

AN ACT relating to pension surcharges to benefit the Kentucky Retirement Systems and Kentucky Teachers' Retirement System and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS 61.510 to 61.705, if an employer participating in the Kentucky Employees Retirement System or the State Police Retirement System contracts or makes an agreement with a third party, the subject of which is the use of an employee, employees, subcontractor, or subcontractors of the third party by the employer to fill a position or positions or to perform a duty or duties that an employee or employees of state government could perform, if hired, then the employer shall owe a surcharge under this section.

(2) The surcharge for each contract or agreement under subsection (1) of this section shall be five percent (5%) of the contract or agreement.

(3) A surcharge under this section shall be paid to the Kentucky Retirement Systems unfunded liability trust fund created under KRS 61.706 to be apportioned eighty percent (80%) to the Kentucky Employees Retirement System nonhazardous pension fund and twenty percent (20%) to the State Police Retirement System pension fund.

(4) This section shall apply to all memoranda of agreement and personnel service contracts as defined by KRS 45A.690 and to any other contract or agreement that the Kentucky Retirement Systems deems appropriate for consideration.

(5) This section shall not change the definition of "employee" in KRS 61.510 for the purposes of KRS 61.510 to 61.705. However, this section shall apply to agreements to hire independent contractors, who are not employees.

➔SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO

READ AS FOLLOWS:

- (1) The Kentucky Community and Technical College System shall contribute for each payroll of each fiscal year to the Kentucky Retirement Systems, a percentage of the total salaries of any employees who did not choose or were not given a choice on or after January 1, 2014, to participate in the Kentucky Employees Retirement System.
- (2) The percentage referenced in subsection (1) of this section shall be calculated by the Kentucky Retirement Systems as an actuarial value of nonparticipation.
- (3) Each annual surcharge paid under this section shall be deposited into the Kentucky Employees Retirement System nonhazardous pension fund.
- (4) The Kentucky Retirement Systems shall cooperate with the Kentucky Teachers' Retirement System to implement this section in conjunction with Section 3 of this Act.

➔SECTION 3. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED

TO READ AS FOLLOWS:

- (1) The Kentucky Community and Technical College System shall contribute for each payroll of each fiscal year to the Kentucky Teachers' Retirement System, a percentage of the total salaries of any employees who did not choose or were not given a choice on or after January 1, 2014, to participate in the Kentucky Teachers' Retirement System
- (2) The percentage referenced in subsection (1) of this section shall be calculated by the board as an actuarial value of nonparticipation.
- (3) Each annual surcharge paid under this section shall be deposited into the Kentucky Teachers' Retirement System pension fund.
- (4) The Kentucky Teachers' Retirement System shall cooperate with the Kentucky Retirement Systems to implement this section in conjunction with Section 2 of this Act.

➔Section 4. KRS 164.350 is amended to read as follows:

- (1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:
  - (a) Receive grants of money and expend the same for the use and benefit of the university or college;
  - (b) Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;
  - (c) Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
  - (d) Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
  - (e) Grant diplomas and confer degrees upon the recommendation of the president and faculty.
- (2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:
  - (a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the colleges within the system. The

guidelines shall define the processes for review and approval by the boards of directors for the colleges;

- (b) Adopt a biennial budget request for the Kentucky Community and Technical College System upon the recommendation of the president of the system;
- (c) Adopt an allocation process for distributing funds to the colleges within the system;
- (d) Consider recommendations from the boards of directors of the colleges to improve the overall budget planning and allocation processes;
- (e) Designate each college with a name;
- (f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and
- (g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

**(4) Nothing in this section shall supersede KRS 61.510 to 61.705 and 161.220 to 161.716, which shall govern state retirement participation, funding, and benefits.**

➔Section 5. KRS 164.365 is amended to read as follows:

- (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State

University and the Kentucky Community and Technical College System, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named, **except that KRS 61.510 to 61.705 and 161.220 to 161.716 shall govern state retirement participation, funding, and benefits.**

- (2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.
- (3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.

➔Section 6. KRS 164.5805 is amended to read as follows:

- (1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the former Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky

Tech System from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System.

- (a) The staff positions in the former Department for Technical Education and the former Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.
- (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.
- (c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.
- (d) The following provisions shall apply to the employees who are transferred from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:
  1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
  2. Employees who have earned continuing status as defined in KRS

156.800 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;

3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
  4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
  5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
  6. Employees shall be provided life insurance coverage and optional insurance or investment programs.
- (e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the former Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new

Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

- (2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board, *except that KRS 61.510 to 61.705 and 161.220 to 161.716 shall govern state retirement participation, funding, and benefits.*

→Section 7. This Act applies to fiscal years beginning on or after July 1, 2016.

→Section 8. Whereas ensuring adequate funding for the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System are important to public employees and to the fiscal policy of the Commonwealth of Kentucky, 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.