

AN ACT relating to retirement benefit calculations.

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

➔SECTION 1. A NEW SECTION OF KRS 6.500 TO 6.577 IS CREATED TO READ AS FOLLOWS:

*(1) For purposes of this section, "bona fide promotion or career advancement" means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final three (3) annual years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member.*

*(2) (a) For members retiring on or after January 1, 2016, the plan shall, for each of the retiring member's last three (3) annual years of service in the General Assembly, identify any annual year in which the creditable compensation increased at a rate of ten percent (10%) or more annually over the immediately preceding annual year's creditable compensation.*

*(b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for an annual year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding annual year shall not be included in the creditable compensation used to calculate the member's monthly pension benefits. If the creditable compensation for a specific annual year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring member's monthly pension benefits, then no reduction in creditable compensation shall occur for that annual year.*

- (c) If the creditable compensation of the retiring member is reduced as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460, refund the member contributions attributable to the reduction in creditable compensation.
- (3) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring member on or after July 1, 2015, shall be subject to reduction under the provisions of subsection (2) of this section. Creditable compensation earned by the retiring member prior to July 1, 2015, shall not be subject to reduction under the provisions of subsection (2) of this section.
- (4) The provisions of subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.
- (5) The Judicial Form Retirement System board of trustees shall determine whether increases in creditable compensation during the last three (3) annual years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.
- (6) The provisions of this section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.

➔SECTION 2. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

- (1) For purposes of this section, "bona fide promotion or career advancement" means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final sixty (60) months preceding retirement or a change in employment position based on the training,

skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member, including any circumstance when a member is elected or appointed to another court within the Court of Justice.

(2) For purposes of this section, the term "year" shall have the same meaning as provided by KRS 21.345(3).

(3) (a) For members retiring on or after January 1, 2016, the plan shall identify any consecutive twelve (12) month period utilized in determining the member's final compensation in which the member's compensation increased at a rate of ten percent (10%) or more over the member's compensation in the immediately preceding twelve (12) month period.

(b) Except as limited or excluded by subsections (4) and (5) of this section, any amount of increase in compensation for a twelve (12) month period identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's compensation from the immediately preceding twelve (12) month period shall not be used in the calculation of the member's final compensation for the purposes of determining the member's monthly pension benefit under KRS 21.400.

(c) If the member's final compensation is reduced for the purposes of determining the member's pension benefit under KRS 21.400 as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460, refund the member contributions attributable to the reduction in compensation.

(4) In order to ensure the prospective application of the potential reduction in pension benefits as provided in subsection (3) of this section, only the compensation earned by the retiring member on or after July 1, 2015, shall be subject to reduction under the provisions of subsection (3) of this section.

Compensation earned by the retiring member prior to July 1, 2015, shall not be subject to reduction under the provisions of subsection (3) of this section.

(5) The provisions of subsections (3) and (4) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.

(6) The Judicial Form Retirement System board of trustees shall determine whether increases in compensation during the last five (5) years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.

(7) The provisions of this section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 21.402.

➔Section 3. KRS 61.598 is amended to read as follows:

- (1) For purposes of this section, "bona fide promotion or career advancement":
  - (a) Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
  - (b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.
- (2) (a) For employees retiring on or after January 1, 2016, the systems shall, for each of the retiring employee's last five (5) fiscal years of employment, identify any fiscal year in which the creditable compensation increased at a

rate of ten percent (10%) or more annually over the immediately preceding fiscal year's creditable compensation.

(b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for a fiscal year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the employee's creditable compensation from the immediately preceding fiscal year shall not be included in the creditable compensation used to calculate the retiring employee's monthly pension benefits. If the creditable compensation for a specific fiscal year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring employee's monthly pension benefits, then no reduction in creditable compensation shall occur for that fiscal year.

(c) If the creditable compensation of the retiring employee is reduced as provided by paragraph (b) of this subsection, the retirement systems:

1. Shall refund the employee contributions and interest attributable to the reduction in creditable compensation; and
2. Shall not refund the employer contributions paid but shall utilize those funds to pay down the unfunded liability of the pension fund in which the retiring employee participated.

(3) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring employee on or after July 1, 2015, shall be subject to reduction under the provisions of subsection (2) of this section. Creditable compensation earned by the retiring employee prior to July 1, 2015, shall not be subject to reduction under the provisions of subsection (2) of this section.

(4) The provisions of subsections (2) and (3) of this section shall not apply to:

(a) Increases that are the direct result of a bona fide promotion or career advancement;

(b) Increases that are the direct result of payments for accumulated sick leave under the alternate sick leave program as provided by KRS 78.616(5);

(c) Increases that are the direct result of lump-sum payments for compensatory time paid to an employee upon termination of employment; or

(d) Any fiscal year identified under subsection (2)(a) of this section that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding fiscal year, if in the immediately preceding fiscal year, the retiring member:

1. Received worker's compensation benefits that were not reported to the plan as creditable compensation for a period of at least five (5) weeks or for a period of at least ten percent (10%) of the employee's contract days if the employee has a contract with their employer to work a specified number of contract days during the year; or

2. Had been placed by the employer on unpaid authorized maternity leave, unpaid leave authorized under the federal Family and Medical Leave Act, or authorized sick leave without pay for a period of at least five (5) weeks or for a period of at least ten percent (10%) of the employee's contract days if the employee has a contract with his or her employer to work a specified number of contract days during the year.

(5) ~~For employees retiring on or after January 1, 2014, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost~~

~~shall be determined by the retirement systems and the system may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.~~

~~(3) (a) ]The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.~~

~~(6) [(b) Lump sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from the provisions of this section.~~

~~(4) Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this section. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.~~

~~(5) ]Any employee[employer] who disagrees with a determination made by the system in accordance with this section regarding whether an increase in compensation constitutes a bona fide promotion or career advancement may request a hearing and appeal the decision in accordance with KRS 61.645(16).[The systems shall not charge interest, or consider the costs due under this section as delinquent contributions, during the pendency of the hearing process and appeal.~~

~~(6) For any additional actuarial costs charged to the employer under this section, the systems shall allow the employer to pay the costs over a period, not to exceed one (1) year, without interest.]~~

~~(7) The provisions of this section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 16.583 and 61.597.~~

➔Section 4. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of thirteen (13) members, who shall be selected as follows:
  - (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
  - (b) 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;
  - (c) 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;
  - (d) 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; and
  - (e) Six (6) trustees, appointed by the Governor of the Commonwealth. Of the six (6) trustees appointed by the Governor:
    1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;
    2. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
    3. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
    4. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and
    5. Two (2) trustees shall have investment experience. For purposes of this



subparagraph, 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:

- a. A portfolio manager acting in a fiduciary capacity;
- b. A professional securities analyst or investment consultant;
- c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
- d. A chartered financial analyst in good standing as determined by the CFA Institute;
- e. A university professor, teaching economics or investment-related studies; or
- f. Any other professional with exceptional experience in the field of public or private finances.

(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) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;
- (e) To purchase fiduciary liability insurance;
- (f) 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 without limitation, notwithstanding the limitations of 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 official duties.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) 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)(e) 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 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 carry 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) The ballots shall be distributed to the eligible voters by mail to their last known residence address.
- (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.
- (g) The board's contracted auditing 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.
- (5) Any vacancy which may occur in an appointed position 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 shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.
- (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 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 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 executive director.
- (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 an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.
- (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.
- (c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;
2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;
3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;
4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;
5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;
7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive

branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
  10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
  11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:
1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;

2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
  3. A classification plan including provisions describing class specifications, position actions, and employee actions;
  4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
  5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, lay-offs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
  6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
  7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.
- (e) The board 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.
- (f) The board shall establish a system of accounting.



- (g) 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, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 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 16.505 to 16.652, 61.510 to 61.705, and 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 16.505 to 16.652, 61.510 to 61.705, and 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). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.
- (10) All employees of the board shall serve during its will and pleasure. 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, 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 system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. 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 an independent certified public accountant 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 discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems 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. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the 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.

(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, 61.510 to 61.705, and 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 duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he 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 exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his 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 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 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.
- (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 ***a member or retired member***~~[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.

(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 and 78.780 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 and

- 78.780 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 retirement systems' 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 retirement systems' 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 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 and commissions for each fund administered by the board. The board shall update the list of holdings and commissions on a quarterly basis for fiscal years beginning on or after July 1, 2008;
  - (j) An update of investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund and for each asset class administered by the board. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2008;
  - (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 systems' 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. No provision of this paragraph shall require the systems to disclose confidential

member information protected under KRS 61.661; and

- (1) 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, or to competitively negotiate vendor fees.
- (21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 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 unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation and qualified domestic relations



- orders, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
  - (7) Calculation of retirement allowance, as provided for by KRS 61.599;
  - (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
  - (9) Year of service credit, as provided for by KRS 61.545;
  - (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
  - (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
  - (12) Credit for service prior to membership date, as provided for by KRS 61.526;
  - (13) Member's account, confidential, as provided for by KRS 61.661;
  - (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
  - (15) Correction of errors in records, as provided for by KRS 61.685;
  - (16) Maximum disability benefit, as provided for by KRS 61.607;
  - (17) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
  - (18) Employer contributions, as provided for by KRS 61.565;
  - (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
  - (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
  - (21) Refund of contributions, conditions, as provided by KRS 61.625;
  - (22) Hospital and medical insurance plan, as provided by KRS 61.702;
  - (23) Death benefit, as provided by KRS 61.705;
  - (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
  - (25) Service credit, Armed Forces, as provided by KRS 61.555;
  - (26) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

- (27) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (31) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (32) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637;
- (33) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610; and
- (34) ~~Employer payment of increases in~~ Creditable compensation adjustments during the last five (5) years of employment as provided by KRS 61.598.

➔Section 6. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Members' account, confidential, as provided for by KRS 61.661;
- (30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

- (31) Maximum disability benefit, as provided for by KRS 61.607;
- (32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (33) Employer contributions, as provided for by KRS 61.565;
- (34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- (36) Death benefit, as provided by KRS 61.705;
- (37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (41) Death or disability from a duty-related injury as provided in KRS 61.621;
- (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (44) Hybrid cash balance plan provided to new members as provided by KRS 61.597;
- (45) ~~Employer payment of increases in~~ Creditable compensation adjustments during the last five (5) years of employment as provided by KRS 61.598; and
- (46) Calculation of retirement allowance, as provided by KRS 61.599.