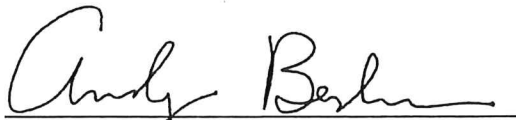



FILED WITH LRC TIME: <u>12:45 pm</u>
DEC 28 2021
Emily B Caudill REGULATIONS COMPILER

## STATEMENT OF EMERGENCY

### 102 KAR 1:360 E

This emergency administrative regulation is being promulgated in contemplation of the requirements of House Bill 258(2021 RS) to provide individuals who become members of Teachers' Retirement System on or after January 1, 2022, with a disability benefit. The passage of the act and the start of the new benefits on January 1, 2022, necessitate the filing of this regulation as an emergency because a member may become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing. This emergency administrative regulation will not be replaced by an ordinary administrative regulation, as a new regulation shall be established once the eligibility requirements to file for disability benefits and guidelines for filing an application by new members have been developed by the Teachers' Retirement System. The new eligibility requirements shall also address those members who have five (5) or more years of service.

  
Andy Beshear, Governor

  
Alison Wright, Chairperson  
Board of Trustees  
Teachers' Retirement System of  
The State of Kentucky

1 FINANCE AND ADMINISTRATION CABINET

2 TEACHERS' RETIREMENT SYSTEM

3 (New Emergency Administrative Regulation)

4 102 KAR 1:360E. Disability benefits for members who enter on, or after, January 1, 2022.

5 RELATES TO: KRS 161.661(19)

6 STATUTORY AUTHORITY: KRS 161.310, 161.661(19)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.661(19) provides that individuals  
8 who become members on, or after, January 1, 2022, shall be eligible for a disability benefit as  
9 prescribed by the Board of Trustees of Teachers' Retirement System (TRS) in an administrative  
10 regulation promulgated by the Board. The disability plan and benefits may be adjusted by the  
11 Board according to law.

12 Section 1. For members who enter TRS on, or after, January 1, 2022, who have less than  
13 five (5) years of service, the disability plan and benefits shall be those provided under KRS 61.621  
14 (the Fred Capps Memorial Act).

15 Section 2. The members defined in Section 1 are not eligible for benefits provided by KRS  
16 161.663.

102 KAR 1:360E Disability benefits for members who enter on, or after, January 1, 2022.

APPROVED:

12-22-21  
Date

Alison Wright  
Alison Wright, Chairperson  
Teachers' Retirement System  
Of the State of Kentucky

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, February 23, 2022, at 9:00 a.m. Eastern Time at the offices of the retirement system at 479 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by Wednesday, February 16, 2022, five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation until the end of the calendar day on Monday, February 28, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, telephone (502) 848-8508, facsimile (502) 573-0199 or email at [Beau.Barnes@trs.ky.gov](mailto:Beau.Barnes@trs.ky.gov).

REGULATORY IMPACT ANALYSIS  
AND TIERING STATEMENT

Reg No. 102 KAR 1:360E

Contact Person: Robert B. Barnes  
[Beau.Barnes@trs.ky.gov](mailto:Beau.Barnes@trs.ky.gov)  
(502)848-8508

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes that members who enter the retirement system on, or after January 1, 2022 (new members), who have less than five (5) years of service credit, shall be provided disability benefits under KRS 61.621.

(b) The necessity of this administrative regulation: This regulation is being filed as an emergency as a result of legislation enacted during the 2021 session requiring the board to promulgate an administrative regulation to provide disability benefits for new members. The potential exists for a member to become disabled as early as January 1, 2022, and be entitled to benefits that would be ongoing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This emergency administrative regulation conforms to KRS 161.661 as it was amended by HB 258 (2021 RS) and which requires the board to promulgate an administrative regulation to provide disability benefits for new members.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This emergency administrative regulation will identify for members entering the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit that disability plan and benefits shall be provided to them under KRS 61.621.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: NA

(b) The necessity of the amendment to this administrative regulation: NA

(c) How the amendment conforms to the content of the authorizing statutes: NA

(d) How the amendment will assist in the effective administration of the statutes: NA

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Members who enter the retirement system on, or after January 1, 2022, who have less than five (5) years of service credit and become disabled as a result of a job-related injury. TRS has had less than twenty (20) individuals become disabled as a result of a job-related injury for at least ten (10) years.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The disability plan and benefits provided to those new members will be provided under KRS 61.621.

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: New members would file an application for disability pursuant to the requirements of KRS 61.621.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to the new members is part of the retirement contribution they make to TRS.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): New members who become disabled on, or after January 1, 2022, will be eligible to file for, and receive, disability benefits.

(1) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid by trust and agency are paid from restricted funds of the system.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees or funding required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used). Tiering is not applied, as all members are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 102 KAR 1:360E

Contact Person: Robert B. Barnes  
Beau.Barnes@trs.ky.gov  
(502)848-8508

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Teachers' Retirement System.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.310, 161.661.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.

4. (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Administrative costs will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

(d) How much will it cost to administer this program for subsequent years? Administrative costs incurred will be dependent upon the number of applications processed and cannot be quantified at this time. Given the very small number of members that will likely be impacted, however, administrative costs will be very low.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation:

**SUMMARY OF MATERIAL  
INCORPORATED BY REFERENCE**

(1) 102 KAR 1:360E incorporates by reference the following three (3) pages from House Bill No. 258, an act relating to the Teachers' Retirement System, enacted on March 29, 2021: (1) the cover page, (2) page 104, and (3) page 111.





# GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2021 REGULAR SESSION

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HOUSE BILL NO. 258

AS ENACTED, VETOED, AND OVERRIDDEN

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MONDAY, MARCH 29, 2021

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RECEIVED AND FILED  
DATE March 29, 2021  
10:08 PM

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MICHAEL G. ADAMS  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY Michael G. Adams

- 1 provided in KRS 161.661(1).
- 2 (2) The retirement option chosen by a retiree at the time of service retirement shall  
 3 remain in force unless the retiree ~~became a member prior to January 1, 2019, and~~  
 4 elects to make a change under the following conditions:
- 5 (a) A divorce, annulment, or marriage dissolution following retirement shall, at  
 6 the election of the retiree, cancel any optional plan selected at retirement that  
 7 provides continuing benefits to a spousal beneficiary and return the retiree to a  
 8 single lifetime benefit equivalent as determined by the board; or
- 9 (b) Following marriage or remarriage, or the death of the designated beneficiary, a  
 10 retiree may elect a new optional plan of payment based on the actuarial  
 11 equivalent of a single lifetime benefit at the time of the election, as determined  
 12 by the board. The plan shall become effective the first of the month following  
 13 receipt of an application on a form approved by the board.
- 14 (3) Except as otherwise provided in this section, a beneficiary designation shall not be  
 15 changed after the effective date of retirement except for retirees who elect the life  
 16 annuity with refundable balance or the predetermined years certain and life  
 17 thereafter option. A member may remove a beneficiary at any time, but shall not  
 18 designate a substitute beneficiary. If a member elects to remove a beneficiary, the  
 19 member's retirement allowance shall not change regardless of the retirement option  
 20 selected by the member, even if the removed beneficiary predeceases the member.
- 21 (4) A member who experiences a qualifying event under subsection (2) of this section  
 22 and who elects a new optional plan of payment shall make that election within sixty  
 23 (60) days of the qualifying event.
- 24 →Section 37. KRS 161.661 is repealed, reenacted, and amended to read as  
 25 follows:
- 26 (1) Any member who has completed five (5) or more years of accredited service in the  
 27 public schools of Kentucky after July 1, 1941, may retire for disability and be

1 (19) Notwithstanding any other provision of this section to the contrary, individuals  
 2 who become members on or after January 1, 2022, shall be eligible for an  
 3 actuarially determined disability benefit as prescribed by the board of trustees via  
 4 administrative regulations promulgated by the board. The board of trustees shall  
 5 arrange by appropriate contract or on a self-insured basis a disability plan to  
 6 provide the disability benefits and may adjust the benefits in accordance with  
 7 subsection (3) of Section 1 of this Act or subsection (3) of Section 2 of this Act.

8 ➔ Section 38. KRS 161.650 is repealed and reenacted to read as follows:

- 9 (1) In the case of death of a member who has retired by reason of service or disability,  
 10 any portion of the member's accumulated contributions, including member  
 11 contributions to the state accumulation fund and regular interest to the date of  
 12 retirement, that has not, and will not be paid as an allowance or benefit shall be paid  
 13 to the member's beneficiary in such manner as the board of trustees elects.
- 14 (2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries  
 15 to receive any remaining accumulated member contributions payable under this  
 16 section. A contingent beneficiary may be designated in addition to the primary  
 17 beneficiary or the cobeneficiaries. The member may designate two (2) or more  
 18 contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a  
 19 trust may be designated as beneficiary for receipt of any remaining funds of the  
 20 member's accumulated contributions. Members may designate as beneficiaries only  
 21 presently identifiable and existing individuals, or trusts where otherwise permitted,  
 22 without contingency instructions, on forms prescribed by the retirement system.  
 23 Cobeneficiaries shall be composed of a single class of individuals, or trusts where  
 24 permitted, who will share in equal proportions in any payment that may become  
 25 available under this section. Any beneficiary designation made by the member shall  
 26 remain in effect until changed by the member on forms prescribed by the retirement  
 27 system, except in the event of subsequent divorce. A final divorce decree shall