky Retirement Systems board of trustees, and the County Employees Retirement System board of trustees. The executive director shall work cooperatively with the chief executive officers of the Kentucky Retirement Systems and the County Employees Retirement System. ***The Authority shall annually conduct a performance evaluation of the executive director.***
- (b) The Kentucky Public Pensions Authority shall authorize the executive director to appoint the employees deemed necessary to transact the duties of the Authority for the purposes outlined in subsection (1) of this section. ***After the effective date of this Act, approval by the Authority shall be required for a petition to the secretary of the Personnel Cabinet for the creation of any new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).***
  - (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume responsibility of administering the staff of the Kentucky Retirement Systems in order to provide the services established by this section.
  - (d)
    1. All employees of the Kentucky Public Pensions Authority, except for the executive director ***and no more than six (6) unclassified employees of the Office of Investments employed pursuant to KRS 18A.115(1)(e), (g), (h), and (i)***, ~~chief investment officer, and one (1) deputy chief investment officer~~, shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.
    2. ***The employees exempted from the classified service under this paragraph shall not be subject to the salary limitations specified in KRS 64.640(2) and (3).***
    3. ***The Kentucky Public Pensions Authority shall adopt a written salary and classification plan fixing a range of compensation and written terms of employment for any of the unclassified employees of the Office of Investments it authorizes under this paragraph. The Authority shall authorize the executive director to appoint up to six (6) unclassified employees of the Office of Investments subject to the compensation ranges and terms of employment the Authority has established. The Authority may amend the written salary and classification plan adopted under this paragraph at any time.***
  - (e) The Authority shall annually ***review, approve, and submit a*** report to the Public Pension Oversight Board ***detailing*** the number of employees of the Authority, the salary paid to each employee, and the change in the salaries of each individual employed by the Authority over the prior year.
  - (f) The Authority shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

- (g) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of this section by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Public Pensions Authority.
- (9) All employees of the Authority shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (10) The Attorney General, or an assistant designated by him or her, may attend each meeting of the Authority and may receive the agenda, board minutes, and other information distributed to Authority members upon request. The Attorney General may act as legal adviser and attorney for the Authority, and the Authority may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (11) (a) *I.* All expenses incurred by or on behalf of the Kentucky Public Pensions Authority shall be paid by the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System and shall be prorated, assigned, or allocated to each system as determined by Kentucky Public Pensions Authority.
- 2.* ***Until June 30, 2024***, any additional initial costs determined by the Authority to be attributable solely to establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority as provided by this section and KRS 78.782 shall be paid by the County Employees Retirement System. ***Until June 30, 2024***, any additional ongoing annual administrative and investment expenses that occur after the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority that are determined by the Authority to be a direct result of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority shall be paid by the County Employees Retirement System. ***Beginning on and after July 1, 2024, any annual administrative and investment expenses shall be prorated, assigned, or allocated to each system as determined by the Kentucky Public Pensions Authority as provided by subparagraph 1. of this paragraph but without attribution to the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority.***
- 3.* ***In order to evaluate the results of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority, on or before November 15, 2022, and on or before November 15 following the close of each successive fiscal year, the Kentucky Public Pensions Authority shall report to the Public Pensions Oversight Board the annual administrative and investment expenses of the Kentucky Retirement Systems and the County Employees Retirement System. The report shall include but not be limited to the process or manner the Authority used to prorate, assign, or allocate to each system its share of the expenses, the amount of expenses prorated, assigned, or allocated to each system itemized by category, and any efforts by the systems or the Authority to reduce administrative costs and staffing needs.***
- (b) Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. ***The Kentucky Public Pensions Authority shall approve the biennial budget unit request prior to its submission by the Authority.*** The request from the Kentucky Public Pensions Authority shall include any specific administrative expenses requested by the Kentucky Retirement Systems board of trustees or the County Employees Retirement System board of trustees pursuant to KRS 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses specified by paragraph (a) of this subsection.
- (12) (a) An Authority member shall discharge his or her duties as a member of the Authority, including his or her duties as a member of a committee of the Authority:
1. In good faith;
  2. On an informed basis; and
  3. In a manner he or she honestly believes to be in the best interest of the County Employees Retirement System and the Kentucky Retirement Systems, as applicable.

- (b) An Authority member discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the Authority, system, or systems or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, an Authority member may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
  1. One (1) or more officers or employees of the Authority whom the Authority member honestly believes to be reliable and competent in the matters presented;
  2. Legal counsel, public accountants, actuaries, or other persons as to matters the Authority member honestly believes are within the person's professional or expert competence; or
  3. A committee of the Authority of which he or she is not a member if the Authority member honestly believes the committee merits confidence.
- (d) An Authority member shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a member of the Authority, or any failure to take any action as an Authority member, shall not be the basis for monetary damages or injunctive relief unless:
  1. The Authority member has breached or failed to perform the duties of the member's office in compliance with this section; and
  2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems or County Employees Retirement System, as applicable.
- (g) In discharging his or her administrative duties under this section, an Authority member shall strive to administer the systems in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.

➔Section 3. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;



- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);
- (13) "Creditable compensation":
- (a) Means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);
- (b) Includes:
1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
  2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
  3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
  4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
  2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
  3. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
  4. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;
- (14) "Final compensation" of a member means:
- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
  - (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
  - (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
  - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
  - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee

contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
  - (b) Emergency positions which are positions *utilized by the employer during:*
    1. *An emergency as determined by the employer for a period*~~[which do]~~ *not exceeding*~~[exceed]~~ thirty (30) working days and are nonrenewable; *or*
    2. *A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;*
  - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
  - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
  - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer

participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;

- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level percentage of payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years but that may be converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period of time and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period of years;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Public Pensions Authority's office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
  - (a) The date upon which the member began participating in the system as provided in KRS 61.543; or
  - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
  - (a) Is issued by a court or administrative agency; and

- (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
  - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month *with each participating employer*. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall *not* be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (44) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;
- (45) "Monthly average pay" means:
- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or
  - (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;
- (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505;~~and~~
- (47) "Executive director" means the executive director of the Kentucky Public Pensions Authority; *and*
- (48) *"Instructional staff" means the employees of a state college or university participating under Section 5 of this Act who are:*
- (a) *Faculty;*
  - (b) *Staff responsible for teaching; or*
  - (c) *Other individuals employed in an administrative position that is eligible for participation in the Teachers' Insurance and Annuity Association (TIAA) or the Teachers' Retirement System.*

➔Section 4. KRS 61.515 is amended to read as follows:

There is hereby created and established:

- (1) A retirement system for employees to be known as the "Kentucky Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 61.510 to 61.705, transact all its business and shall have the powers and privileges of a corporation; and
- (2) (a) A fund, called the "Kentucky Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585.
  - (b) All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 61.510 to 61.705.
  - (c) ***The assets in the fund shall be attributable to members participating in the Kentucky Employees Retirement System in both hazardous positions as defined in KRS 61.592 and nonhazardous positions as defined in Section 3 of this Act, and when payment is made from the fund:***
    1. ***No assets attributable to members in hazardous positions shall be used to pay benefits to members in nonhazardous positions; and***
    2. ***No assets attributable to members in nonhazardous positions shall be used to pay benefits to members in hazardous positions.***

➔Section 5. KRS 61.520 is amended to read as follows:

- (1) Each department determined by the board to be eligible and qualified for participation shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be determined by the board and fixed by the Governor in his executive order.
- (2) (a) Notwithstanding the provisions of subsection (1) of this section, the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.
- (b) All employees of an agency participating under authority of ***paragraph (a) of this*** subsection ~~[(2)(a) of this section]~~ shall be considered noninstructional employees except the members of the instructional staff ***as defined in Section 3 of this Act*** ~~[of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System].~~
- (3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, board for mental health or individuals with an intellectual disability, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.
- (4) Except as provided by KRS 61.522:
  - (a) Once a department participates it shall continue to participate as long as it remains qualified; and
  - (b) Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

➔Section 6. KRS 61.565 is amended to read as follows:

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652 and the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute annually to the respective retirement system an amount determined by the actuarial valuation completed in accordance with KRS 61.670 and as specified by this section. Employer contributions for each respective retirement system shall be equal to the sum of the "normal cost contribution" and the "actuarially accrued liability contribution."
- (b) For purposes of this section, the normal cost contribution shall be computed as a percentage of pay and shall be an annual amount that is sufficient when combined with employee contributions to fund benefits earned during the year in the respective system. The amount shall be:
  1. Paid as a percentage of creditable compensation reported for each employee participating in the system and accruing benefits; and

2. The same percentage of pay for all employees who are participating in the same retirement system, except that separate percentage rates shall be developed in each system for those employers whose employees are participating in hazardous duty retirement coverage as provided by KRS 61.592.
- (c) For purposes of this section, the actuarially accrued liability contribution for all employers, except for contributions paid by nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021, shall be:
1. Computed by amortizing the total unfunded actuarially accrued liability of each system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 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;
  2. Paid as a percentage of payroll on the creditable compensation reported for each employee participating in the system and accruing benefits; and
  3. The same percentage of pay for all employees who are participating in the same retirement system, except that separate percentage rates shall be developed in each system for those employers whose employees are participating in hazardous duty retirement coverage as provided by KRS 61.592.
- (d) 1. For purposes of this section, the actuarially accrued liability contribution for nonhazardous employers in the Kentucky Employees Retirement System on or after July 1, 2021:
- a. Shall be an annual dollar amount that is sufficient to amortize the total unfunded actuarially accrued liability of the system over a closed period of thirty (30) years beginning with the 2019 actuarial valuation using the level percentage of payroll amortization method, except that any increase or decrease in the unfunded actuarially accrued liability occurring after the completion of the 2019 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;
  - b. Shall be prorated to each individual nonhazardous employer in the Kentucky Employees Retirement System by multiplying the annual dollar amount of the actuarially accrued liability contribution for the system as determined by subdivision a. of this subparagraph by the individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation which shall be determined solely by the system's consulting actuary and assigned to each employer based upon the last participating employer of the member or retiree as of June 30, 2019. The individual employer's percentage of the system's total actuarially accrued liability as of the June 30, 2019, actuarial valuation shall be used to determine the individual employer's prorated dollar amount of the system's actuarially accrued liability contribution in all future fiscal years of the amortization period or periods, except that the employer's percentage shall be adjusted to reflect any employer who voluntarily or involuntarily ceases participation as provided by KRS 61.522 and except as provided by subparagraphs 4. and 5. of this paragraph. For purposes of this subdivision, all executive branch departments, program cabinets and their respective departments, and administrative bodies enumerated in KRS 12.020, and any other executive branch agencies administratively attached to a department, program cabinet, or administrative body enumerated in KRS 12.020, shall be considered a single individual employer and only one (1) value shall be computed for these executive branch employers. For purposes of this subdivision, all employers of the legislative branch, including the Legislative Research Commission and the General

Assembly that covers legislators and staff who participate in the Kentucky Employees Retirement System, shall be considered a single individual employer and only one (1) value shall be computed for these employers. For purposes of this subdivision, all employers of the judicial branch, including the Administrative Office of the Courts, the Judicial Form Retirement System, and all master commissioners, shall be considered a single individual employer and only one (1) value shall be computed for these employers;

- c. Shall be payable by an individual employer in equal monthly dollar installments during the fiscal year in accordance with the reporting requirements specified by KRS 61.675 so that the individual employer pays its full prorated dollar amount of the actuarially accrued liability contribution as determined by subdivision b. of this subparagraph; and
  - d. Notwithstanding subdivision b. of this subparagraph for those individual participating employers who are local and district health departments governed by KRS Chapter 212, community mental health centers, and employers whose employees are not subject to KRS 18A.005 to 18A.200, who received or were eligible to receive a distribution of general fund appropriations in the 2018-2020 biennial executive branch budget to assist in paying retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5); 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169, Part I, G., 9., (2), shall not, once the initial dollar amounts are established in accordance with this paragraph, be adjusted in terms of dollars paid by the individual employer, except that adjustments shall be made by the system upon completion of an actuarial investigation as provided by KRS 61.670, so long as at least four (4) years have passed since the last adjustment to the actuarially accrued liability contribution for these employers. The provisions of this subdivision shall not be interpreted to mean that employers described by this subdivision may continue paying the dollar value of contributions or employer contribution rates established or paid by the employer in budget periods occurring prior to July 1, 2021.
2. Individual employers, solely for purposes of collecting employer contributions from various fund sources during the fiscal year, may convert the actuarially accrued liability contribution established by this paragraph to a percentage of pay and may adjust the percent of pay during the fiscal year in order to pay the required dollar value of actuarially accrued liability contribution required by this paragraph. No provision of this subparagraph shall be construed to reduce an individual employer's actuarially accrued liability contribution as otherwise provided by this paragraph.
3. The provisions of this paragraph shall not apply to those employers who cease participation as provided by KRS 61.522.
4. In the event an individual Kentucky Employees Retirement System nonhazardous employer who is required to pay an actuarially accrued liability contribution as provided by this paragraph and as calculated from the 2019 actuarial valuation or subsequent valuations, merges with another employer or entity, forms a new or separate employer or entity, or splits or separates operations into multiple employers or entities, the system shall, except for those employers or entities who pay the costs to cease participation as provided by KRS 61.522, have full authority to assign a portion or all of the total actuarially accrued liability contribution to the merged, new, split, or separate employers or entities, regardless of whether or not the merged, new, split, or separate employers or entities participate in the system. In the case of a district health department established pursuant to KRS Chapter 212, which ceases to operate or which has a county or counties that withdraw from the district health department, the systems shall assign the total actuarially accrued liability contribution based upon the proportion of taxable property of each county as certified by the Department for Public Health in the Cabinet for Health and Family Services in accordance with KRS 212.132. The system shall establish by administrative regulations the process of assigning actuarially accrued liability contributions as authorized by this subparagraph.
5.
  - a. An employer who is not in the executive, legislative, or judicial branch of Kentucky state government as enumerated in subparagraph 1.b. of this paragraph may on or before July 1, 2021, appeal to the board regarding any current or former employees or retirees the employer believes should not be used to determine the employer's percentage of the system's total actuarially accrued liability. The only appeals that shall be submitted by the employer or considered by the board shall be potential errors where the last participating



employer is in dispute, situations where employees of the employer were hired through a contract between the executive branch and the employer for the employee to provide services to the executive branch, or situations where a community mental health center was contracted to provide services at a facility previously operated by the executive branch. The employer shall submit the information required by the board to verify potential errors or contract employees with employers.

- b. The board shall review and issue a final determination regarding any appeals by December 31, 2021. In situations where the board determines the last participating employer was incorrect and should be assigned to another employer, the system shall, effective for employer contributions payable on or after July 1, 2022, assign the cost to the executive branch until such time ownership of the liability can be determined and assigned to the correct employer. In situations where the board determines certain employees of employers were hired through a contract between the executive branch and the employer for an employee or employees to provide services to the executive branch, those liabilities shall, effective for employer contributions payable on or after July 1, 2022, be assigned to the executive branch. In situations where the board determines the community mental health center was contracted to provide services at a facility previously operated by the executive branch, the liabilities for employees providing services at that facility shall, *effective for employer contributions payable on or after July 1, 2022*, be assigned to the executive branch.
  - c. No appeal shall be submitted by the employer or considered by the board regarding the assumptions or methodology used by the actuary to determine a particular employer's percentage of the system's total actuarially accrued liability or the use of the last participating employer to assign liabilities to an employer, except as otherwise provided by this subparagraph.
  - d. The board shall within thirty (30) days following the final determinations submit to the Public Pension Oversight Board the list of appeals that were approved, the number of employees involved, and any costs that will be transferred to the executive branch effective July 1, 2022.
- (e) The employer contributions computed under this section shall be determined using:
- 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 by the board in accordance with KRS 61.670.
- (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the Kentucky Employees Retirement System, normal cost contribution rates and the actuarially accrued liability contribution shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.
- (b) The board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.
- (3) The system shall advise each employer prior to July 1 of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under this section.
- (4) All employers, including the General Assembly, shall pay the full actuarially required contributions, as prescribed by this section, to the Kentucky Employees Retirement System and the State Police Retirement System in fiscal years occurring on or after July 1, 2020.

➔Section 7. 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 *Public Pensions Authority*~~Retirement Systems~~ member identification number, last day of employment, and other information the *Authority*~~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 *or any participating agency in the County Employees Retirement System* 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 *Authority*~~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 KRS 61.542(5). 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 *and all employers participating in the County Employees Retirement System* 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 *sent by United States first-class mail to the member's last address on file in the retirement office, by electronic mail to the member's last electronic mail address on file in the retirement office, or by other electronic means*~~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 ~~sent~~~~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 *and all employers participating in the County Employees Retirement System* 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 *or she* wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his *or her* 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 8. KRS 61.610 is amended to read as follows:

- (1) Once each year following the retirement of a person on a disability retirement allowance, except for persons who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621 in which case shall be once every three (3) years following retirement, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his or her normal retirement date, to undergo an employment and medical staff review and, if necessary, be required to file at the retirement office on the review form prescribed by the board current employment information and current medical information for the bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system ~~sent~~mailed~~~~ the review form **by United States first-class mail** to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means**, to file at the retirement office the review form and the current employment and medical information. The person shall certify to the retirement office that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with KRS 61.615.
- (2) If, after good faith efforts, the person informs the system that he or she has been unable to obtain the employment or medical information, the system shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records.
- (3) If the person fails or refuses to file at the retirement office the review form, including the current employment and medical information, his or her retirement allowance shall be discontinued or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the system ~~sent~~mailed~~~~ the review form **by United States first-class mail** to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means**. The ~~Authority~~system~~~~ shall send notice of the discontinuance or reduction of the disability retirement allowance by United States first-class mail to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means**. If the person's benefits are discontinued or reduced under this section, his or her rights to further disability retirement allowances shall cease, except as provided by KRS 61.615.
- (4) The ~~Kentucky Public Pensions Authority~~system~~~~ shall hire or contract for the services of **one (1) or more investigators~~an investigator~~** to investigate potential fraud involving disability benefits with the system. The ~~investigators~~investigator~~~~ shall evaluate potential cases of disability fraud and conduct spot audits for potential fraud as determined by the system in cases involving members who become totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or become disabled as a result of a duty-related injury as defined in KRS 61.621.

➔Section 9. 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, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.**
      - a. The person shall have sixty (60) days from the day that the system ~~sent<sup>(mailed)</sup>~~ 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 ~~sent<sup>(mailed)</sup>~~ the notice of the recommendation **by United States first-class mail** to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.**
  - (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, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.**
      - a. The person shall have sixty (60) days from the day that the system ~~sent<sup>(mailed)</sup>~~ 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 ~~sent<sup>(mailed)</sup>~~ the notice of the recommendation **by United States first-class mail** to the person's last address on file in the

retirement office, *by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.*

- (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 ~~sent<sup>mailed</sup>~~ the order *by United States first-class mail* to the person's last address on file in the retirement office, *by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.* 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 ~~provided<sup>mailed</sup>~~ 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 KRS 61.542(5);
    - (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) ***If a disability retirement allowance is reduced or discontinued for a person who began participating in the system on or after January 1, 2014, the person shall remain eligible for reinstatement of his or her disability allowance as provided under subsection (6)(d) of this section.***
- (8) 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 10. KRS 61.635 is amended to read as follows:

- (1) Each member shall have the right to elect to have his ***or her*** retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to ***the member***~~him~~ upon retirement under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to ***the member***~~him~~.
- (2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his ***or her*** lifetime and have the retirement allowance continued after ***the member's***~~his~~ death to his ***or her*** beneficiary during the lifetime of the person.
- (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during his ***or her*** lifetime and have two-thirds (2/3) of the retirement allowance continue after ***the member's***~~his~~ death to his ***or her*** beneficiary during the lifetime of the person.
- (4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his ***or her*** lifetime and have one-half (1/2) of the retirement allowance continued after ***the member's***~~his~~ death to his ***or her*** beneficiary during the lifetime of the person.
- (5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his ***or her*** lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, ***the member's***~~his~~ beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining monthly payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his ***or her*** lifetime which shall guarantee payments for one hundred ~~and~~ eighty (180) months. If the member dies before receiving payments for one hundred ~~and~~ eighty (180) months, ***the member's***~~his~~ beneficiary shall receive the remaining payments monthly for the duration of the one hundred ~~and~~ eighty (180) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his ***or her*** lifetime which shall guarantee payments for two hundred ~~and~~ forty (240) months. If the member dies before receiving payments for two hundred ~~and~~ forty (240) months, ***the***

~~member's~~ beneficiary shall receive the remaining payments for the duration of the two hundred ~~and~~ forty (240) months period. However, if the trust is beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.

- (8) Social Security adjustment options. These options shall be available to any member who has not attained age sixty-two (62) as follows:
  - (a) No survivor rights. The member may elect to receive an increased retirement allowance from his *or her* effective retirement date through the month he *or she* attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his *or her* lifetime;
  - (b) Survivor rights. The member may elect to receive an increased retirement allowance from his *or her* effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, if the retirement allowance shall be decreased in the month following the month he *or she* attains age sixty-two (62), or the month following the month he *or she* would have attained age sixty-two (62), in event of ~~the member's~~ death, and have the retirement allowance continue after ~~the member's~~ death to his *or her* beneficiary during the lifetime of the person.
- (9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his *or her* lifetime an increased retirement allowance based on his *or her* annual benefit payable for life. The payment shall begin on his *or her* effective retirement date and continue through the month he *or she* attains age sixty (60) at which time his *or her* retirement allowance shall be decreased for the remainder of his *or her* lifetime.
- (10) Pop-up option. The member may elect to receive a decreased retirement allowance during his *or her* lifetime and have the retirement allowance continued after ~~the member's~~ death to his *or her* beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.
- (11) Actuarial equivalent refund. A member who began participating in the system prior to January 1, 2014, may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).
- (12) Partial lump-sum option.
  - (a) No survivor rights. A member retiring on or before January 1, 2009, may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under the applicable retirement formula for the system and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable.
  - (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his *or her* beneficiary during the lifetime of the person.
- (13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66-2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly began participating in the system prior to January 1, 2014, and has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.
- (14) A member of the General Assembly who began participating in the system prior to January 1, 2014, who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky **Public Pensions Authority**~~[retirement systems]~~:

- (a) Within thirty (30) days after first becoming a member of the General Assembly if he *or she* is not a member of the General Assembly on July 15, 1980; or
  - (b) Within thirty (30) days after July 15, 1980, if he *or she* is a member of the General Assembly on July 15, 1980.
- (15) The system shall forward to members of the General Assembly a form on which a member who began participating in the system prior to January 1, 2014, may elect the option provided for in subsections (13) and (14) of this section.
- (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of this section shall be extended to the member only if the designated beneficiary is a person.

➔Section 11. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his or her retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he or she anticipates that he or she will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
  - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his or her estate, if he or she does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
  - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his or her period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
  - (c) If the retired member is not eligible to be paid suspended payments for his or her period of reemployment as an employee, his or her retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
    - 1. The retired member's final compensation shall be recomputed using creditable compensation for his or her period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his or her retirement allowance was last determined;
    - 2. If the retired member initially retired on or subsequent to his or her normal retirement date, his or her retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
    - 3. If the retired member initially retired prior to his or her normal retirement date, his or her retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his or her age at the time of his or her initial retirement increased by the number of months of service credit earned for service performed during reemployment;
    - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. of this paragraph. The member shall not receive less in benefits as a result of the recomputation than he or she was receiving prior to reemployment or would receive as determined under KRS 61.691; and



5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his or her estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his or her estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.  
(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received.
- (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.  
(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.
- (9) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him or her prior to his or her voided retirement. The retirement

allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his or her initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his or her retirement, and the member shall repay to the retirement system all benefits received for the month.
- (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his or her previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he or she retired and for the position in which he or she has been reemployed.
- (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
  - (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
  - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems or County Employees Retirement System under reciprocity, including medical insurance benefits, that the member received after reemployment began;
  - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his or her initial retirement account shall no longer be suspended, and the member shall receive the amount to which he or she is entitled, including an increase as provided by KRS 61.691;
  - (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him or her in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and
  - (e) Upon termination, the retired member shall be entitled to benefits payable from his or her second retirement account.
- (14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he or she retired, the retired member shall continue to receive his or her retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was eligible to purchase prior to his or her initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems

administered by Kentucky Retirement Systems or County Employees Retirement System on or after September 1, 2008:

- (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position **as the elected official held prior to retirement and takes office** ~~and has retired from the elected office~~ within twelve (12) months **of his or her retirement date** ~~prior to taking the new term of office~~, he or she shall be deemed by the **Authority** ~~system~~ as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
  3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System:
1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position **as the elected official held prior to retirement and takes office** ~~and has retired from the elected office~~ within twelve (12) months **of his or her retirement date** ~~prior to taking the new term of office~~, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
  3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems;
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
  2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
  3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
  4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by Kentucky Retirement Systems or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body if the mayor or member of a city legislative body:
1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
  2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems for any employment occurring on or after the effective retirement date;
- (g) If a member is receiving a retirement allowance from any of the retirement systems administered by the Kentucky Retirement Systems or County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System:
1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
  2. Within three (3) months following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
  3. After three (3) months but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent

contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and

4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the system or submit any documentation for purposes of this section to the system.

The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection; and

- (h) The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Authority.
- (18) The Authority shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference board-prescribed forms that a retired member and participating agency shall provide the systems under subsections (8), (9), and (17) of this section.

➔Section 12. KRS 61.645 is amended to read as follows:

- (1) The Kentucky Employees Retirement System and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:
  - (a) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
  - (b) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System;
  - (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the six (6) trustees appointed by the Governor, three (3) trustees shall have investment experience and three (3) trustees shall have retirement experience;
  - (d) For purposes of paragraph (c) of this subsection, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
    1. A portfolio manager acting in a fiduciary capacity;
    2. A professional securities analyst or investment consultant;
    3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
    4. A chartered financial analyst in good standing as determined by the CFA Institute; or
    5. A university professor, teaching investment-related studies; and
  - (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
    1. Experience in retirement or pension plan management;
    2. A certified public accountant with relevant experience in retirement or pension plan accounting;
    3. An actuary with relevant experience in retirement or pension plan consulting;
    4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
    5. A current or former university professor whose primary area of emphasis is economics or finance.

- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
  - (b) To make bylaws not inconsistent with the law;
  - (c) To conduct the business and promote the purposes for which it was formed;
  - (d) Except as provided in KRS 61.650(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;
  - (e) To purchase fiduciary liability insurance;
  - (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
  - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
- (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four (4) digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.
- (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall include the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.
- (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address *on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.*
- (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the

term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.

- (g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
- (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
- (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
  1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
  2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
  3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
- (j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct trustee elections using electronic ballots, except that the systems shall mail a paper ballot upon request of any eligible voter.
- (5) (a) Any vacancy which may occur in an appointed position during a term of office shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy during a term of office shall be filled within ninety (90) days of the position becoming vacant.
  - (b) Any appointments or reappointments to an appointed position on the board shall be made no later than thirty (30) days prior to an appointed member's term of office ending.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he or she shall resign a position.
  - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
  - (c) A current or former employee of Kentucky Retirement Systems, County Employees Retirement System, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.
  - (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.



- (c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.
  - (b) Prior to April 1, 2021, the board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. Effective April 1, 2021, the responsibility of appointing employees and managing personnel needs shall be transferred to the Kentucky Public Pensions Authority established by KRS 61.505.
  - (c) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
  - (d) The board shall have a system of accounting established by the Kentucky Public Pensions Authority.
  - (e) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).
  - (f) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 16.505 to 16.652 and 61.510 to 61.705 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Retirement Systems board of trustees.
- (10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
  - (11) The Attorney General, or an assistant designated by him or her, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
  - (12) (a) The ***Kentucky Public Pensions Authority***~~[system]~~ shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities ***for the systems***. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select ~~the~~~~an~~ independent certified public accountant ***hired by the Kentucky Public Pensions Authority*** or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The ***Kentucky Public Pensions Authority***~~[system]~~ shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the Kentucky Public Pensions Authority and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS 61.505. The board shall submit any administrative expenses that are specific to the Kentucky Retirement Systems that are not otherwise covered by KRS 61.505(11)(a).
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her duties as a member of a committee:
  - 1. In good faith;
  - 2. On an informed basis; and
  - 3. In a manner he or she honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
  - 1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
  - 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
  - 3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
  - 1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
  - 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
- (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.

- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B. The board may establish a joint administrative appeals committee with the County Employees Retirement System and may also establish a joint disability appeals committee with the County Employees Retirement System.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
    - 1. Benefits and benefits administration;
    - 2. Investment concepts, policies, and current composition and administration of retirement systems investments;
    - 3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
    - 4. Actuarial and financial concepts pertaining to the retirement systems.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 until the trustee has completed the orientation program;
  - (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 until the board member has met the annual training requirements; and
  - (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the Kentucky Public Pensions Authority's Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the Kentucky Public Pensions Authority'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) The Comprehensive Annual Financial Report with the information as follows:
    - 1. A general overview and update on the retirement systems by the executive director;
    - 2. A listing of the board of trustees;
    - 3. A listing of key staff;
    - 4. An organizational chart;
    - 5. Financial information, including 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;

6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net of fees return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
  7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
  8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;
- (c) All external audits;
  - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
  - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
  - (f) The retirement systems' summary plan description;
  - (g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;
  - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
  - (i) 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 systems 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 systems 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;
  - (j) An update of net of fees 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. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;
  - (k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the Kentucky Public Pensions Authority's Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;
  - (l) All contracts or offering documents for services, goods, or property purchased or utilized by the systems; and
  - (m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.
- (20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government

Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.

- (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, 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.

➔Section 13. KRS 61.661 is amended to read as follows:

- (1) (a) Each current, former, or retired member's account shall be administered in a confidential manner, and specific data regarding a current, former, or retired member shall not be released for publication, except that:
1. The member or recipient may authorize the release of his or her account information;
  2. **The Kentucky Public Pensions Authority**~~[Kentucky Retirement Systems]~~ may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; or
  3. a. Upon request by any person, the systems shall release the following information from the accounts of any member or retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, if the member or retired member is a current or former officeholder in the Kentucky General Assembly:
    - i. The first and last name of the member or retired member;
    - ii. The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
    - iii. The status of the member or retired member, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, or a retired member who has returned to work following retirement with an agency participating in the systems;
    - iv. If the individual is a retired member, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;
    - v. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year; and
    - vi. The current employer or last participating employer of the member or retired member, if applicable.
  - b. No information shall be disclosed under this subparagraph from an account that is paying benefits to a beneficiary due to the death of a member or retired member.
- (b) A current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.
- (c) The release of information under paragraph (a)3. of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement Systems, **the County Employees Retirement System, or the Kentucky Public Pensions Authority**, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the **Kentucky Public Pensions Authority**~~[Retirement Systems]~~ charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery,

legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems, *the County Employees Retirement System, or the Kentucky Public Pensions Authority*, unless, after the production of documents or affidavit, a separate subpoena is served upon the systems *or the Authority* specifically directing the testimony of an employee of the systems *or of the Authority*. When a subpoena is served on any employee of the systems *or of the Authority* requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems *or the Authority* may designate an employee to be deposed upon the matter referred to in the subpoena.

- (b) The certification required by this subsection shall be signed before a notary public by the employee and shall include the full name of the member or recipient, the member's or recipient's Social Security number, and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."
- (c) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his *or her* signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.
- (d) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky *Public Pensions Authority* ~~Retirement Systems~~ charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.
- (e) Records of the Kentucky *Public Pensions Authority* ~~Retirement Systems~~ that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this subsection.

➔Section 14. KRS 61.665 is amended to read as follows:

- (1) The Authority shall employ *or contract for the services of* at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The Authority may employ *or contract for the services of* one (1) or more licensed mental health professionals in making recommendations regarding mental impairments.
- (2) (a) Each person requesting disability retirement shall file at the retirement office an application for disability retirement and supporting medical information to report the person's physical and mental condition. The person shall also file at the retirement office a complete description of the job and duties from which he or she received his or her last pay as well as *information regarding whether evidence that* the person has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 *or reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 has been offered to the person*. The person shall certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners in accordance with paragraph (d) of this subsection. If, after good faith efforts, the person informs the Authority that he or she has been unable to obtain the employment or medical information, the Authority shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to file, at the retirement office within one hundred eighty (180) days of the date the person filed his or her notification of retirement, any of the forms, certifications, or information required by this subsection,

the person's application for disability retirement shall be void. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in paragraph (f) of this subsection or KRS 61.600(2), 78.5522, or 78.5524.

- (b) The employer shall file at the retirement office a complete description of the job and duties for which the person was last paid and shall submit a detailed description of *any* reasonable accommodations attempted.
  - (c) The cost of medical examinations and the filing of the medical information, reports, or data with the retirement office shall be paid by the person applying for disability retirement.
  - (d) The Authority shall select three (3) medical examiners to evaluate the medical evidence submitted by the person. The medical examiners shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the medical examiners may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.
  - (e) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement, the system shall make retirement payments in accordance with the retirement plan selected by the person.
  - (f) If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means**. The person shall have one hundred eighty (180) days from the day that the Authority ~~sent~~<sup>mailed</sup> the notice to file at the retirement office additional supporting medical information and certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners or to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in KRS 61.600(2), 78.5522, or 78.5524.
  - (g) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall make retirement payments in accordance with the retirement plan selected by the person.
  - (h) If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means**. The person shall have one hundred eighty (180) days from the day that the Authority ~~sent~~<sup>mailed</sup> the notice to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing.
  - (i) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
  - (j) Notwithstanding the foregoing provisions of this section, the Authority may pay for one (1) or more medical examinations of the person requested by the medical examiners for the purpose of providing medical information deemed necessary by the medical examiners. The system may require the person to submit to one (1) or more medical examinations.
- (3) (a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(f) or (2)(h) of this section may file at the retirement office a request for a 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 one hundred eighty (180) days after the person had notice of the system's determination, as described in subsection (2)(f) or (2)(h) of this section. The request for a formal hearing shall be filed with the executive director, at the retirement office in Frankfort. The request for a formal hearing shall include a short and plain statement of the reasons the denial of disability retirement is being contested.

- (b) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with the application for disability retirement, except as provided in KRS 61.600(2), 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal to a court.
- (c) The system may require the person requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be **provided**~~mailed~~ to the person or his or her legal representative. The system shall be responsible for the cost of the examination.
- (d) 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.
- (e) All requests for a hearing pursuant to this section shall be made in writing.
- (4) The~~board~~ **boards of the Kentucky Retirement Systems and the County Employees Retirement Systems** may **each** establish an appeals committee whose members shall be appointed by the chair and **that**~~who~~ shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of **each respective**~~the~~ board. The **boards**~~Authority may, upon the joint approval of the board~~ of the Kentucky Retirement Systems and the County Employees Retirement System **may**~~not~~ establish **a joint**~~an~~ appeals committee **that shall be authorized to select a chair from among its committee members and**~~whose members shall be appointed by the chair of the Authority and who have the authorization~~ to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of both boards.
- (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) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.~~
  - ~~(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.~~
  - ~~(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his or her disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his or her rights to any further disability allowance shall cease.~~

➔Section 15. KRS 61.701 is amended to read as follows:

- (1) (a) There is hereby maintained a trust fund known as "Kentucky Retirement Systems insurance trust fund."
- (b) Insurance trust fund assets shall be deemed trust funds to be held and applied solely as provided in this section. Assets shall not be used for any other purpose and shall not be used to pay the claims of creditors or any individual, person, or employer participating in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System.
- (c) The trust fund has been established as a trust exempt from taxation under 26 U.S.C. sec. 115.
- (2) The insurance trust fund has been created for the purpose of providing a trust separate from the retirement funds. Trust fund assets are **and shall be:**
  - (a) Dedicated for use for health benefits as provided in KRS 61.702 and 78.5536 and as permitted under 26 U.S.C. secs. 105 and 106, to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries, including but not limited to qualified beneficiaries as described in 42 U.S.C. secs. 300bb-1 et seq.;
  - (b) **For recordkeeping purposes, segregated from the retirement trust funds established under KRS 16.510 and Sections 4 and 19 of this Act and attributable to members of the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System, respectively, and when payment is made from the insurance trust fund:**



1. *The assets attributable to members of the Kentucky Employees Retirement System shall not be used to pay health benefits for members of the County Employees Retirement System or the State Police Retirement System;*
  2. *The assets attributable to members of the County Employees Retirement System shall not be used to pay health benefits for members of the Kentucky Employees Retirement System or the State Police Retirement System; and*
  3. *The assets attributable to members of the State Police Retirement System shall not be used to pay health benefits for members of the Kentucky Employees Retirement System or the County Employees Retirement System; and*
- (c) *For recordkeeping purposes for the assets attributable to the members of the Kentucky Employees Retirement System and the County Employees Retirement System, further segregated between members in hazardous positions as defined in KRS 61.592 and Section 18 of this Act and members in nonhazardous positions as defined in Sections 3 and 18 of this Act, and when payment is made from the insurance trust fund:*
1. *The assets attributable to members in hazardous positions shall not be used to pay health benefits to members in nonhazardous positions; and*
  2. *The assets attributable to members in nonhazardous positions shall not be used to pay health benefits to members in hazardous positions.*
- (3) The boards shall manage the assets of the insurance fund in the same manner in which the respective board administers its retirement funds, except that separate accounting and financial reporting shall be maintained for the insurance trust fund.
- (4) In addition to the requirements of subsection (2) of this section, the employers participating in the trust funds are limited to the Commonwealth, political subdivisions of the Commonwealth, and entities whose income is exempt from taxation under 26 U.S.C. sec. 115. No other entity may participate in the insurance trust funds.
- (5) If the insurance trust fund is terminated, the assets in the insurance trust fund may revert, after the payment of all liabilities, to the participating employers as determined by the board of trustees.
- (6) The respective board of trustees may adopt regulations and procedures and take all action necessary and appropriate to provide that the income of the insurance trust fund the board administers is exempt from taxation under Title 26 of United States Code.
- (7) The establishment of the Kentucky Retirement Systems insurance trust fund shall not diminish or expand the rights of any recipients, employees, or dependents to health benefits.

➔Section 16. KRS 61.702 is amended to read as follows:

- (1) For purposes of this section:
- (a) "Hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
    1. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
    2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
    3. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
  - (b) "Monthly contribution rate" is the amount determined by the board based upon the requirements of subsection (4)(a) to ~~(d)(e)~~ of this section, except that for members who began participating in the system on or after July 1, 2003, the term shall mean the amount determined in subsection ~~(4)(e)~~~~(4)(d)~~ of this section; and

- (c) "Months of service" means the total months of combined service used to determine benefits under the system, except service added to determine disability benefits or service otherwise prohibited from being used to determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to 61.705 shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.
- (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
- a. Present and future recipients of a retirement allowance from the Kentucky Employees Retirement System and the State Police Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.
2. Any recipient who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.
- (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare *and for those recipients described in subparagraph 3.b. of this paragraph*, the board may authorize these participants to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide benefits for recipients in the plan equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute *except subparagraph 3.b. of this paragraph*, system recipients shall be included in the same class as current state employees for purposes of determining medical insurance policies and premiums in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287.
2. Regardless of age, if a recipient or the spouse or dependent child of a recipient who elects coverage becomes eligible for Medicare, he or she shall participate in the plans offered by the systems for Medicare eligible recipients. Individuals participating in the Medicare eligible plans may be required to obtain and pay for Medicare Part A and Part B coverage, in order to participate in the Medicare eligible plans offered by the system.
3. The system shall continue to provide the same hospital and medical insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if:
- a. The recipient is not eligible for Medicare coverage; *or*
  - b. *The recipient would otherwise be eligible for Medicare coverage but is subject to the Medicare Secondary Payer Act under 42 U.S.C. sec. 1395y(b) and has been reemployed by a participating agency which offers the recipient a hospital and medical insurance benefit or by a participating agency which is prevented from offering a hospital and medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 164.952. Individuals who are eligible, pursuant to this subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.*
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.
- (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.

- (3) (a) Each employer participating in the Kentucky Employees Retirement System or the State Police Retirement System as provided in KRS 16.505 to 16.652 or 61.510 to 61.705 shall contribute to the insurance trust fund established under KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 61.565.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, and the insurance trust fund established under KRS 61.701 shall not be allowed.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652 or 61.510 to 61.705.
5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
1. The recipient of a retirement allowance, by payroll deduction from his or her retirement allowance, or by other method;
2. The insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515;
3. Another state-administered retirement system, *including the County Employees Retirement System*, under a reciprocal arrangement, except that any portion of the premium paid from the funds specified by subparagraph 2. of this paragraph under a reciprocal agreement shall not

exceed the amount that would be payable under this section if all the member's service were in the systems administered by the Kentucky Retirement Systems. ***If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the insurance trust fund established under Section 15 of this Act or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in Section 4 of this Act and KRS 16.510 shall pay the balance;*** or

4. A combination of the fund sources described by subparagraphs 1. to 3. of this paragraph.

Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance, electronic funds transfer, or by another method. For purposes of this subsection only, a child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

- (b) For a member who began participating in the system prior to July 1, 2003, the monthly contribution rate shall be paid by the system from the funds specified under paragraph (a)2. of this subsection and shall be equal to a percentage of the single premium to cover the retired member as follows:
  1. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee became disabled as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621;
  2. Seventy-five percent (75%) of the monthly premium for single coverage shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;
  3. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
  4. Twenty-five percent (25%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.
- (c) Notwithstanding ~~the foregoing provisions of this~~ paragraph ***(b) of this subsection, for a member***~~an employee~~ participating in the system prior to July 1, 2003, who:
  1. ***Dies***~~is killed~~ 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 monthly premium shall be paid for his or her spouse so long as the spouse remains eligible for a monthly retirement benefit;***
  2. ***Becomes totally and permanently disabled as defined in Section 1 of this Act as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a),*** ~~shall have~~ ***the monthly premium shall be paid for his or her spouse so long as the member and the spouse individually remain eligible for a monthly retirement benefit; and***
  3. ***Dies as a direct result of an act in line of duty as defined in KRS 16.505, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as defined in Section 1 of this Act as a direct result of an act in line of duty as defined in KRS 16.505, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid***

*for each dependent child as defined in KRS 16.505, so long as the member remains eligible for a monthly retirement benefit, unless deceased, and each dependent child individually remains eligible under KRS 16.505*~~[the beneficiary, if the beneficiary is the member's spouse, and for each dependent child as defined by KRS 16.505, so long as they individually remain eligible for a monthly retirement benefit].~~

- ~~(d)~~~~(e)~~ 1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the Kentucky Employees Retirement System or in a position in the State Police Retirement System, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.
2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection.

~~(e)~~~~(d)~~ For members who begin participating in the system on or after July 1, 2003:

1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1) or 61.543(1), or another state-administered retirement system.
2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf from the funds specified under paragraph (a)2. of this subsection:
- a. For members with service in a nonhazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee in a nonhazardous position; and
  - b. For members with service in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position.
3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who **receives a satisfactory determination of a hazardous disability that is**~~[becomes disabled as]~~ a direct result of an act in line of duty as defined in KRS 16.505~~[or who dies as a result of a duty-related injury as defined in KRS 61.621]~~, and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in ~~a~~~~the~~ **hazardous** position.~~[for which the disabling condition occurred]~~
4. ***The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(b), and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a nonhazardous position.***
- 5~~4~~. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505, ***who becomes totally and permanently disabled as defined in Section 1 of this Act as a direct result of an act in line of duty as defined in KRS 16.505, [or] who dies as a result of a duty-related injury as defined in KRS 61.621, or who becomes disabled as a result of a duty-related injury***

*as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a)*, and the premium for *the member*, the member's spouse, and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as *the member, member's spouse, or dependent child*~~they~~ individually *remains*~~remain~~ eligible for a monthly retirement benefit.

- ~~6~~<sup>5</sup>. Except as provided by subparagraph ~~5~~<sup>4</sup> of this paragraph, the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- ~~7~~<sup>6</sup>. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652 or 61.692. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands.
- ~~8~~<sup>7</sup>. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the County Employees Retirement System shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.
- ~~(f)~~<sup>(e)</sup> For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:
1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to ~~(e)~~<sup>(d)</sup> of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the Kentucky Retirement Systems from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;
  2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
  3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (6) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

➔Section 17. KRS 61.703 is amended to read as follows:

- (1) Upon the death of a member, retiree, or recipient who has an existing account or other benefit in a retirement system administered by the Kentucky Retirement Systems that totals no more than one thousand dollars (\$1,000), the surviving spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a surviving brother or sister, may without formal administration of the estate collect the account subject to the provisions of this section.
- (2) The surviving spouse, child, parent, or brother or sister who makes demand for the deceased member, retiree, or recipient account shall file with the retirement office an affidavit stating that he or she is entitled to payment of the account. The affidavit shall conform to the requirements of the administrative regulation promulgated by the board.
- (3) After having paid the account to the surviving spouse, child, parent, or brother or sister, the retirement system shall be discharged and held harmless to the same extent as if conducting business with a personal representative. The retirement system shall not be required to inquire into the truth or veracity of any statement made in the affidavit. In the event any person or entity establishes a superior right to the account, the surviving spouse, child, parent, or brother or sister, and not the **retirement system or the Kentucky Public Pensions Authority** [~~Kentucky Retirement Systems~~], shall be answerable and accountable to any appointed personal representative for the estate.

➔Section 18. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his or her employees, county clerk and his or her employees, circuit clerk and his or her deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, cities, charter county governments, urban-county governments, consolidated local governments, or unified local governments participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he or she qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not ceased under KRS 78.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at

least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);
- (13) "Creditable compensation":
- (a) Except as limited by paragraph (c) of this subsection, means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers who receive salary, fees, maintenance, or other perquisites as a result of their official duties is the gross amount received decreased by the cost of salary paid deputies and clerks and the cost of office supplies and other official expenses;
- (b) Includes:
1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
  2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
  3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
  4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
  5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
  2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
  3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;
  4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
  5. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;
- (14) "Final compensation" means:



- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
  - (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
  - (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;
  - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
  - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852, means:
- (a) For a member with service in a nonhazardous position, the sixty-fifth birthday of a member;

- (b) For a member with service in a hazardous position who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday; or
  - (c) For a member with service in a hazardous position who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating employer who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
  - (b) Emergency positions ~~which that~~ are positions *utilized by the employer during:*
    - 1. *An emergency as determined by the employer for a period that do not exceeding exceed thirty (30) working days and are nonrenewable; or*
    - 2. *A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;*
  - (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
  - (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or
  - (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 78.5536, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement

allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (30) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
  - (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 78.5512 and 78.5516;
- (38) "Accumulated account balance" means:
  - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and 78.5516, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:
  - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems or the County Employees Retirement System without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
  - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month *with each participating employer*. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall *not* be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (41) "Nonhazardous position" means a position that does not meet the requirements of KRS 78.5520 or has not been approved by the board as a hazardous position;

- (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520 and has been approved by the board as hazardous;
- (43) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;
- (44) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (45) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (46) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (48) "Act in line of duty" means, *for employees in hazardous positions under KRS 78.5520:* ~~for purposes of members serving in a hazardous position,~~
- (a) *A single* ~~an~~ act occurring which was required in the performance of the principal duties of the hazardous position as defined by the job description; *or*
  - (b) *A single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;*
- (49) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22). Solely in the case of a member who dies as a direct result of an act in line of duty as defined in this section, ~~or who~~ dies as a result of a duty-related injury as defined in KRS 61.621, *becomes totally and permanently disabled as a direct result of an act in the line of duty as defined in this section, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a)*, "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;
- (50) "Normal retirement age" means the age at which the member meets the requirements for his or her normal retirement date as provided by subsection (18) of this section;
- (51) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (52) "Monthly average pay" means:
- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or
  - (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled

member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;

- (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505; and  
 (54) "Executive director" means the executive director of the Kentucky Public Pensions Authority.

➔Section 19. KRS 78.520 is amended to read as follows:

There is hereby created and established:

- (1) A retirement system for employees to be known as the "County Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 78.510 to 78.852, transact all of its business and shall have the powers and privileges of a corporation; and
- (2)
  - (a) A fund, called the "County Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 78.510 to 78.852.
  - (b) All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 78.510 to KRS 78.852.
  - (c) *The assets in the fund shall be attributable to members participating in the County Employees Retirement System in both hazardous positions as defined in Section 18 of this Act and nonhazardous positions as defined in Section 18 of this Act, and when payment is made from the fund:*
    1. *No assets attributable to members in hazardous positions shall be used to pay benefits to members in nonhazardous positions; and*
    2. *No assets attributable to members in nonhazardous positions shall be used to pay benefits to members in hazardous positions.*

➔Section 20. KRS 78.5524 is amended to read as follows:

The disability retirement provisions contained in this section shall apply to a person whose last date of paid employment was in a hazardous position.

- (1)
  - (a) For purposes of this section:
    1. "Total and permanent disability" means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent; and
    2. "Hazardous disability" means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit.
  - (b) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.
  - (c) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability as defined by KRS 78.510.
- (2) Any person may qualify to retire on disability, subject to the following:
  - (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
  - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;

- (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 78.510, in a regular full-time position that has been approved as a hazardous position in accordance with KRS 78.5520;
  - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
  - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
- (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
  - (b) The incapacity is deemed to be permanent; and
  - (c) The incapacity does not result directly or indirectly from:
    1. Injury intentionally self-inflicted while sane or insane; or
    2. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
      - a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
      - b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the County Employees Retirement System or the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the County Employees Retirement System or the Kentucky Retirement Systems with no loss of service credit.
- (4) (a) 1. An incapacity shall be deemed to be permanent *for the purpose of hazardous disability* if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a hazardous position.
2. The determination of a permanent incapacity *for the purpose of hazardous disability* shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
3. ***The determination of a total and permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity.***
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
  - (c) The person's physical exertion requirements shall be determined based on the following standards:
    1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
  3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
  4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
  5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) Upon disability retirement, an employee may receive a disability retirement allowance payable during his or her lifetime which shall be:
- (a) For a member who began participating in the system prior to August 1, 2004, an annual retirement allowance payable monthly and determined in the same manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his or her disability, except that service shall be added beginning with his or her last date of paid employment and continuing to his or her fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his or her last day of paid employment, and the maximum service credit for calculating his or her retirement allowance, including his or her total service and service added under this section, shall not exceed twenty (20) years;
  - (b) For a member who begins participating on or after August 1, 2004, but prior to January 1, 2014, the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date with years of service and final compensation being determined as of the date of his or her disability; or
  - (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 78.5516, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 78.5516.
- (6) If the member receives a satisfactory determination of ~~total and permanent disability or~~ hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty ***as defined in Section 18 of this Act***, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
  - (b) For each dependent child of the member on his or her disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
- (7) ***If the member receives a satisfactory determination of total and permanent disability pursuant to Section 14 of this Act and the disability is the direct result of an act in line of duty as defined in Section 18 of this Act, the member's retirement allowance shall be calculated as follows:***

- (a) *For the disabled member, the benefits as provided in subsection (5) of this section, except that the monthly retirement allowance payable shall not be less than seventy-five percent (75%) of the member's monthly average pay; and*
- (b) *For each dependent child of the member on his or her disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly average pay, except that:*
1. *Member and dependent children payments under this subsection shall not exceed one hundred percent (100%) of the member's monthly average pay; and*
  2. *Total maximum dependent children's benefits shall not exceed twenty-five percent (25%) of the member's monthly average pay while the member is living and forty percent (40%) of the member's monthly average pay after the member's death. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system, and shall be divided equally among all dependent children.*
- (8) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is normal retirement age or older.

~~(9)~~(8) If a regular full-time member in a hazardous position has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the Authority's medical examiner.

➔Section 21. KRS 78.5526 is amended to read as follows:

- (1) Once each year following the retirement of a person on a disability retirement allowance, *except for persons who become totally and permanently disabled as a direct result of an act in line of duty as defined in Section 18 of this Act or become disabled as a result of a duty-related injury as defined in KRS 61.621 in which case shall be once every three (3) years following retirement*, or less frequently as determined by the Authority's medical examiner but not less than once every five (5) years, the system may require the person, prior to his or her normal retirement date, to undergo an employment and medical staff review and, if necessary, be required to file at the retirement office on the review form prescribed by the Authority current employment information and current medical information for the bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the Authority ~~sent~~~~mailed~~ the review form *by United States first-class mail* to the person's last address on file in the retirement office, *by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means* to file at the retirement office the review form and the current employment and medical information. The person shall certify to the Authority that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with KRS 78.5528.
- (2) If, after good faith efforts, the person informs the Authority that he or she has been unable to obtain the employment or medical information, the Authority shall assist the person in obtaining the records and may use the powers granted pursuant to KRS 61.685(1) to obtain the records.
- (3) If the person fails or refuses to file at the retirement office the review form, including the current employment and medical information, his or her retirement allowance shall be discontinued or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the Authority ~~sent~~~~mailed~~ the review form *by United States first-class mail* to the person's last address on file in the retirement office, *by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means*. The Authority shall send notice of the discontinuance or reduction of the disability retirement allowance by United States first-class mail to the person's last address on file in the retirement office, *by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means*. If the person's benefits are discontinued or reduced under this section, his or her rights to further disability retirement allowances shall cease, except as provided by KRS 78.5528.
- (4) *The Kentucky Public Pensions Authority shall hire or contract for the services of one (1) or more investigators to investigate potential fraud involving disability benefits with the system. The investigators shall evaluate potential cases of disability fraud and conduct spot audits for potential fraud as determined by the system in cases involving members who become totally and permanently disabled as a direct result of an act in line of duty as defined in Section 18 of this Act or become disabled as a result of a duty-related injury as defined in KRS 61.621.*



➔Section 22. KRS 78.5530 is amended to read as follows:

Notwithstanding any other provisions of KRS 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay *or monthly average pay*. The maximum disability benefit shall be determined by the following formula:

- (1) Add the monthly benefit payable to the disabled employee from the County Employees Retirement System and the Kentucky Retirement Systems, using the monthly disability retirement allowance without any reduction due to the selection of an optional payment plan under KRS 61.635 but excluding dependent children's allowances, if any, to his or her monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his or her monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.
- (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his or her final compensation, whichever is greater, his or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems shall be reduced to an amount which would cause his or her projected combined monthly benefit to equal one hundred percent (100%) of his or her final rate of pay or his or her final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his or her disability retirement allowance from the County Employees Retirement System and the Kentucky Retirement Systems using the disabled employee's actual total service.
- (3) The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his or her Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his or her account corrected retroactive to his or her effective retirement date.
- (4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.
- (5) Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the Authority if his or her payments under the federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his or her effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase his or her retirement allowance by adding to his or her payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.
- (6) The amount of combined disability benefit payments made to an individual on or after April 1 2021, from the Kentucky Retirement Systems and the County Employees Retirement System shall not be increased as a result of the passage of 2021 Ky. Acts ch. 102.
- (7) ***Subsequent to his or her effective retirement date, each disability recipient who is still eligible to receive disability payments based upon a total and permanent disability that occurred as a direct result of an act in line of duty as defined in Section 18 of this Act or a disablement that occurred as a result of a duty-related injury as defined in KRS 61.621 shall annually file, on a form or via an electronic method established by the Authority, information on whether payments to the recipient have ceased or begun under the federal Social Security Act or Workers' Compensation Act, and the Authority shall make any necessary adjustments as provided by this section.***

➔Section 23. KRS 78.5536 is amended to read as follows:

- (1) For purposes of this section:
  - (a) "Hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:

1. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
  2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
  3. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
- (b) "Monthly contribution rate" shall be the amount determined by the board based upon the requirements of subsection (4)(a) to ~~(d)(e)~~ of this section, except that for members who began participating in the system on or after July 1, 2003, the term shall mean the amount determined in subsection ~~(4)(e)~~~~(4)(d)~~ of this section; and
- (c) "Months of service" shall mean the total months of combined service used to determine benefits under the system, except service added to determine disability benefits or service otherwise prohibited from being used to determine retiree health benefits under KRS 78.510 to 78.852 shall not be counted as "months of service."
- (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
- a. Present and future recipients of a retirement allowance from the County Employees Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.
2. Any recipient who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.
- (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare *and for those recipients described in subparagraph 3.b. of this paragraph*, the board may authorize these participants to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide benefits for recipients in the plan equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute *except subparagraph 3.b. of this paragraph*, system recipients shall be included in the same class as current state employees for purposes of determining medical insurance policies and premiums in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287.
2. Regardless of age, if a recipient or the spouse or dependent child of a recipient who elects coverage becomes eligible for Medicare, he or she shall participate in the plans offered by the systems for Medicare eligible recipients. Individuals participating in the Medicare eligible plans may be required to obtain and pay for Medicare Part A and Part B coverage in order to participate in the Medicare eligible plans offered by the system.
  3. The system shall continue to provide the same hospital and medical insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if:
    - a. The recipient is not eligible for Medicare coverage; *or*
    - b. *The recipient would otherwise be eligible for Medicare coverage but is subject to the Medicare Secondary Payer Act under 42 U.S.C. sec. 1395y(b) and has been reemployed by a participating agency which offers the recipient a hospital and medical insurance benefit or by a participating agency which is prevented from offering a hospital and*

*medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 164.952. Individuals who are eligible, pursuant to this subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.*

- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.
  - (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.
- (3) (a) Each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund established by KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 78.635.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, and the insurance trust fund established under KRS 61.701 shall not be allowed.
  - 2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
  - 3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
  - 4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 78.510 to 78.852.
  - 5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.

- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
1. The recipient of a retirement allowance, by payroll deduction from his or her retirement allowance, electronic funds transfer, or by other method;
  2. The insurance trust fund established by KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520;
  3. Another state-administered retirement system, including the systems administered by Kentucky Retirement Systems, under a reciprocal arrangement, except that any portion of the premium paid from the funds specified by subparagraph 2. of this paragraph under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in the County Employees Retirement System. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the insurance trust fund established under KRS 61.701 or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, shall pay the balance; or
  4. A combination of the fund sources described by subparagraph 1. to 3. of this paragraph.

Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance, electronic funds transfer, or by another method. For purposes of this subsection only, a child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

- (b) For a member who began participating in the system prior to July 1, 2003, the monthly contribution rate shall be paid by the system from the funds specified under paragraph (a)2. of this subsection and shall be equal to a percentage of the single premium to cover the retired member as follows:
1. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee was disabled as a direct result of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-related injury as defined in KRS 61.621;
  2. Seventy-five percent (75%) of the monthly premium for single coverage shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;
  3. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
  4. Twenty-five percent (25%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.
- (c) Notwithstanding ~~the foregoing provisions of this~~ paragraph **(b) of this subsection, for a member** ~~an employee~~ participating in the system prior to July 1, 2003, who:
1. ***Dies*** ~~is killed~~ as a direct result of an act in line of duty as defined in KRS 78.510 ~~(48)~~ or ***dies*** as a result of a duty-related injury as defined in KRS 61.621, ***the monthly premium shall be paid for his or her spouse so long as the spouse remains eligible for a monthly retirement benefit;***

2. *Becomes totally and permanently disabled as defined in Section 20 of this Act as a direct result of an act in line of duty as defined in Section 18 of this Act or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), ~~shall have~~ the monthly premium shall be paid for his or her spouse so long as the member and the spouse individually remain eligible for a monthly retirement benefit; and*
  3. *Dies as a direct result of an act in line of duty as defined in Section 18 of this Act, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as defined in Section 20 of this Act as a direct result of an act in line of duty as defined in Section 18 of this Act, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for each dependent child as defined in Section 18 of this Act, so long as the member remains eligible for a monthly retirement benefit, unless deceased, and each dependent child individually remains eligible under Section 18 of this Act ~~the beneficiary, if the beneficiary is the member's spouse, and for each dependent child, so long as they individually remain eligible for a monthly retirement benefit.~~*
- (d)~~(c)~~
1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the County Employees Retirement System, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.
  2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.
- (e)~~(d)~~
- For members who begin participating in the system on or after July 1, 2003:
1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 78.615(1) or another state-administered retirement system.
  2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf from the funds specified under paragraph (a)2. of this subsection:
    - a. For members with service in a nonhazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee in a nonhazardous position; and
    - b. For members with service in a hazardous position, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position.
  3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who *receives a satisfactory determination of a hazardous disability that is ~~disabled as~~ a direct result of an act in line of duty as defined in KRS 78.510(48) ~~or as a result of a duty-related injury as defined by KRS 61.621~~* and the

member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in ~~a~~**the** *hazardous* position ~~for which the disabling condition occurred~~.

4. *The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(b), and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a nonhazardous position.*

5~~4~~. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived ~~for a~~ **for a** member who dies ~~as a~~ **as a** *direct* result of an act in line of duty as defined in KRS 78.510(48), *who becomes totally and permanently disabled as defined in Section 20 of this Act as a direct result of an act in line of duty as defined in Section 18 of this Act, who dies as a result of a duty-related injury as defined in KRS 61.621, or who becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a)*, and the premium for *the member*, the member's spouse, and for each dependent child as defined in KRS 78.510 shall be paid in full by the systems so long as *the member, member's spouse, or dependent child* ~~they~~ individually *remains* ~~remain~~ eligible for a monthly retirement benefit.

6~~5~~. Except as provided by subparagraph 5~~4~~. of this paragraph, the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.

7~~6~~. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands.

8~~7~~. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

~~(f)(e)~~ For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:

1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to ~~(e)(d)~~ of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the County Employees Retirement System from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;
2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of

premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

- (6) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

➔Section 24. KRS 78.5540 is amended to read as follows:

- (1) A retired member whose disability retirement was discontinued pursuant to KRS 78.5528 and who is reemployed by an employer participating in the system or the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations.
- (2)
  - (a) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.
  - (b) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- (3) Retired members of the County Employees Retirement System who returned to work with an employer that participates in the County Employees Retirement System or Kentucky Retirement Systems prior to September 1, 2008, shall be governed by the provisions of KRS 61.637(1) to (16).
- (4) The following shall apply to retired members of the County Employees Retirement System who are reemployed on or after September 1, 2008, by an agency participating in the systems administered by the County Employees Retirement System or the Kentucky Retirement Systems:
  - (a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System, and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the retired member is returning to work in a regular full-time position required to participate in the County Employees Retirement System:

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1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer to the system; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the County Employees Retirement System and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. For purposes of this paragraph:
    - a. If an elected official is reelected to a new term of office in the same position *as the elected official held prior to retirement and takes office*~~[and has retired from the elected office]~~ within twelve (12) months *of his or her retirement date*~~[prior to taking the new term of office]~~, he or she shall be deemed by the Authority as having a prearranged agreement; and
    - b. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system and shall not earn any additional benefits for any work performed during the period of reemployment;
  3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) If a member is receiving a retirement allowance from hazardous position coverage with the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System for service in a hazardous position, and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems:



1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the hazardous position coverage with the County Employees Retirement System and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. For purposes of this paragraph:
    - a. If an elected official is reelected to a new term of office in the same position *as the elected official held prior to retirement and takes office*~~[and has retired from the elected office]~~ within twelve (12) months *of his or her retirement date*~~[prior to taking the new term of office]~~, he or she shall be deemed by the *Authority*~~[system]~~ as having a prearranged agreement; and
    - b. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system or the Kentucky Retirement Systems and shall not earn any additional benefits for any work performed during the period of reemployment;
  3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
  2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

3. The retired member has not purchased or received service credit under any of the provisions of KRS 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body, if the mayor or member of a city legislative body:
  1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
  2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems or the County Employees Retirement System but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System for any employment occurring on or after the effective retirement date;
- (g) If a member is receiving a retirement allowance from the County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems:
  1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
  2. Within three (3) months following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
  3. After three (3) months but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and
  4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the Authority or submit any documentation for purposes of this section to the Authority. The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection;
- (h) The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as

required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Authority; and

- (i) Retired members of one (1) of the systems administered by Kentucky Retirement Systems who are reemployed by an employer in the County Employees Retirement System on or after September 1, 2008, shall not be eligible to earn a second retirement account in the County Employees Retirement System for his or her service to the employer.
- (5) The Authority shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference Authority-prescribed forms that a retired member and participating agency shall provide the systems under subsections (1) and (4) of this section.
- (6) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095. A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received.

➔Section 25. KRS 78.782 is amended to read as follows:

- (1) The County Employees Retirement System shall be administered by the board of trustees composed of nine (9) members, who shall be selected as follows:
  - (a) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System, of which:
    - 1. Two (2) shall have a majority of his or her service credit earned in the County Employees Retirement System in a nonhazardous position; and
    - 2. One (1) shall have a majority of his or her service credit earned in the County Employees Retirement System in a hazardous position;
  - (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the six (6) trustees appointed by the Governor:
    - 1. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
    - 2. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
    - 3. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
    - 4. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
    - 5. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and
    - 6. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association.

Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint each individual trustee described by subparagraphs 1. to 6. of this paragraph solely from each corresponding individual list required to be submitted by the Kentucky League of Cities, the Kentucky Association of Counties, or the Kentucky School Boards Association as provided by subparagraphs 1. to 6. of this paragraph, and the Governor shall not be able to reject the list of applicants submitted, request that another list be provided, or use a list different from the one (1) individual list required to be submitted for each specific appointment or reappointment;

- (c) For purposes of paragraph (b) of this subsection, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
  - 1. A portfolio manager acting in a fiduciary capacity;

2. A professional securities analyst or investment consultant;
  3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
  4. A chartered financial analyst in good standing as determined by the CFA Institute; or
  5. A university professor, teaching investment-related studies; and
- (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
1. Experience in retirement or pension plan management;
  2. A certified public accountant with relevant experience in retirement or pension plan accounting;
  3. An actuary with relevant experience in retirement or pension plan consulting;
  4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
  5. A current or former university professor whose primary area of emphasis is economics or finance.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
  - (b) To make bylaws not inconsistent with the law;
  - (c) To conduct the business and promote the purposes for which it was formed;
  - (d) Except as provided in KRS 78.790(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to the provisions of KRS Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;
  - (e) To purchase fiduciary liability insurance;
  - (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
  - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected or appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An elected or appointed trustee who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (4)
- (a) The trustees selected by the membership of the system shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
  - (b) Individuals may be nominated by the system members by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four (4) digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the system members.
  - (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the

name, address, and position title of each individual nominated by the board and by petition. Provision shall also be made for write-in votes.

- (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address *on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.*
  - (e) The ballots shall be addressed to the County Employees Retirement System in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
  - (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.
  - (g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Costs of an election shall be payable from the funds of the system.
  - (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the system on December 31 of the year preceding the election year.
  - (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
    1. Complete an application developed by the system which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
    2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
    3. Authorize the system to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
  - (j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct trustee elections using electronic ballots, except that the systems shall mail a paper ballot upon request of any eligible voter.
- (5) (a) Any vacancy which may occur in an appointed position during a term of office shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, the system shall notify members of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.
  - (b) Any appointments or reappointments to an appointed position on the board shall be made at least thirty (30) days prior to an appointed member's term of office ending. The Governor's Office shall, with each appointment or reappointment, request lists to be submitted and base selections on those lists solely under the procedures and requirements provided by subsection (1)(b) of this section.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board and, if a trustee holds more than one (1) position as trustee on the board, he or she shall resign a position.
  - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

- (c) A current or former employee of the County Employees Retirement System, Kentucky Retirement Systems, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.
- (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. A trustee who has served four (4) consecutive years as chair or vice chair of the board may be elected chair or vice chair of the board after an absence of two (2) years from the positions.
- (c) A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 78.510 to 78.852. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.
- (b) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
- (c) The board shall have a system of accounting established by the Kentucky Public Pensions Authority.
- (d) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).
- (e) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 78.510 to 78.852 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the County Employees Retirement System board of trustees.
- (10) The chief executive officer and general counsel of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, the chief executive officer shall not be considered a legislative agent under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him or her, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (12) (a) The ***Kentucky Public Pensions Authority***~~[system]~~ shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities ***for the systems***. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select ~~the~~~~[an]~~ independent certified public accountant

*hired by the Kentucky Public Pensions Authority* or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The *Kentucky Public Pensions Authority*~~[system]~~ shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the County Employees Retirement System and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board.

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the County Employees Retirement System by KRS 61.505. The board shall submit any administrative expenses that are specific to the County Employees Retirement System that are not otherwise covered by KRS 61.505(11)(a).
- (14) Except as provided under subsection (16) of this section or KRS 61.665, any person adversely affected by a decision of the board involving KRS 78.510 to 78.852 may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her duties as a member of a committee:
  - 1. In good faith;
  - 2. On an informed basis; and
  - 3. In a manner he or she honestly believes to be in the best interest of the County Employees Retirement System.
- (b) A trustee discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the system or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
  - 1. One (1) or more officers or employees of the system or Authority whom the trustee honestly believes to be reliable and competent in the matters presented;
  - 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
  - 3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
  - 1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
  - 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the system.
  - (g) In discharging his or her administrative duties under this section, a trustee shall strive to administer the system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, ***or when an employer disagrees with an order of the system as provided by KRS 61.598***, the affected member, retired member, ~~or~~ recipient, ***or employer*** may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B. The board may establish a joint administrative appeals committee with the Kentucky Retirement Systems and may also establish a joint disability appeals committee with the Kentucky Retirement Systems.
- (17) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
    1. Benefits and benefits administration;
    2. Investment concepts, policies, and current composition and administration of system investments;
    3. Laws, bylaws, and administrative regulations pertaining to the system and to fiduciaries; and
    4. Actuarial and financial concepts pertaining to the system.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the system shall withhold payment of the per diem and travel expenses due to the board member under this section until the trustee has completed the orientation program;
  - (b) Annual required training for board members on the administration, benefits, financing, and investing of the system. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under this section until the board member has met the annual training requirements; and
  - (c) The system shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (18) In order to improve public transparency regarding the administration of the system, the board of trustees shall adopt a best practices model by posting the following information to the Kentucky Public Pensions Authority's Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the Kentucky Public Pensions Authority'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) The Comprehensive Annual Financial Report with the information as follows:
    1. A general overview and update on the system by the executive director;
    2. A listing of the board of trustees;
    3. A listing of key staff;
    4. An organizational chart;



5. Financial information, including 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;
  6. Investment information, including a general overview, a list of the system's professional consultants, a total net of fees return on system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
  7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
  8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;
- (c) All external audits;
  - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
  - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
  - (f) The system's summary plan description;
  - (g) A document containing an unofficial copy of the statutes governing the system;
  - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
  - (i) 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, 2021. 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;
  - (j) An update of net of fees 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. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2021;
  - (k) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the Kentucky Public Pensions Authority's Web site, the system may provide the information through a Web site established by the executive branch to inform the public about public employee salaries and wages;
  - (l) All contracts or offering documents for services, goods, or property purchased or utilized by the system for contracts or offering documents entered into on or after July 1, 2021; and
  - (m) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public.
- (19) Notwithstanding the requirements of subsection (18) of this section, the system shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would

compromise the system's ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.

- (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no funds of the County Employees Retirement System, 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.

➔Section 26. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567; or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System pursuant to KRS 61.522 whose employees participated in the health insurance plans administered by the Personnel Cabinet prior to the employer's effective cessation date in the Kentucky Employees Retirement System;
  2. Any certified or classified employee of a local board of education;
  3. Any elected member of a local board of education;
  4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under **subsection (2)(b)3. of Section 16 of this Act and subsection (2)(b)3. of Section 23 of this Act**~~KRS 61.702(4)(c)~~, unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
  5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
- (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
- (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider

organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
- (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program ***and as otherwise provided in subsection (2)(b)3.b. of Section 16 of this Act and subsection (2)(b)3.b. of Section 23 of this Act.***
- (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
- (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
- (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
- (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

- (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
  - (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
  - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
  - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his or her place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he or she has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or the secretary's designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of

Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13)
  - (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
  - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
  - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
- (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
- (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
- (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
  - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
  - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
  - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
  - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance

with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and

- (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
- (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after June 29, 2021, to public employees pursuant to this section shall comply with:
- (a) KRS 304.12-237;
  - (b) KRS 304.17A-270 and 304.17A-525;
  - (c) KRS 304.17A-600 to 304.17A-633;
  - (d) KRS 205.593;
  - (e) KRS 304.17A-700 to 304.17A-730;
  - (f) KRS 304.14-135;
  - (g) KRS 304.17A-580 and 304.17A-641;
  - (h) KRS 304.99-123;
  - (i) KRS 304.17A-138; and
  - (j) Administrative regulations promulgated pursuant to statutes listed in this subsection.
- (23) Any fully insured health benefit plan or self-insured plan issued or renewed on or after January 1, 2022, to public employees pursuant to this section shall comply with KRS 304.17A-148.

➔Section 27. KRS 7A.220 is amended to read as follows:

- (1) The Public Pension Oversight Board shall be composed of the following ***twenty-three (23)***~~nineteen (19)~~ members:
- (a) ***1.*** Four (4) members of the General Assembly appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, one (1) of whom shall be the chair or a vice chair of the House Standing Committee on Appropriations and Revenue;~~;~~ and
    - 2.*** ***Two (2) members of the General Assembly appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, and who each shall be selected to ensure representation on the board by House members of the General Assembly is in closer proportion to the representation of each political party in the House of Representatives.***

***Of the members appointed pursuant to this paragraph, the Speaker shall designate one (1) ~~of whom the Speaker shall designate~~ as co-chair of the board;***
  - (b) ***1.*** Four (4) members of the General Assembly appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she has been elected, one (1) of whom shall be the chair or a vice chair of the Senate Standing Committee on Appropriations and Revenue;~~;~~ and
    - 2.*** ***Two (2) members of the General Assembly appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she has been elected, and who each shall be selected to ensure representation on the board by Senate members of the General Assembly is in closer proportion to the representation of each political party in the Senate.***

***Of the members appointed pursuant to this paragraph, the President shall designate one (1) ~~of whom the President shall designate~~ as co-chair of the board;***

- (c) Two (2) members of the General Assembly appointed by the Minority Floor Leader of the Senate, who shall serve while a member of the Senate for the term for which he or she has been elected;
  - (d) Two (2) members of the General Assembly appointed by the Minority Floor Leader of the House of Representatives, who shall serve while a member of the House for the term for which he or she has been elected;
  - (e) One (1) individual appointed by the Speaker of the House of Representatives, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;
  - (f) One (1) individual appointed by the President of the Senate, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;
  - (g) The state budget director or his or her designee;
  - (h) The Auditor of Public Accounts or his or her designee;
  - (i) The Attorney General or his or her designee; and
  - (j) Two (2) individuals appointed by the Governor, one (1) of whom shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience and one (1) of whom shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section.
- (2) For purposes of this section, "retirement experience" means:
- (a) Experience in retirement or pension plan management;
  - (b) A certified public accountant with relevant experience in retirement or pension plan accounting;
  - (c) An actuary with relevant experience in retirement or pension plan consulting;
  - (d) An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
  - (e) A current or former university professor whose primary area of emphasis is economics or finance.
- (3) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall not:
- (a) Be a member of the General Assembly;
  - (b) Be employed by a state agency of the Commonwealth of Kentucky or receiving a contractual payment for services rendered to a state agency of the Commonwealth of Kentucky that would conflict with his or her service to the board; or
  - (c) Serve more than three (3) consecutive four (4) year terms on the board.
- (4) Any vacancy which may occur in the membership of the board shall be filled by the appointing authority who made the original appointment.
- (5) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall serve a term of four (4) years.

➔Section 28. KRS 61.675 is amended to read as follows:

- (1) ***Except as provided by subsection (5) of this section,*** the employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.
- (2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

- (3) (a) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall file the following at the retirement office on or before the tenth day of the month following the period being reported:
1. The employer and employee contributions required under KRS 61.560, 61.565, and 61.702;
  2. The employer contributions and reimbursements for retiree health insurance premiums required under KRS 61.637; and
  3. A record of all contributions to the system on the forms prescribed by the board.
- (b) If the agency fails to file all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars (\$1,000), may be added to the amount due the system.
- (4) If a nonhazardous employer in the Kentucky Employees Retirement System is delinquent in paying the employer contributions required by KRS 61.565 for a period of ninety (90) days or more for those contributions payable on or after July 1, 2021, or if an employer who voluntarily ceases participation in the Kentucky Employees Retirement System as provided by KRS 61.522(8) elects to pay off the costs of ceasing participation by installment payments as provided by KRS 61.522(8)(g) and subsequently is delinquent in making installment payments for a period of ninety (90) days or more:
- (a) Employees of the employer who are participating in the system or who are continuing to participate in the system after the employer's effective cessation date as provided by KRS 61.522(8)(d)2. shall not accrue any additional service credit or benefits in the system through the employer or ceasing employer until such time as the employer has satisfied the required employer contributions or installment payments to the system;
  - (b) The board may file an action in the Franklin Circuit Court to collect any delinquent employer contributions or installment payments owed by the employer and to attach so much of the general fund appropriations of the delinquent employer as is necessary to achieve full compliance with the provisions of KRS 61.522(8) or 61.565; and
  - (c) The systems shall notify the Finance and Administration Cabinet, and the Finance and Administration Cabinet may withhold or intercept from the employer or ceasing employer a sufficient portion of any appropriated state funds not yet disbursed to the employer or ceasing employer to satisfy the required employer contributions or installment payments to the system.
- (5) ***Employers shall not be required to report any information or pay employer contributions on any individual serving as a volunteer who is receiving compensation from the employer equal to or less than a nominal fee as defined by Sections 3 and 18 of this Act if the compensation paid to the volunteer is excluded from the definition of creditable compensation as provided by subsection (13) of Section 3 of this Act or subsection (13) of Section 18 of this Act.***

➔Section 29. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his or her 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 within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, on or after January 1, 2014, and regardless of the transition of administration of the County Employees Retirement System to the County Employees Retirement System board of trustees;



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 or she shall obtain at least twelve (12) months' current service in each system in which he or she 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 or her 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 or she has prior service, his or her 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 or her 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 or she 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 or her 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 or her election and participate in the system under which his or her position would normally participate, if he or she elects to cancel his or her 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 or her 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 or her 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 or her employee contributions, service credit and employer contributions made on his or her behalf are being transferred to the other retirement system shall contribute to the system in which his or her 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 or she elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) (a) Except as provided by KRS 61.545(3)(b)2., 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 or her wages and contributions consolidated and his or her 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).
- (b) *The provisions of this subsection shall not apply to an individual serving as a volunteer who is receiving compensation from the employer equal to or less than a nominal fee as defined by Sections 3 and 18 of this Act if the compensation paid to the volunteer is excluded from the definition of creditable compensation as provided by subsection (13) of Section 3 of this Act or subsection (13) of Section 18 of this Act.*
- (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 or her actual service credit in each system in which he or she has service credit when his or her combined service credit in all the systems, plus any service credit he or she 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 30. KRS 78.625 is amended to read as follows:

- (1) ***Except as provided by subsection (6) of this section***, the employer shall prepare the reporting records necessary for the system to administer the provisions of KRS 78.510 to 78.852 and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him or her of his or her duties and obligations in connection with the system as a condition of employment.
- (2) The agency reporting official of the county shall file the following at the retirement office on or before the tenth day of the month following the period being reported:
- (a) The employee and employer contributions required under KRS 78.610 and 78.635;
  - (b) The employer contributions and reimbursements for retiree health insurance premiums required under KRS 78.5540; and
  - (c) A record of all contributions to the system on the forms prescribed by the systems.
- (3) (a) If the agency reporting official fails to file at the retirement office all contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions at the actuarial rate adopted by the board compounded annually, but not less than one thousand dollars (\$1,000), may be added to the amount due the system.
- (b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.
- (4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties have been paid to the system.
- (5) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a county, as defined in KRS 78.510(3), having records in its possession or under its control, shall permit access to and examination of the records upon the request of the system.
- (6) ***Employers shall not be required to report any information or pay employer contributions on any individual serving as a volunteer who is receiving compensation from the employer equal to or less than a nominal fee as defined by Sections 3 and 18 of this Act if the compensation paid to the volunteer is excluded from the definition of creditable compensation as provided by subsection (13) of Section 3 of this Act or subsection (13) of Section 18 of this Act.***

➔Section 31. The amendments to subsection (21)(b) of Section 3 of this Act and subsection (21)(b) of Section 18 of this Act shall be retroactive to March 1, 2020, and shall for purposes of anyone employed or contracted by health departments during and as a result of the state of emergency declared by the Governor of Kentucky during the COVID-19 pandemic apply to any such employment or contracts through December 31, 2022, as determined by the health department and regardless of whether or not the state of emergency has expired or been lifted.

➔Section 32. Whereas the prompt administration of retirement benefits by the Kentucky Public Pensions Authority is a matter of the utmost importance to state and local employees and retirees and the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

**Veto Overridden and Signed by Secretary of State April 14, 2022.**