

1 AN ACT relating to the final compensation calculation for state and county
2 employees entering the retirement systems on or after September 1, 2008.

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

4 ➔Section 1. KRS 16.505 is amended to read as follows:

5 As used in KRS 16.505 to 16.652, unless the context otherwise requires:

6 (1) "System" means the State Police Retirement System created by KRS 16.505 to
7 16.652;

8 (2) "Board" means the board of trustees of the Kentucky Retirement Systems;

9 (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its
10 successor;

11 (4) "Current service" means the number of years and completed months of employment
12 as an employee subsequent to July 1, 1958, for which creditable compensation was
13 paid by the employer and employee contributions deducted except as otherwise
14 provided;

15 (5) "Prior service" means the number of years and completed months of employment as
16 an employee prior to July 1, 1958, for which creditable compensation was paid to
17 the employee by the Commonwealth. Twelve (12) months of current service in the
18 system are required to validate prior service;

19 (6) "Service" means the total of current service and prior service;

20 (7) "Accumulated contributions" at any time means the sum of all amounts deducted
21 from the compensation of a member and credited to his individual account in the
22 member's account, including employee contributions picked up after August 1,
23 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts
24 as provided in KRS 16.505 to 16.652, and any other amounts the member shall have
25 contributed, including interest credited. For members who begin participating on or
26 after September 1, 2008, "accumulated contributions" shall not include employee
27 contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.

1 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as
2 prescribed by KRS 61.702(2)(b);

3 (8) "Creditable compensation" means all salary and wages, including payments for
4 compensatory time, paid to the employee as a result of services performed for the
5 employer or for time during which the member is on paid leave, which are
6 includable on the member's federal form W-2 wage and tax statement under the
7 heading "wages, tips, other compensation," including employee contributions
8 picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus,
9 severance pay, or employer-provided payment for purchase of service credit shall be
10 included as creditable compensation but shall be averaged over the employee's total
11 service with the system in which it is recorded if it is equal to or greater than one
12 thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum
13 payments for accrued vacation leave, and other items determined by the board shall
14 be excluded. Creditable compensation shall also include amounts which are not
15 includable in the member's gross income by virtue of the member having taken a
16 voluntary salary reduction provided for under applicable provisions of the Internal
17 Revenue Code. Creditable compensation shall also include elective amounts for
18 qualified transportation fringes paid or made available on or after January 1, 2001,
19 for calendar years on or after January 1, 2001, that are not includable in the gross
20 income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who
21 begin participating on or after September 1, 2008, creditable compensation shall not
22 include payments for compensatory time;

23 (9) "Final compensation" means:

24 (a) For a member who begins participating before September 1, 2008, the
25 creditable compensation of a member during the three (3) fiscal years he was
26 paid at the highest average monthly rate divided by the number of months of
27 service credit during the three (3) year period, multiplied by twelve (12); the

1 three (3) years may be fractional and need not be consecutive. If the number of
2 months of service credit during the three (3) year period is less than twenty-
3 four (24), one (1) or more additional fiscal years shall be used; or

4 (b) For a member who begins participating on or after September 1, 2008, but
5 prior to January 1, 2014, the creditable compensation of the member during
6 the three (3) complete fiscal years he or she was paid at the highest average
7 monthly rate divided by three (3). Each fiscal year used to determine final
8 compensation must contain twelve (12) months of service credit. *If the*
9 *member does not have three (3) complete fiscal years that each contain*
10 *twelve (12) months of service credit, then one (1) or more additional fiscal*
11 *years, which may contain less than twelve (12) months of service credit,*
12 *shall be added until the number of months in the final compensation*
13 *calculation is at least thirty-six (36) months;*

14 (10) "Final rate of pay" means the actual rate upon which earnings of a member were
15 calculated during the twelve (12) month period immediately preceding the
16 member's effective retirement date, including employee contributions picked up
17 after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the
18 system by the employer and the following equivalents shall be used to convert the
19 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
20 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-
21 1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12)
22 months, or one (1) year;

23 (11) "Retired member" means any former member receiving a retirement allowance or
24 any former member who has filed the necessary documents for retirement benefits
25 and is no longer contributing to the retirement system;

26 (12) "Retirement allowance" means the retirement payments to which a retired member
27 is entitled;

- 1 (13) "Actuarial equivalent" means a benefit of equal value when computed upon the
2 basis of actuarial tables adopted by the board. In cases of disability retirement, the
3 options authorized by KRS 61.635 shall be computed by adding ten (10) years to
4 the age of the member, unless the member has chosen the Social Security
5 adjustment option as provided for in KRS 61.635(8), in which case the member's
6 actual age shall be used. For members who began participating in the system prior
7 to January 1, 2014, no disability retirement option shall be less than the same option
8 computed under early retirement;
- 9 (14) "Authorized leave of absence" means any time during which a person is absent from
10 employment but retained in the status of an employee in accordance with the
11 personnel policy of the Department of Kentucky State Police;
- 12 (15) "Normal retirement date" means:
- 13 (a) For a member who begins participating before September 1, 2008, the first
14 day of the month following a member's fifty-fifth birthday, except that for
15 members over age fifty-five (55) on July 1, 1958, it shall mean January 1,
16 1959; or
- 17 (b) For a member who begins participating on or after September 1, 2008, the
18 first day of the month following a member's sixtieth birthday;
- 19 (16) "Disability retirement date" means the first day of the month following the last day
20 of paid employment;
- 21 (17) "Dependent child" means a child in the womb and a natural or legally adopted child
22 of the member who has neither attained age eighteen (18) nor married or who is an
23 unmarried full-time student who has not attained age twenty-two (22);
- 24 (18) "Optional allowance" means an actuarially equivalent benefit elected by the member
25 in lieu of all other benefits provided by KRS 16.505 to 16.652;
- 26 (19) "Act in line of duty" means an act occurring or a thing done, which, as determined
27 by the board, was required in the performance of the duties specified in KRS

1 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of
2 duty" shall mean an act occurring which was required in the performance of the
3 principal duties of the position as defined by the job description;

4 (20) "Early retirement date" means:

5 (a) For a member who begins participating before September 1, 2008, the
6 retirement date declared by a member who is not less than fifty (50) years of
7 age and has fifteen (15) years of service; or

8 (b) For a member who begins participating on or after September 1, 2008, but
9 prior to January 1, 2014, the retirement date declared by a member who is not
10 less than fifty (50) years of age and has fifteen (15) years of service credited
11 under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered
12 retirement system;

13 (21) "Member" means any officer included in the membership of the system as provided
14 under KRS 16.520 whose membership has not been terminated under KRS 61.535;

15 (22) "Regular full-time officers" means the occupants of positions as set forth in KRS
16 16.010;

17 (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which
18 results in an employee's total incapacity to continue as an employee in a hazardous
19 position, but the employee is not necessarily deemed to be totally and permanently
20 disabled to engage in other occupations for remuneration or profit;

21 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
22 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
23 pay. The rate shall be certified by the employer;

24 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
25 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
26 in the event of the member's death. As used in KRS 61.702, "beneficiary" does not
27 mean an estate, trust, or trustee;

- 1 (26) "Recipient" means the retired member, the person or persons designated as
2 beneficiary by the member and drawing a retirement allowance as a result of the
3 member's death, or a dependent child drawing a retirement allowance. An alternate
4 payee of a qualified domestic relations order shall not be considered a recipient,
5 except for purposes of KRS 61.623;
- 6 (27) "Person" means a natural person;
- 7 (28) "Retirement office" means the Kentucky Retirement Systems office building in
8 Frankfort;
- 9 (29) "Delayed contribution payment" means an amount paid by an employee for
10 purchase of current service. The amount shall be determined using the same formula
11 in KRS 61.5525, and the payment shall not be picked up by the employer. A
12 delayed contribution payment shall be deposited to the member's account and
13 considered as accumulated contributions of the individual member;
- 14 (30) "Last day of paid employment" means the last date employer and employee
15 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
16 78.615 to the retirement office in order for the employee to receive current service
17 credit for the month. Last day of paid employment does not mean a date the
18 employee receives payment for accrued leave, whether by lump sum or otherwise, if
19 that date occurs twenty-four (24) or more months after previous contributions;
- 20 (31) "Objective medical evidence" means reports of examinations or treatments; medical
21 signs which are anatomical, physiological, or psychological abnormalities that can
22 be observed; psychiatric signs which are medically demonstrable phenomena
23 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
24 or contact with reality; or laboratory findings which are anatomical, physiological,
25 or psychological phenomena that can be shown by medically acceptable laboratory
26 diagnostic techniques, including but not limited to chemical tests,
27 electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- 1 (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the
2 following June 30, which shall also be the plan year. The "fiscal year" shall be the
3 limitation year used to determine contribution and benefit limits established by 26
4 U.S.C. sec. 415;
- 5 (33) "Participating" means an employee is currently earning service credit in the system
6 as provided in KRS 16.543;
- 7 (34) "Month" means a calendar month;
- 8 (35) "Membership date" means the date upon which the member began participating in
9 the system as provided by KRS 16.543;
- 10 (36) "Participant" means a member, as defined by subsection (21) of this section, or a
11 retired member, as defined by subsection (11) of this section;
- 12 (37) "Qualified domestic relations order" means any judgment, decree, or order,
13 including approval of a property settlement agreement, that:
- 14 (a) Is issued by a court or administrative agency; and
- 15 (b) Relates to the provision of child support, alimony payments, or marital
16 property rights to an alternate payee;
- 17 (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
18 participant, who is designated to be paid retirement benefits in a qualified domestic
19 relations order;
- 20 (39) "Accumulated employer credit" means the employer pay credit deposited to the
21 member's account and interest credited on such amounts as provided by KRS
22 16.583; and
- 23 (40) "Accumulated account balance" means:
- 24 (a) For members who began participating in the system prior to January 1, 2014,
25 the member's accumulated contributions; or
- 26 (b) For members who began participating in the system on or after January 1,
27 2014, in the hybrid cash balance plan as provided by KRS 16.583, the

1 combined sum of the member's accumulated contributions and the member's
2 accumulated employer pay credit.

3 ➔Section 2. KRS 61.510 is amended to read as follows:

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

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

1 any former employee whose membership has not been terminated under KRS
2 61.535;

3 (9) "Service" means the total of current service and prior service as defined in this
4 section;

5 (10) "Current service" means the number of years and months of employment as an
6 employee, on and after July 1, 1956, except that for members, officers, and
7 employees of the General Assembly this date shall be January 1, 1960, for which
8 creditable compensation is paid and employee contributions deducted, except as
9 otherwise provided, and each member, officer, and employee of the General
10 Assembly shall be credited with a month of current service for each month he
11 serves in the position;

12 (11) "Prior service" means the number of years and completed months, expressed as a
13 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
14 creditable compensation was paid; except that for members, officers, and employees
15 of the General Assembly, this date shall be January 1, 1960. An employee shall be
16 credited with one (1) month of prior service only in those months he received
17 compensation for at least one hundred (100) hours of work; provided, however, that
18 each member, officer, and employee of the General Assembly shall be credited with
19 a month of prior service for each month he served in the position prior to January 1,
20 1960. Twelve (12) months of current service in the system are required to validate
21 prior service;

22 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
23 from the compensation of a member and credited to his individual account in the
24 members' account, including employee contributions picked up after August 1,
25 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts
26 and any other amounts the member shall have contributed thereto, including interest
27 credited thereon. For members who begin participating on or after September 1,

1 2008, "accumulated contributions" shall not include employee contributions that are
2 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
3 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS
4 61.702(2)(b);

5 (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are
6 reported for income tax purposes, and fees, including payments for compensatory
7 time, paid to the employee as a result of services performed for the employer or for
8 time during which the member is on paid leave, which are includable on the
9 member's federal form W-2 wage and tax statement under the heading "wages, tips,
10 other compensation," including employee contributions picked up after August 1,
11 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall
12 mean all amounts which are includable on the member's federal form W-2 wage and
13 tax statement under the heading "wages, tips, other compensation," including
14 employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4)
15 or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for
16 purchase of service credit shall be included as creditable compensation but shall be
17 averaged over the employee's total service with the system in which it is recorded if
18 it is equal to or greater than one thousand dollars (\$1,000). In cases where
19 compensation includes maintenance and other perquisites, the board shall fix the
20 value of that part of the compensation not paid in money. Living allowances,
21 expense reimbursements, lump-sum payments for accrued vacation leave, and other
22 items determined by the board shall be excluded. Creditable compensation shall
23 also include amounts which are not includable in the member's gross income by
24 virtue of the member having taken a voluntary salary reduction provided for under
25 applicable provisions of the Internal Revenue Code. Creditable compensation shall
26 also include elective amounts for qualified transportation fringes paid or made
27 available on or after January 1, 2001, for calendar years on or after January 1, 2001,

1 that are not includable in the gross income of the employee by reason of 26 U.S.C.
2 sec. 132(f)(4). For employees who begin participating on or after September 1,
3 2008, creditable compensation shall not include payments for compensatory time.
4 For employees who begin participating on or after August 1, 2016, creditable
5 compensation shall exclude nominal fees paid for services as a volunteer;

6 (14) "Final compensation" of a member means:

7 (a) For a member who begins participating before September 1, 2008, who is not
8 employed in a hazardous position, as provided in KRS 61.592, the creditable
9 compensation of the member during the five (5) fiscal years he was paid at the
10 highest average monthly rate divided by the number of months of service
11 credit during that five (5) year period multiplied by twelve (12). The five (5)
12 years may be fractional and need not be consecutive. If the number of months
13 of service credit during the five (5) year period is less than forty-eight (48),
14 one (1) or more additional fiscal years shall be used;

15 (b) For a member who is not employed in a hazardous position, as provided in
16 KRS 61.592, whose effective retirement date is between August 1, 2001, and
17 January 1, 2009, and whose total service credit is at least twenty-seven (27)
18 years and whose age and years of service total at least seventy-five (75), final
19 compensation means the creditable compensation of the member during the
20 three (3) fiscal years the member was paid at the highest average monthly rate
21 divided by the number of months of service credit during that three (3) years
22 period multiplied by twelve (12). The three (3) years may be fractional and
23 need not be consecutive. If the number of months of service credit during the
24 three (3) year period is less than twenty-four (24), one (1) or more additional
25 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
26 funding for this paragraph shall be provided from existing funds of the
27 retirement allowance;

1 (c) For a member who begins participating before September 1, 2008, who is
2 employed in a hazardous position, as provided in KRS 61.592, the creditable
3 compensation of the member during the three (3) fiscal years he was paid at
4 the highest average monthly rate divided by the number of months of service
5 credit during that three (3) year period multiplied by twelve (12). The three (3)
6 years may be fractional and need not be consecutive. If the number of months
7 of service credit during the three (3) year period is less than twenty-four (24),
8 one (1) or more additional fiscal years shall be used;

9 (d) For a member who begins participating on or after September 1, 2008, but
10 prior to January 1, 2014, who is not employed in a hazardous position, as
11 provided in KRS 61.592, the creditable compensation of the member during
12 the five (5) complete fiscal years immediately preceding retirement divided by
13 five (5). Each fiscal year used to determine final compensation must contain
14 twelve (12) months of service credit. If the member does not have five (5)
15 complete fiscal years that each contain twelve (12) months of service credit,
16 then one (1) or more additional fiscal years, which may contain less than
17 twelve (12) months of service credit, shall be added until the number of
18 months in the final compensation calculation is at least sixty (60)
19 months~~used~~; or

20 (e) For a member who begins participating on or after September 1, 2008, but
21 prior to January 1, 2014, who is employed in a hazardous position, as
22 provided in KRS 61.592, the creditable compensation of the member during
23 the three (3) complete fiscal years he was paid at the highest average monthly
24 rate divided by three (3). Each fiscal year used to determine final
25 compensation must contain twelve (12) months of service credit. If the
26 member does not have three (3) complete fiscal years that each contain
27 twelve (12) months of service credit, then one (1) or more additional fiscal

1 years, which may contain less than twelve (12) months of service credit,
2 shall be added until the number of months in the final compensation
3 calculation is at least thirty-six (36) months;

4 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
5 calculated during the twelve (12) month period immediately preceding the
6 member's effective retirement date, including employee contributions picked up
7 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the
8 system by the employer and the following equivalents shall be used to convert the
9 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
10 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour
11 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,
12 one (1) year;

13 (16) "Retirement allowance" means the retirement payments to which a member is
14 entitled;

15 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
16 basis of the actuarial tables that are adopted by the board. In cases of disability
17 retirement, the options authorized by KRS 61.635 shall be computed by adding ten
18 (10) years to the age of the member, unless the member has chosen the Social
19 Security adjustment option as provided for in KRS 61.635(8), in which case the
20 member's actual age shall be used. For members who began participating in the
21 system prior to January 1, 2014, no disability retirement option shall be less than the
22 same option computed under early retirement;

23 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
24 otherwise provided in KRS 61.510 to 61.705;

25 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
26 following June 30, which shall also be the plan year. The "fiscal year" shall be the
27 limitation year used to determine contribution and benefit limits as established by

1 26 U.S.C. sec. 415;

2 (20) "Officers and employees of the General Assembly" means the occupants of those
3 positions enumerated in KRS 6.150. The term shall also apply to assistants who
4 were employed by the General Assembly for at least one (1) regular legislative
5 session prior to July 13, 2004, who elect to participate in the retirement system, and
6 who serve for at least six (6) regular legislative sessions. Assistants hired after July
7 13, 2004, shall be designated as interim employees;

8 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean
9 all positions that average one hundred (100) or more hours per month determined by
10 using the number of months actually worked within a calendar or fiscal year,
11 including all positions except:

12 (a) Seasonal positions, which although temporary in duration, are positions which
13 coincide in duration with a particular season or seasons of the year and which
14 may recur regularly from year to year, the period of time shall not exceed nine
15 (9) months;

16 (b) Emergency positions which are positions which do not exceed thirty (30)
17 working days and are nonrenewable;

18 (c) Temporary positions which are positions of employment with a participating
19 department for a period of time not to exceed nine (9) months;

20 (d) Part-time positions which are positions which may be permanent in duration,
21 but which require less than a calendar or fiscal year average of one hundred
22 (100) hours of work per month, determined by using the number of months
23 actually worked within a calendar or fiscal year, in the performance of duty;
24 and

25 (e) Interim positions which are positions established for a one-time or recurring
26 need not to exceed nine (9) months;

27 (22) "Delayed contribution payment" means an amount paid by an employee for

1 purchase of current service. The amount shall be determined using the same formula
2 in KRS 61.5525, and the payment shall not be picked up by the employer. A
3 delayed contribution payment shall be deposited to the member's account and
4 considered as accumulated contributions of the individual member. In determining
5 payments under this subsection, the formula found in this subsection shall prevail
6 over the one found in KRS 212.434;

7 (23) "Parted employer" means a department, portion of a department, board, or agency,
8 such as Outwood Hospital and School, which previously participated in the system,
9 but due to lease or other contractual arrangement is now operated by a publicly held
10 corporation or other similar organization, and therefore is no longer participating in
11 the system. The term "parted employer" shall not include a department, board, or
12 agency that ceased participation in the system pursuant to KRS 61.522;

13 (24) "Retired member" means any former member receiving a retirement allowance or
14 any former member who has filed the necessary documents for retirement benefits
15 and is no longer contributing to the retirement system;

16 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
17 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
18 pay. The rate shall be certified by the employer;

19 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by
20 the member in accordance with KRS 61.542 or 61.705 to receive any available
21 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"
22 does not mean an estate, trust, or trustee;

23 (27) "Recipient" means the retired member or the person or persons designated as
24 beneficiary by the member and drawing a retirement allowance as a result of the
25 member's death or a dependent child drawing a retirement allowance. An alternate
26 payee of a qualified domestic relations order shall not be considered a recipient,
27 except for purposes of KRS 61.623;

- 1 (28) "Level-percentage-of-payroll amortization method" means a method of determining
2 the annual amortization payment on the unfunded actuarial accrued liability as
3 expressed as a percentage of payroll over a set period of years. Under this method,
4 the percentage of payroll shall be projected to remain constant for all years
5 remaining in the set period and the unfunded actuarially accrued liability shall be
6 projected to be fully amortized at the conclusion of the set period;
- 7 (29) "Increment" means twelve (12) months of service credit which are purchased. The
8 twelve (12) months need not be consecutive. The final increment may be less than
9 twelve (12) months;
- 10 (30) "Person" means a natural person;
- 11 (31) "Retirement office" means the Kentucky Retirement Systems office building in
12 Frankfort;
- 13 (32) "Last day of paid employment" means the last date employer and employee
14 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
15 78.615 to the retirement office in order for the employee to receive current service
16 credit for the month. Last day of paid employment does not mean a date the
17 employee receives payment for accrued leave, whether by lump sum or otherwise, if
18 that date occurs twenty-four (24) or more months after previous contributions;
- 19 (33) "Objective medical evidence" means reports of examinations or treatments; medical
20 signs which are anatomical, physiological, or psychological abnormalities that can
21 be observed; psychiatric signs which are medically demonstrable phenomena
22 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
23 or contact with reality; or laboratory findings which are anatomical, physiological,
24 or psychological phenomena that can be shown by medically acceptable laboratory
25 diagnostic techniques, including but not limited to chemical tests,
26 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 27 (34) "Participating" means an employee is currently earning service credit in the system

- 1 as provided in KRS 61.543;
- 2 (35) "Month" means a calendar month;
- 3 (36) "Membership date" means:
- 4 (a) The date upon which the member began participating in the system as
- 5 provided in KRS 61.543; or
- 6 (b) For a member electing to participate in the system pursuant to KRS
- 7 196.167(4) who has not previously participated in the system or the Kentucky
- 8 Teachers' Retirement System, the date the member began participating in a
- 9 defined contribution plan that meets the requirements of 26 U.S.C. sec.
- 10 403(b);
- 11 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 12 retired member, as defined by subsection (24) of this section;
- 13 (38) "Qualified domestic relations order" means any judgment, decree, or order,
- 14 including approval of a property settlement agreement, that:
- 15 (a) Is issued by a court or administrative agency; and
- 16 (b) Relates to the provision of child support, alimony payments, or marital
- 17 property rights to an alternate payee;
- 18 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 19 participant, who is designated to be paid retirement benefits in a qualified domestic
- 20 relations order;
- 21 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 22 member's account and interest credited on such amounts as provided by KRS
- 23 16.583 and 61.597;
- 24 (41) "Accumulated account balance" means:
- 25 (a) For members who began participating in the system prior to January 1, 2014,
- 26 the member's accumulated contributions; or
- 27 (b) For members who began participating in the system on or after January 1,

1 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
2 the combined sum of the member's accumulated contributions and the
3 member's accumulated employer credit;

4 (42) "Volunteer" means an individual who:

- 5 (a) Freely and without pressure or coercion performs hours of service for an
6 employer participating in one (1) of the systems administered by Kentucky
7 Retirement Systems without receipt of compensation for services rendered,
8 except for reimbursement of actual expenses, payment of a nominal fee to
9 offset the costs of performing the voluntary services, or both; and
10 (b) If a retired member, does not become an employee, leased employee, or
11 independent contractor of the employer for which he or she is performing
12 volunteer services for a period of at least twenty-four (24) months following
13 the retired member's most recent retirement date; and

14 (43) "Nominal fee" means compensation earned for services as a volunteer that does not
15 exceed five hundred dollars (\$500) per month. Compensation earned for services as
16 a volunteer from more than one (1) participating employer during a month shall be
17 aggregated to determine whether the compensation exceeds the five hundred dollars
18 (\$500) per month maximum provided by this subsection.

19 ➔Section 3. KRS 78.510 is amended to read as follows:

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

- 21 (1) "System" means the County Employees Retirement System;
22 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
23 (3) "County" means any county, or nonprofit organization created and governed by a
24 county, counties, or elected county officers, sheriff and his employees, county clerk
25 and his employees, circuit clerk and his deputies, former circuit clerks or former
26 circuit clerk deputies, or political subdivision or instrumentality, including school
27 boards, charter county government, or urban-county government participating in the

- 1 system by order appropriate to its governmental structure, as provided in KRS
2 78.530, and if the board is willing to accept the agency, organization, or
3 corporation, the board being hereby granted the authority to determine the eligibility
4 of the agency to participate;
- 5 (4) "School board" means any board of education participating in the system by order
6 appropriate to its governmental structure, as provided in KRS 78.530, and if the
7 board is willing to accept the agency or corporation, the board being hereby granted
8 the authority to determine the eligibility of the agency to participate;
- 9 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 10 (6) "Employee" means every regular full-time appointed or elective officer or employee
11 of a participating county and the coroner of a participating county, whether or not he
12 qualifies as a regular full-time officer. The term shall not include persons engaged
13 as independent contractors, seasonal, emergency, temporary, and part-time workers.
14 In case of any doubt, the board shall determine if a person is an employee within the
15 meaning of KRS 78.510 to 78.852;
- 16 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
17 officials of a county, or any authority of the county having the power to appoint or
18 elect an employee to office or employment in the county;
- 19 (8) "Member" means any employee who is included in the membership of the system or
20 any former employee whose membership has not been terminated under KRS
21 61.535;
- 22 (9) "Service" means the total of current service and prior service as defined in this
23 section;
- 24 (10) "Current service" means the number of years and months of employment as an
25 employee, on and after July 1, 1958, for which creditable compensation is paid and
26 employee contributions deducted, except as otherwise provided;
- 27 (11) "Prior service" means the number of years and completed months, expressed as a

1 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
2 creditable compensation was paid. An employee shall be credited with one (1)
3 month of prior service only in those months he received compensation for at least
4 one hundred (100) hours of work. Twelve (12) months of current service in the
5 system shall be required to validate prior service;

6 (12) "Accumulated contributions" means the sum of all amounts deducted from the
7 compensation of a member and credited to his individual account in the members'
8 account, including employee contributions picked up after August 1, 1982, pursuant
9 to KRS 78.610(4), together with interest credited on the amounts, and any other
10 amounts the member shall have contributed thereto, including interest credited
11 thereon. For members who begin participating on or after September 1, 2008,
12 "accumulated contributions" shall not include employee contributions that are
13 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
14 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS
15 61.702(2)(b);

16 (13) "Creditable compensation" means all salary, wages, and fees, including payments
17 for compensatory time, paid to the employee as a result of services performed for
18 the employer or for time during which the member is on paid leave, which are
19 includable on the member's federal form W-2 wage and tax statement under the
20 heading "wages, tips, other compensation", including employee contributions
21 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,
22 severance pay, or employer-provided payment for purchase of service credit shall be
23 included as creditable compensation but shall be averaged over the employee's
24 service with the system in which it is recorded if it is equal to or greater than one
25 thousand dollars (\$1,000). If compensation includes maintenance and other
26 perquisites, the board shall fix the value of that part of the compensation not paid in
27 money. Living allowances, expense reimbursements, lump-sum payments for

1 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other
2 items determined by the board shall be excluded. Creditable compensation shall
3 also include amounts that are not includable in the member's gross income by virtue
4 of the member having taken a voluntary salary reduction provided for under
5 applicable provisions of the Internal Revenue Code. Creditable compensation shall
6 also include elective amounts for qualified transportation fringes paid or made
7 available on or after January 1, 2001, for calendar years on or after January 1, 2001,
8 that are not includable in the gross income of the employee by reason of 26 U.S.C.
9 sec. 132(f)(4). For employees who begin participating on or after September 1,
10 2008, creditable compensation shall not include payments for compensatory time.
11 Creditable compensation shall not include training incentive payments for city
12 officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin
13 participating on or after August 1, 2016, creditable compensation shall exclude
14 nominal fees paid for services as a volunteer;

15 (14) "Final compensation" means:

- 16 (a) For a member who begins participating before September 1, 2008, who is not
17 employed in a hazardous position, as provided in KRS 61.592, the creditable
18 compensation of the member during the five (5) fiscal years he was paid at the
19 highest average monthly rate divided by the number of months of service
20 credit during that five (5) year period multiplied by twelve (12). The five (5)
21 years may be fractional and need not be consecutive. If the number of months
22 of service credit during the five (5) year period is less than forty-eight (48),
23 one (1) or more additional fiscal years shall be used;
- 24 (b) For a member who is not employed in a hazardous position, as provided in
25 KRS 61.592, whose effective retirement date is between August 1, 2001, and
26 January 1, 2009, and whose total service credit is at least twenty-seven (27)
27 years and whose age and years of service total at least seventy-five (75), final

1 compensation means the creditable compensation of the member during the
2 three (3) fiscal years the member was paid at the highest average monthly rate
3 divided by the number of months of service credit during that three (3) year
4 period multiplied by twelve (12). The three (3) years may be fractional and
5 need not be consecutive. If the number of months of service credit during the
6 three (3) year period is less than twenty-four (24), one (1) or more additional
7 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
8 funding for this paragraph shall be provided from existing funds of the
9 retirement allowance;

10 (c) For a member who begins participating before September 1, 2008, who is
11 employed in a hazardous position, as provided in KRS 61.592, the creditable
12 compensation of the member during the three (3) fiscal years he was paid at
13 the highest average monthly rate divided by the number of months of service
14 credit during that three (3) year period multiplied by twelve (12). The three (3)
15 years may be fractional and need not be consecutive. If the number of months
16 of service credit during the three (3) year period is less than twenty-four (24),
17 one (1) or more additional fiscal years shall be used;

18 (d) For a member who begins participating on or after September 1, 2008, but
19 prior to January 1, 2014, who is not employed in a hazardous position, as
20 provided in KRS 61.592, the creditable compensation of the member during
21 the five (5) complete fiscal years immediately preceding retirement divided by
22 five (5). Each fiscal year used to determine final compensation must contain
23 twelve (12) months of service credit. If the member does not have five (5)
24 complete fiscal years that each contain twelve (12) months of service credit,
25 then one (1) or more additional fiscal years, which may contain less than
26 twelve (12) months of service credit, shall be added until the number of
27 months in the final compensation calculation is at least sixty (60)

1 ~~months~~^[used]; or

2 (e) For a member who begins participating on or after September 1, 2008, but
3 prior to January 1, 2014, who is employed in a hazardous position, as
4 provided in KRS 61.592, the creditable compensation of the member during
5 the three (3) complete fiscal years he was paid at the highest average monthly
6 rate divided by three (3). Each fiscal year used to determine final
7 compensation must contain twelve (12) months of service credit. *If the*
8 *member does not have three (3) complete fiscal years that each contain*
9 *twelve (12) months of service credit, then one (1) or more additional fiscal*
10 *years, which may contain less than twelve (12) months of service credit,*
11 *shall be added until the number of months in the final compensation*
12 *calculation is at least thirty-six (36) months;*

13 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
14 calculated during the twelve (12) month period immediately preceding the
15 member's effective retirement date, and shall include employee contributions picked
16 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
17 the system by the employer and the following equivalents shall be used to convert
18 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
19 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
20 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
21 (12) months, one (1) year;

22 (16) "Retirement allowance" means the retirement payments to which a member is
23 entitled;

24 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
25 basis of the actuarial tables adopted by the board. In cases of disability retirement,
26 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
27 to the age of the member, unless the member has chosen the Social Security

1 adjustment option as provided for in KRS 61.635(8), in which case the member's
2 actual age shall be used. For members who begin participating in the system prior to
3 January 1, 2014, no disability retirement option shall be less than the same option
4 computed under early retirement;

5 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
6 otherwise provided in KRS 78.510 to 78.852;

7 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
8 following June 30, which shall also be the plan year. The "fiscal year" shall be the
9 limitation year used to determine contribution and benefits limits as set out in 26
10 U.S.C. sec. 415;

11 (20) "Agency reporting official" means the person designated by the participating agency
12 who shall be responsible for forwarding all employer and employee contributions
13 and a record of the contributions to the system and for performing other
14 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

15 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
16 all positions that average one hundred (100) or more hours per month, determined
17 by using the number of hours actually worked in a calendar or fiscal year, or eighty
18 (80) or more hours per month in the case of noncertified employees of school
19 boards, determined by using the number of hours actually worked in a calendar or
20 school year, unless otherwise specified, except:

21 (a) Seasonal positions, which although temporary in duration, are positions which
22 coincide in duration with a particular season or seasons of the year and that
23 may recur regularly from year to year, in which case the period of time shall
24 not exceed nine (9) months, except for employees of school boards, in which
25 case the period of time shall not exceed six (6) months;

26 (b) Emergency positions that are positions that do not exceed thirty (30) working
27 days and are nonrenewable;

- 1 (c) Temporary, also referred to as probationary, positions that are positions of
2 employment with a participating agency for a period of time not to exceed
3 twelve (12) months and not renewable; or
- 4 (d) Part-time positions that are positions that may be permanent in duration, but
5 that require less than a calendar or fiscal year average of one hundred (100)
6 hours of work per month, determined by using the number of months actually
7 worked within a calendar or fiscal year, in the performance of duty, except in
8 case of noncertified employees of school boards, the school term average shall
9 be eighty (80) hours of work per month, determined by using the number of
10 months actually worked in a calendar or school year, in the performance of
11 duty;
- 12 (22) "Alternate participation plan" means a method of participation in the system as
13 provided for by KRS 78.530(3);
- 14 (23) "Retired member" means any former member receiving a retirement allowance or
15 any former member who has on file at the retirement office the necessary
16 documents for retirement benefits and is no longer contributing to the system;
- 17 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
18 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
19 pay. The rate shall be certified by the employer;
- 20 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
21 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
22 in the event of the member's death. As used in KRS 61.702, beneficiary shall not
23 mean an estate, trust, or trustee;
- 24 (26) "Recipient" means the retired member, the person or persons designated as
25 beneficiary by the member and drawing a retirement allowance as a result of the
26 member's death, or a dependent child drawing a retirement allowance. An alternate
27 payee of a qualified domestic relations order shall not be considered a recipient,

- 1 except for purposes of KRS 61.623;
- 2 (27) "Person" means a natural person;
- 3 (28) "School term or year" means the twelve (12) months from July 1 through the
- 4 following June 30;
- 5 (29) "Retirement office" means the Kentucky Retirement Systems office building in
- 6 Frankfort;
- 7 (30) "Delayed contribution payment" means an amount paid by an employee for current
- 8 service obtained under KRS 61.552. The amount shall be determined using the
- 9 same formula in KRS 61.5525, except the determination of the actuarial cost for
- 10 classified employees of a school board shall be based on their final compensation,
- 11 and the payment shall not be picked up by the employer. A delayed contribution
- 12 payment shall be deposited to the member's account and considered as accumulated
- 13 contributions of the individual member. In determining payments under this
- 14 subsection, the formula found in this subsection shall prevail over the one found in
- 15 KRS 212.434;
- 16 (31) "Participating" means an employee is currently earning service credit in the system
- 17 as provided in KRS 78.615;
- 18 (32) "Month" means a calendar month;
- 19 (33) "Membership date" means the date upon which the member began participating in
- 20 the system as provided in KRS 78.615;
- 21 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
- 22 retired member, as defined by subsection (23) of this section;
- 23 (35) "Qualified domestic relations order" means any judgment, decree, or order,
- 24 including approval of a property settlement agreement, that:
- 25 (a) Is issued by a court or administrative agency; and
- 26 (b) Relates to the provision of child support, alimony payments, or marital
- 27 property rights to an alternate payee;

- 1 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
2 participant, who is designated to be paid retirement benefits in a qualified domestic
3 relations order;
- 4 (37) "Accumulated employer credit" means the employer pay credit deposited to the
5 member's account and interest credited on such amounts as provided by KRS
6 16.583 and 61.597;
- 7 (38) "Accumulated account balance" means:
- 8 (a) For members who began participating in the system prior to January 1, 2014,
9 the member's accumulated contributions; or
- 10 (b) For members who began participating in the system on or after January 1,
11 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
12 the combined sum of the member's accumulated contributions and the
13 member's accumulated employer credit;
- 14 (39) "Volunteer" means an individual who:
- 15 (a) Freely and without pressure or coercion performs hours of service for an
16 employer participating in one (1) of the systems administered by Kentucky
17 Retirement Systems without receipt of compensation for services rendered,
18 except for reimbursement of actual expenses, payment of a nominal fee to
19 offset the costs of performing the voluntary services, or both; and
- 20 (b) If a retired member, does not become an employee, leased employee, or
21 independent contractor of the employer for which he or she is performing
22 volunteer services for a period of at least twenty-four (24) months following
23 the retired member's most recent retirement date; and
- 24 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
25 exceed five hundred dollars (\$500) per month. Compensation earned for services as
26 a volunteer from more than one (1) participating employer during a month shall be
27 aggregated to determine whether the compensation exceeds the five hundred dollars

1 (\$500) per month maximum provided by this subsection.