

1 AN ACT relating to retirement benefits for local elected officials and declaring an
2 emergency.

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

4 ➔Section 1. KRS 61.637 is amended to read as follows:

5 (1) A retired member who is receiving monthly retirement payments under any of the
6 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
7 as an employee by a participating agency prior to August 1, 1998, shall have his
8 retirement payments suspended for the duration of reemployment. Monthly
9 payments shall not be suspended for a retired member who is reemployed if he
10 anticipates that he will receive less than the maximum permissible earnings as
11 provided by the Federal Social Security Act in compensation as a result of
12 reemployment during the calendar year. The payments shall be suspended at the
13 beginning of the month in which the reemployment occurs.

14 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
15 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
16 except where monthly payments were not suspended as provided in subsection (1)
17 of this section or would not increase the retired member's last monthly retirement
18 allowance by at least one dollar (\$1), and the member shall be credited with
19 additional service credit.

20 (3) In the month following the termination of reemployment, retirement allowance
21 payments shall be reinstated under the plan under which the member was receiving
22 payments prior to reemployment.

23 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
24 accordance with subsection (1) of this section shall be paid retroactively to the
25 retired member, or his estate, if he does not receive more than the maximum
26 permissible earnings as provided by the Federal Social Security Act in
27 compensation from participating agencies during any calendar year of

1 reemployment.

2 (b) If the retired member is paid suspended payments retroactively in accordance
3 with this section, employee contributions deducted during his period of
4 reemployment, if any, shall be refunded to the retired employee, and no
5 service credit shall be earned for the period of reemployment.

6 (c) If the retired member is not eligible to be paid suspended payments for his
7 period of reemployment as an employee, his retirement allowance shall be
8 recomputed under the plan under which the member was receiving payments
9 prior to reemployment as follows:

10 1. The retired member's final compensation shall be recomputed using
11 creditable compensation for his period of reemployment; however, the
12 final compensation resulting from the recalculation shall not be less than
13 that of the member when his retirement allowance was last determined;

14 2. If the retired member initially retired on or subsequent to his normal
15 retirement date, his retirement allowance shall be recomputed by using
16 the formula in KRS 61.595(1);

17 3. If the retired member initially retired prior to his normal retirement date,
18 his retirement allowance shall be recomputed using the formula in KRS
19 61.595(2), except that the member's age used in computing benefits shall
20 be his age at the time of his initial retirement increased by the number of
21 months of service credit earned for service performed during
22 reemployment;

23 4. The retirement allowance payments resulting from the recomputation
24 under this subsection shall be payable in the month following the
25 termination of reemployment in lieu of payments under subparagraph 3.
26 The member shall not receive less in benefits as a result of the
27 recomputation than he was receiving prior to reemployment or would

1 receive as determined under KRS 61.691; and

2 5. Any retired member who was reemployed prior to March 26, 1974, shall
3 begin making contributions to the system in accordance with the
4 provisions of this section on the first day of the month following March
5 26, 1974.

6 (5) A retired member, or his estate, shall pay to the retirement fund the total amount of
7 payments which are not suspended in accordance with subsection (1) of this section
8 if the member received more than the maximum permissible earnings as provided
9 by the Federal Social Security Act in compensation from participating agencies
10 during any calendar year of reemployment, except the retired member or his estate
11 may repay the lesser of the total amount of payments which were not suspended or
12 fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings
13 during reemployment if under age sixty-five (65), or one dollar (\$1) for every three
14 dollars (\$3) earned if over age sixty-five (65).

15 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
16 retired member who has been ordered reinstated by the Personnel Board under
17 authority of KRS 18A.095.

18 (b) A retired member who has been ordered reinstated by the Personnel Board
19 under authority of KRS 18A.095 or by court order or by order of the Human
20 Rights Commission and accepts employment by an agency participating in the
21 Kentucky Employees Retirement System or County Employees Retirement
22 System shall void his retirement by reimbursing the system in the full amount
23 of his retirement allowance payments received.

24 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
25 section shall no longer apply to a retired member who is reemployed in a
26 position covered by the same retirement system from which the member
27 retired. Reemployed retired members shall be treated as new members upon

1 reemployment. Any retired member whose reemployment date preceded
2 August 1, 1998, who does not elect, within sixty (60) days of notification by
3 the retirement systems, to remain under the provisions of subsections (1) to
4 (4) of this section shall be deemed to have elected to participate under this
5 subsection.

6 (b) A retired member whose disability retirement was discontinued pursuant to
7 KRS 61.615 and who is reemployed in one (1) of the systems administered by
8 the Kentucky Retirement Systems prior to his or her normal retirement date
9 shall have his or her accounts combined upon termination for determining
10 eligibility for benefits. If the member is eligible for retirement, the member's
11 service and creditable compensation earned as a result of his or her
12 reemployment shall be used in the calculation of benefits, except that the
13 member's final compensation shall not be less than the final compensation last
14 used in determining his or her retirement allowance. The member shall not
15 change beneficiary or payment option designations. This provision shall apply
16 to members reemployed on or after August 1, 1998.

17 (8) A retired member or his employer shall notify the retirement system if he has
18 accepted employment or is serving as a volunteer with an employer that participates
19 in the retirement system from which the member retired. The retired member and
20 the participating employer shall submit the information required or requested by the
21 systems to confirm the individual's employment or volunteer status.

22 (9) If the retired member is under a contract, the member shall submit a copy of that
23 contract to the retirement system, and the retirement system shall determine if the
24 member is an independent contractor for purposes of retirement benefits. The
25 retired member and the participating employer shall submit the information required
26 or requested by the systems to confirm the individual's employment or volunteer
27 status.

- 1 (10) If a member is receiving a retirement allowance, or has filed the forms required for
2 a retirement allowance, and is employed within one (1) month of the member's
3 initial retirement date in a position that is required to participate in the same
4 retirement system from which the member retired, the member's retirement shall be
5 voided and the member shall repay to the retirement system all benefits received.
6 The member shall contribute to the member account established for him prior to his
7 voided retirement. The retirement allowance for which the member shall be eligible
8 upon retirement shall be determined by total service and creditable compensation.
- 9 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
10 department which participates in more than one (1) retirement system and is
11 reemployed within one (1) month of his initial retirement date by the same
12 department in a position participating in another retirement system, the retired
13 member's retirement allowance shall be suspended for the first month of his
14 retirement and the member shall repay to the retirement system all benefits
15 received for the month.
- 16 (b) A retired member of the County Employees Retirement System who after
17 initial retirement is hired by the county from which the member retired shall
18 be considered to have been hired by the same employer.
- 19 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
20 nonhazardous member who retired prior to age sixty-five (65), is reemployed
21 within six (6) months of the member's termination by the same employer, the
22 member shall obtain from his previous and current employers a copy of the
23 job description established by the employers for the position and a statement
24 of the duties performed by the member for the position from which he retired
25 and for the position in which he has been reemployed.
- 26 (b) The job descriptions and statements of duties shall be filed with the retirement
27 office.

- 1 (13) If the retirement system determines that the retired member has been employed in a
2 position with the same principal duties as the position from which the member
3 retired:
- 4 (a) The member's retirement allowance shall be suspended during the period that
5 begins on the month in which the member is reemployed and ends six (6)
6 months after the member's termination;
- 7 (b) The retired member shall repay to the retirement system all benefits paid from
8 systems administered by Kentucky Retirement Systems under reciprocity,
9 including medical insurance benefits, that the member received after
10 reemployment began;
- 11 (c) Upon termination, or subsequent to expiration of the six (6) month period
12 from the date of termination, the retired member's retirement allowance based
13 on his initial retirement account shall no longer be suspended and the member
14 shall receive the amount to which he is entitled, including an increase as
15 provided by KRS 61.691;
- 16 (d) Except as provided in subsection (7) of this section, if the position in which a
17 retired member is employed after initial retirement is a regular full-time
18 position, the retired member shall contribute to a second member account
19 established for him in the retirement system. Service credit gained after the
20 member's date of reemployment shall be credited to the second member
21 account; and
- 22 (e) Upon termination, the retired member shall be entitled to benefits payable
23 from his second retirement account.
- 24 (14) (a) If the retirement system determines that the retired member has not been
25 reemployed in a position with the same principal duties as the position from
26 which he retired, the retired member shall continue to receive his retirement
27 allowance.

- 1 (b) If the position is a regular full-time position, the member shall contribute to a
2 second member account in the retirement system.
- 3 (15) (a) If a retired member is reemployed at least one (1) month after initial
4 retirement in a different position, or at least six (6) months after initial
5 retirement in the same position, and prior to normal retirement age, the retired
6 member shall contribute to a second member account in the retirement system
7 and continue to receive a retirement allowance from the first member account.
- 8 (b) Service credit gained after reemployment shall be credited to the second
9 member account. Upon termination, the retired member shall be entitled to
10 benefits payable from the second member account.
- 11 (16) A retired member who is reemployed and contributing to a second member account
12 shall not be eligible to purchase service credit under any of the provisions of KRS
13 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
14 purchase prior to his initial retirement.
- 15 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
16 section, the following shall apply to retired members who are reemployed by an
17 agency participating in one (1) of the systems administered by Kentucky Retirement
18 Systems on or after September 1, 2008:
- 19 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
20 receiving a retirement allowance from one (1) of the systems administered by
21 Kentucky Retirement Systems, or has filed the forms required to receive a
22 retirement allowance from one (1) of the systems administered by Kentucky
23 Retirement Systems, and is employed in a regular full-time position required
24 to participate in one (1) of the systems administered by Kentucky Retirement
25 Systems or is employed in a position that is not considered regular full-time
26 with an agency participating in one (1) of the systems administered by
27 Kentucky Retirement Systems within three (3) months following the member's

1 initial retirement date, the member's retirement shall be voided, and the
2 member shall repay to the retirement system all benefits received, including
3 any health insurance benefits. If the member is returning to work in a regular
4 full-time position required to participate in one (1) of the systems
5 administered by Kentucky Retirement Systems:

- 6 1. The member shall contribute to a member account established for him or
7 her in one (1) of the systems administered by Kentucky Retirement
8 Systems, and employer contributions shall be paid on behalf of the
9 member by the participating employer; and
- 10 2. Upon subsequent retirement, the member shall be eligible for a
11 retirement allowance based upon total service and creditable
12 compensation, including any additional service or creditable
13 compensation earned after his or her initial retirement was voided;

14 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
15 receiving a retirement allowance from one (1) of the systems administered by
16 Kentucky Retirement Systems and is employed in a regular full-time position
17 required to participate in one (1) of the systems administered by Kentucky
18 Retirement Systems after a three (3) month period following the member's
19 initial retirement date, the member may continue to receive his or her
20 retirement allowance during the period of reemployment subject to the
21 following provisions:

- 22 1. Both the employee and participating agency shall certify in writing on a
23 form prescribed by the board that no prearranged agreement existed
24 between the employee and agency prior to the employee's retirement for
25 the employee to return to work with the participating agency. If an
26 elected official is reelected to a new term of office in the same position
27 and retires following the election but prior to taking the new term of

- 1 office, he or she shall be deemed by the system as having a prearranged
2 agreement under the provisions of this subparagraph and shall have his
3 or her retirement voided. If the participating agency or employer fail to
4 complete the certification, the member's retirement shall be voided and
5 the provisions of paragraph (a) of this subsection shall apply to the
6 member and the employer;
- 7 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
8 the contrary, the member shall not contribute to the systems and shall
9 not earn any additional benefits for any work performed during the
10 period of reemployment;
- 11 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
12 shall pay employer contributions as specified by KRS 61.565 and 61.702
13 on all creditable compensation earned by the employee during the period
14 of reemployment. The additional contributions paid shall be used to
15 reduce the unfunded actuarial liability of the systems; and
- 16 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
17 shall be required to reimburse the systems for the cost of the health
18 insurance premium paid by the systems to provide coverage for the
19 retiree, not to exceed the cost of the single premium. Effective July 1,
20 2015, local school boards shall not be required to pay the reimbursement
21 required by this subparagraph for retirees employed by the board for
22 eighty (80) days or less during the fiscal year;
- 23 (c) If a member is receiving a retirement allowance from the State Police
24 Retirement System or from hazardous duty retirement coverage with the
25 Kentucky Employees Retirement System or the County Employees Retirement
26 System, or has filed the forms required to receive a retirement allowance from
27 the State Police Retirement System or from hazardous duty retirement

1 coverage with the Kentucky Employees Retirement System or the County
2 Employees Retirement System, and is employed in a regular full-time position
3 required to participate in the State Police Retirement System or in a hazardous
4 duty position with the Kentucky Employees Retirement System or the County
5 Employees Retirement System within one (1) month following the member's
6 initial retirement date, the member's retirement shall be voided, and the
7 member shall repay to the retirement system all benefits received, including
8 any health insurance benefits. If the member is returning to work in a regular
9 full-time position required to participate in one (1) of the systems
10 administered by Kentucky Retirement Systems:

- 11 1. The member shall contribute to a member account established for him or
12 her in one (1) of the systems administered by Kentucky Retirement
13 Systems, and employer contributions shall be paid on behalf of the
14 member by the participating employer; and
 - 15 2. Upon subsequent retirement, the member shall be eligible for a
16 retirement allowance based upon total service and creditable
17 compensation, including any additional service or creditable
18 compensation earned after his or her initial retirement was voided;
- 19 (d) If a member is receiving a retirement allowance from the State Police
20 Retirement System or from hazardous duty retirement coverage with the
21 Kentucky Employees Retirement System or the County Employees Retirement
22 System and is employed in a regular full-time position required to participate
23 in the State Police Retirement System or in a hazardous duty position with the
24 Kentucky Employees Retirement System or the County Employees Retirement
25 System after a one (1) month period following the member's initial retirement
26 date, the member may continue to receive his or her retirement allowance
27 during the period of reemployment subject to the following provisions:

- 1 1. Both the employee and participating agency shall certify in writing on a
2 form prescribed by the board that no prearranged agreement existed
3 between the employee and agency prior to the employee's retirement for
4 the employee to return to work with the participating agency. If an
5 elected official is reelected to a new term of office in the same position
6 and retires following the election but prior to taking the new term of
7 office, he or she shall be deemed by the system as having a prearranged
8 agreement under the provisions of this subparagraph and shall have his
9 or her retirement voided. If the participating agency or employer fail to
10 complete the certification, the member's retirement shall be voided and
11 the provisions of paragraph (c) of this subsection shall apply to the
12 member and the employer;
- 13 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
14 the contrary, the member shall not contribute to the systems and shall
15 not earn any additional benefits for any work performed during the
16 period of reemployment;
- 17 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
18 shall pay employer contributions as specified by KRS 61.565 and 61.702
19 on all creditable compensation earned by the employee during the period
20 of reemployment. The additional contributions paid shall be used to
21 reduce the unfunded actuarial liability of the systems; and
- 22 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer
23 shall be required to reimburse the systems for the cost of the health
24 insurance premium paid by the systems to provide coverage for the
25 retiree, not to exceed the cost of the single premium;
- 26 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
27 who qualifies as a volunteer for an employer participating in one (1) of the

1 systems administered by Kentucky Retirement Systems and who is receiving
2 reimbursement of actual expenses, a nominal fee for his or her volunteer
3 services, or both, shall not be considered an employee of the participating
4 employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

- 5 1. Prior to the retired member's most recent retirement date, he or she did
6 not receive creditable compensation from the participating employer in
7 which the retired member is performing volunteer services;
- 8 2. Any reimbursement or nominal fee received prior to the retired
9 member's most recent retirement date has not been credited as creditable
10 compensation to the member's account or utilized in the calculation of
11 the retired member's benefits;
- 12 3. The retired member has not purchased or received service credit under
13 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
14 service with the participating employer for which the retired member is
15 performing volunteer services; and
- 16 4. Other than the status of volunteer, the retired member does not become
17 an employee, leased employee, or independent contractor of the
18 employer for which he or she is performing volunteer services for a
19 period of at least twenty-four (24) months following the retired
20 member's most recent retirement date.

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

- 27 (f) Notwithstanding any provision of this section, any mayor or member of a city

1 legislative body who has not participated in the County Employees Retirement
 2 System prior to retirement for his or her service as a mayor or member of a
 3 city legislative body, but who is otherwise eligible to retire from one (1) or
 4 more of the systems administered by Kentucky Retirement Systems~~the~~
 5 ~~Kentucky Employees Retirement System or the State Police Retirement~~
 6 ~~System~~, shall not be:

- 7 1. Required to resign from his or her position as mayor or as a member of
 8 the city legislative body in order to begin drawing benefits from the
 9 Kentucky Employees Retirement System, the County Employees
 10 Retirement System, or the State Police Retirement System; or
- 11 2. Subject to any provision of this section as it relates solely to his or her
 12 service as a mayor or member of the city legislative body.

13 ➔Section 2. KRS 78.540 is amended to read as follows:

14 Membership in the system shall consist of the following:

- 15 (1) All persons who become employees of a participating county after the date the
 16 county first participates in the system, except that:
 - 17 (a) Mayors and members of city legislative bodies may decline prior to their
 18 participation in the system with the city;
 - 19 (b) In the event Kentucky Retirement Systems determines that a mayor or
 20 member of a city legislative body is required to participate in the County
 21 Employees Retirement System for his or her service to the city due to other
 22 covered employment in the County Employees Retirement System or due to
 23 failure to decline participation in the system as provided by paragraph (a) of
 24 this subsection, the mayor or member of the city legislative body may make
 25 an election to neither participate nor receive benefits from the County
 26 Employees Retirement System due to his or her service to the city as a
 27 mayor or member of a city legislative body. If a mayor or member of a city

1 *legislative body makes an election described by this paragraph:*

2 *1. He or she shall be deemed as declining participation with the city as*
 3 *provided by paragraph (a) of this subsection; and*

4 *2. No contributions shall be payable by the employee or employer for his*
 5 *or her service as a mayor or member of a city legislative body, and any*
 6 *contributions paid to the system shall be refunded;* and

7 (c) City managers or other appointed local government executives who participate
 8 in a retirement system, other than Social Security, may decline prior to their
 9 participation in the system;

10 (2) (a) All persons who are employees of a county on the date the county first
 11 participates in the system, either in service or on authorized leave from
 12 service, and who elect within thirty (30) days next following the county's
 13 participation, or in the case of persons on authorized leave, within thirty (30)
 14 days of their return to active service, to become members and thereby agree to
 15 make contributions as provided in KRS 78.520 to 78.852;

16 (b) All persons who are employees of a county who did not elect to participate
 17 within thirty (30) days of the date the county first participated in the system or
 18 within thirty (30) days of their return to active service and who subsequently
 19 elect to participate the first day of a month after the county's date of
 20 participation;

21 (3) All persons who declined participation in subsection (1) of this section and who
 22 later elect to participate. Persons who elect to participate under this subsection may
 23 purchase service credit for any prior years by paying a delayed contribution
 24 payment, provided the person began participating in the system prior to January 1,
 25 2014. The service shall not be included in the member's total service for purposes of
 26 determining benefits under KRS 61.702; and

27 (4) All persons electing coverage in the system under KRS 78.530(3)(d).

1 (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities
2 which participate in the CERS and close existing local pension systems to new, or
3 all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852
4 shall not be required to provide membership in the County Employees Retirement
5 System to employees in any employee category not covered by a city pension
6 system at the date of participation.

7 (6) Membership in the system shall not include persons who are not eligible to
8 participate in the system as provided by KRS 61.522 or those employees who are
9 simultaneously participating in another state-administered defined benefit plan
10 within Kentucky other than those administered by the Kentucky Retirement
11 Systems, except for employees who have ceased to contribute to one (1) of the
12 state-administered retirement plans as provided in KRS 21.360.

13 ➔Section 3. KRS 61.645 is amended to read as follows:

14 (1) The County Employees Retirement System, Kentucky Employees Retirement
15 System, and State Police Retirement System shall be administered by the board of
16 trustees of the Kentucky Retirement Systems composed of seventeen (17) members,
17 who shall be selected as follows:

18 (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he
19 occupies the position of secretary under KRS 18A.015, except as provided
20 under subsections (5) and (6) of this section;

21 (b) Three (3) trustees, who shall be members or retired from the County
22 Employees Retirement System, elected by the members and retired members
23 of the County Employees Retirement System;

24 (c) One (1) trustee, who shall be a member or retired from the State Police
25 Retirement System, elected by the members and retired members of the State
26 Police Retirement System;

27 (d) Two (2) trustees, who shall be members or retired from the Kentucky

- 1 Employees Retirement System, elected by the members and retired members
2 of the Kentucky Employees Retirement System; and
- 3 (e) Ten (10) trustees, appointed by the Governor of the Commonwealth, subject
4 to Senate confirmation in accordance with KRS 11.160 for each appointment
5 or reappointment. Of the ten (10) trustees appointed by the Governor:
- 6 1. One (1) trustee shall be knowledgeable about the impact of pension
7 requirements on local governments;
 - 8 2. One (1) trustee shall be appointed from a list of three (3) applicants
9 submitted by the Kentucky League of Cities;
 - 10 3 One (1) trustee shall be appointed from a list of three (3) applicants
11 submitted by the Kentucky Association of Counties;
 - 12 4. One (1) trustee shall be appointed from a list of three (3) applicants
13 submitted by the Kentucky School Boards Association; and
 - 14 5. Six (6) trustees shall have investment experience. For purposes of this
15 subparagraph, a trustee with "investment experience" means an
16 individual who does not have a conflict of interest, as provided by KRS
17 61.655, and who has at least ten (10) years of experience in one (1) of
18 the following areas of expertise:
 - 19 a. A portfolio manager acting in a fiduciary capacity;
 - 20 b. A professional securities analyst or investment consultant;
 - 21 c. A current or retired employee or principal of a trust institution,
22 investment or finance organization, or endowment fund acting in
23 an investment-related capacity;
 - 24 d. A chartered financial analyst in good standing as determined by the
25 CFA Institute; or
 - 26 e. A university professor, teaching investment-related studies.
- 27 (2) The board is hereby granted the powers and privileges of a corporation, including

1 but not limited to the following powers:

2 (a) To sue and be sued in its corporate name;

3 (b) To make bylaws not inconsistent with the law;

4 (c) To conduct the business and promote the purposes for which it was formed;

5 (d) Except as provided in KRS 61.650(6), to contract for investment counseling,
6 actuarial, auditing, medical, and other professional or technical services as
7 required to carry out the obligations of the board subject to KRS Chapters 45,
8 45A, 56, and 57;

9 (e) To purchase fiduciary liability insurance;

10 (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,
11 pledge, lease, or mortgage, the goods or property necessary to exercise the
12 board's powers and perform the board's duties subject to KRS Chapters 45,
13 45A, and 56; and

14 (g) The board shall reimburse any trustee, officer, or employee for any legal
15 expense resulting from a civil action arising out of the performance of his
16 official duties. The hourly rate of reimbursement for any contract for legal
17 services under this paragraph shall not exceed the maximum hourly rate
18 provided in the Legal Services Duties and Maximum Rate Schedule
19 promulgated by the Government Contract Review Committee established
20 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the
21 secretary of the Finance and Administration Cabinet or his or her designee.

22 (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee
23 shall serve a term of four (4) years or until his successor is duly qualified
24 except as otherwise provided in this section. An elected trustee or a trustee
25 appointed by the Governor under subsection (1)(e) of this section, shall not
26 serve more than three (3) consecutive four (4) year terms. An elected trustee
27 or a trustee appointed by the Governor under subsection (1)(e) of this section,

1 who has served three (3) consecutive terms may be elected or appointed again
2 after an absence of four (4) years from the board.

3 (b) The term limits established by paragraph (a) of this subsection shall apply to
4 trustees serving on or after July 1, 2012, and all terms of office served prior to
5 July 1, 2012, shall be used to determine if the trustee has exceeded the term
6 limits provided by paragraph (a) of this subsection.

7 (4) (a) The trustees selected by the membership of each of the various retirement
8 systems shall be elected by ballot. For each trustee to be elected, the board
9 may nominate, not less than six (6) months before a term of office of a trustee
10 is due to expire, three (3) constitutionally eligible individuals.

11 (b) Individuals may be nominated by the retirement system members which are to
12 elect the trustee by presenting to the executive director, not less than four (4)
13 months before a term of office of a trustee is due to expire, a petition, bearing
14 the name, last four digits of the Social Security number, and signature of no
15 less than one-tenth (1/10) of the number voting in the last election by the
16 retirement system members.

17 (c) Within four (4) months of the nominations made in accordance with
18 paragraphs (a) and (b) of this subsection, the executive director shall cause to
19 be prepared an official ballot. The ballot shall ***include***~~carry~~ the name,
20 address, and position title of each individual nominated by the board and by
21 petition. Provisions shall also be made for write-in votes.

22 (d) ***Except as provided by paragraph (j) of this subsection,*** the ballots shall be
23 distributed to the eligible voters by mail to their last known residence address.

24 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of
25 a predetermined box number at a United States Post Office located within
26 Kentucky ***or submitted electronically as provided by paragraph (j) of this***
27 ***subsection.*** Access to this post office box shall be limited to the board's

1 contracted auditing firm. The individual receiving a plurality of votes shall be
2 declared elected.

3 (f) The eligible voter shall cast his ballot by checking a square opposite the name
4 of the candidate of his choice. He shall sign and mail the ballot **or submit the**
5 **electronic ballot** at least thirty (30) days prior to the date the term to be filled
6 is due to expire. The latest mailing date, **or date of submission in the case of**
7 **electronic ballots**, shall be **provided**~~[printed]~~ on the ballot.

8 (g) The board's contracted auditing firm shall report in writing the outcome to the
9 chair of the board of trustees. Cost of an election shall be payable from the
10 funds of the system for which the trustee is elected.

11 (h) For purposes of this subsection, an eligible voter shall be a person who was a
12 member of the retirement system on December 31 of the year preceding the
13 election year.

14 (i) Each individual who submits a request to be nominated by the board under
15 paragraph (a) of this subsection and each individual who is nominated by the
16 membership under paragraph (b) of this subsection shall:

17 1. Complete an application developed by the retirement systems which
18 shall include but not be limited to a disclosure of any prior felonies and
19 any conflicts of interest that would hinder the individual's ability to
20 serve on the board;

21 2. Submit a resume detailing the individual's education and employment
22 history and a cover letter detailing the member's qualifications for
23 serving as trustee to the board; and

24 3. Authorize the systems to have a criminal background check performed.
25 The criminal background check shall be performed by the Department of
26 Kentucky State Police.

27 **(j) In lieu of the ballots mailed to members and retired members as provided by**

1 *this subsection, the systems may by promulgation of administrative*
2 *regulation pursuant to KRS Chapter 13A conduct trustee elections using*
3 *electronic ballots.*

4 (5) Any vacancy which may occur in an appointed position shall be filled in the same
5 manner which provides for the selection of the particular trustee, and any vacancy
6 which may occur in an elected position shall be filled by appointment by a majority
7 vote of the remaining elected trustees with a person selected from the system in
8 which the vacancy occurs, and if the secretary of the Personnel Cabinet resigns his
9 position as trustee, it shall be filled by appointment made by the Governor;
10 however, any vacancy shall be filled only for the duration of the unexpired term. In
11 the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall
12 notify members of the system in which the vacancy occurs of the vacancy and the
13 opportunity to be considered for the vacant position. Any vacancy shall be filled
14 within ninety (90) days of the position becoming vacant.

15 (6) (a) Membership on the board of trustees shall not be incompatible with any other
16 office unless a constitutional incompatibility exists. No trustee shall serve in
17 more than one (1) position as trustee on the board; and if a trustee holds more
18 than one (1) position as trustee on the board, he shall resign a position.

19 (b) A trustee shall be removed from office upon conviction of a felony or for a
20 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court
21 of competent jurisdiction.

22 (c) A current or former employee of Kentucky Retirement Systems shall not be
23 eligible to serve as a member of the board.

24 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive
25 a per diem of eighty dollars (\$80) for each day they are in session or on official
26 duty, and they shall be reimbursed for their actual and necessary expenses in
27 accordance with state administrative regulations and standards.

- 1 (8) (a) The board shall meet at least once in each quarter of the year and may meet in
2 special session upon the call of the chair or the executive director.
- 3 (b) The board shall elect a chair and a vice chair. The chair shall not serve more
4 than four (4) consecutive years as chair or vice-chair of the board. The vice-
5 chair shall not serve more than four (4) consecutive years as chair or vice-
6 chair of the board. A trustee who has served four (4) consecutive years as
7 chair or vice-chair of the board may be elected chair or vice-chair of the board
8 after an absence of two (2) years from the positions.
- 9 (c) A majority of the trustees shall constitute a quorum and all actions taken by
10 the board shall be by affirmative vote of a majority of the trustees present.
- 11 (9) (a) The board of trustees shall appoint or contract for the services of an executive
12 director and fix the compensation and other terms of employment for this
13 position without limitation of the provisions of KRS Chapters 18A and KRS
14 64.640. The executive director shall be the chief administrative officer of the
15 board.
- 16 (b) The board of trustees shall authorize the executive director to appoint the
17 employees deemed necessary to transact the business of the system. All
18 employees of the systems, except for the executive director, shall be subject to
19 the state personnel system established pursuant to KRS 18A.005 to 18A.204
20 and shall have their salaries determined by the secretary of the Personnel
21 Cabinet.
- 22 (c) The board shall require the executive director and the employees as it thinks
23 proper to execute bonds for the faithful performance of their duties
24 notwithstanding the limitations of KRS Chapter 62.
- 25 (d) The board shall establish a system of accounting.
- 26 (e) The board shall do all things, take all actions, and promulgate all
27 administrative regulations, not inconsistent with the provisions of KRS 16.505

1 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in
2 order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705,
3 and 78.510 to 78.852. Notwithstanding any other evidence of legislative
4 intent, it is hereby declared to be the controlling legislative intent that the
5 provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852
6 conform with federal statute or regulation and meet the qualification
7 requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and
8 other published guidance. Provisions of KRS 16.505 to 16.652, 61.510 to
9 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation
10 or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,
11 and other published guidance shall not be available. The board shall have the
12 authority to promulgate administrative regulations to conform with federal
13 statute and regulation and to meet the qualification requirements under 26
14 U.S.C. sec. 401(a), including an administrative regulation to comply with 26
15 U.S.C. sec. 401(a)(9). ~~The board shall have the authority to promulgate an~~
16 ~~administrative regulation to comply with any consent decrees entered into by~~
17 ~~the board in Civil Action No. 3:99CV500(C) in order to bring the systems into~~
18 ~~compliance with the Age Discrimination in Employment Act, 29 U.S.C.~~
19 ~~Section 621, et seq., as amended.~~

20 (10) Notwithstanding any statute to the contrary, employees shall not be considered
21 legislative agents under KRS 6.611.

22 (11) The Attorney General, or an assistant designated by him, may attend each meeting
23 of the board and may receive the agenda, board minutes, and other information
24 distributed to trustees of the board upon request. The Attorney General may act as
25 legal adviser and attorney for the board, and the board may contract for legal
26 services, notwithstanding the limitations of KRS Chapter 12 or 13B.

27 (12) (a) The system shall publish an annual financial report showing all receipts,

1 disbursements, assets, and liabilities. The annual report shall include a copy of
2 an audit conducted in accordance with generally accepted auditing standards.
3 Except as provided by paragraph (b) of this subsection, the board may select
4 an independent certified public accountant or the Auditor of Public Accounts
5 to perform the audit. If the audit is performed by an independent certified
6 public accountant, the Auditor of Public Accounts shall not be required to
7 perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at
8 his discretion. All proceedings and records of the board shall be open for
9 inspection by the public. The system shall make copies of the audit required
10 by this subsection available for examination by any member, retiree, or
11 beneficiary in the office of the executive director of the Kentucky Retirement
12 Systems and in other places as necessary to make the audit available to all
13 members, retirees, and beneficiaries. A copy of the annual audit shall be sent
14 to the Legislative Research Commission no later than ten (10) days after
15 receipt by the board.

16 (b) At least once every five (5) years, the Auditor of Public Accounts shall
17 perform the audit described by this subsection, and the system shall reimburse
18 the Auditor of Public Accounts for all costs of the audit. The Auditor of
19 Public Accounts shall determine which fiscal year during the five (5) year
20 period the audit prescribed by this paragraph will be completed.

21 (13) All expenses incurred by or on behalf of the system and the board in the
22 administration of the system during a fiscal year shall be paid from the retirement
23 allowance account. Any other statute to the contrary notwithstanding, authorization
24 for all expenditures relating to the administrative operations of the system shall be
25 contained in the biennial budget unit request, branch budget recommendation, and
26 the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

27 (14) Any person adversely affected by a decision of the board, except as provided under

1 subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652,
2 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the
3 Franklin Circuit Court within sixty (60) days of the board action.

4 (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a
5 member of a committee:

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

10 (b) A trustee discharges his duties on an informed basis if, when he makes an
11 inquiry into the business and affairs of the Kentucky Retirement Systems or
12 into a particular action to be taken or decision to be made, he exercises the
13 care an ordinary prudent person in a like position would exercise under similar
14 circumstances.

15 (c) In discharging his duties, a trustee may rely on information, opinions, reports,
16 or statements, including financial statements and other financial data, if
17 prepared or presented by:

- 18 1. One (1) or more officers or employees of the Kentucky Retirement
19 Systems whom the trustee honestly believes to be reliable and competent
20 in the matters presented;
- 21 2. Legal counsel, public accountants, actuaries, or other persons as to
22 matters the trustee honestly believes are within the person's professional
23 or expert competence; or
- 24 3. A committee of the board of trustees of which he is not a member if the
25 trustee honestly believes the committee merits confidence.

26 (d) A trustee shall not be considered as acting in good faith if he has knowledge
27 concerning the matter in question that makes reliance otherwise permitted by

1 paragraph (c) of this subsection unwarranted.

2 (e) Any action taken as a trustee, or any failure to take any action as a trustee,
3 shall not be the basis for monetary damages or injunctive relief unless:

4 1. The trustee has breached or failed to perform the duties of the trustee's
5 office in compliance with this section; and

6 2. In the case of an action for monetary damages, the breach or failure to
7 perform constitutes willful misconduct or wanton or reckless disregard
8 for human rights, safety, or property.

9 (f) A person bringing an action for monetary damages under this section shall
10 have the burden of proving by clear and convincing evidence the provisions of
11 paragraph (e)1. and 2. of this subsection, and the burden of proving that the
12 breach or failure to perform was the legal cause of damages suffered by the
13 Kentucky Retirement Systems.

14 (g) Nothing in this section shall eliminate or limit the liability of any trustee for
15 any act or omission occurring prior to July 15, 1988.

16 (h) In discharging his or her administrative duties under this section, a trustee
17 shall strive to administer the retirement system in an efficient and cost-
18 effective manner for the taxpayers of the Commonwealth of Kentucky.

19 (16) When an order by the system substantially impairs the benefits or rights of a
20 member, retired member, or recipient, except action which relates to entitlement to
21 disability benefits, or when an employer disagrees with an order of the system as
22 provided by KRS 61.598, the affected member, retired member, recipient, or
23 employer may request a hearing to be held in accordance with KRS Chapter 13B.
24 The board may establish an appeals committee whose members shall be appointed
25 by the chair and who shall have authority to act upon the recommendations and
26 reports of the hearing officer on behalf of the board. The member, retired member,
27 recipient, or employer aggrieved by a final order of the board following the hearing

1 may appeal the decision to the Franklin Circuit Court, in accordance with KRS
2 Chapter 13B.

3 (17) The board shall give the Kentucky Education Support Personnel Association
4 twenty-four (24) hours notice of the board meetings, to the extent possible.

5 (18) The board shall establish a formal trustee education program for all trustees of the
6 board. The program shall include but not be limited to the following:

7 (a) A required orientation program for all new trustees elected or appointed to the
8 board. The orientation program shall include training on:

- 9 1. Benefits and benefits administration;
- 10 2. Investment concepts, policies, and current composition and
11 administration of retirement systems investments;
- 12 3. Laws, bylaws, and administrative regulations pertaining to the
13 retirement systems and to fiduciaries; and
- 14 4. Actuarial and financial concepts pertaining to the retirement systems.

15 If a trustee fails to complete the orientation program within one (1) year from
16 the beginning of his or her first term on the board, the retirement systems shall
17 withhold payment of the per diem and travel expenses due to the board
18 member under this section and KRS 16.640 and 78.780 until the trustee has
19 completed the orientation program;

20 (b) Annual required training for board members on the administration, benefits,
21 financing, and investing of the retirement systems. If a trustee fails to
22 complete the annual required training during the calendar or fiscal year, the
23 retirement systems shall withhold payment of the per diem and travel
24 expenses due to the board member under this section and KRS 16.640 and
25 78.780 until the board member has met the annual training requirements; and

26 (c) The retirement systems shall incorporate by reference in an administrative
27 regulation, pursuant to KRS 13A.2251, the trustee education program.

- 1 (19) In order to improve public transparency regarding the administration of the systems,
2 the board of trustees shall adopt a best practices model by posting the following
3 information to the retirement systems' Web site and shall make available to the
4 public:
- 5 (a) Meeting notices and agendas for all meetings of the board. Notices and
6 agendas shall be posted to the retirement systems' Web site at least seventy-
7 two (72) hours in advance of the board or committee meetings, except in the
8 case of special or emergency meetings as provided by KRS 61.823;
- 9 (b) The Comprehensive Annual Financial Report with the information as follows:
- 10 1. A general overview and update on the retirement systems by the
11 executive director;
- 12 2. A listing of the board of trustees;
- 13 3. A listing of key staff;
- 14 4. An organizational chart;
- 15 5. Financial information, including a statement of plan net assets, a
16 statement of changes in plan net assets, an actuarial value of assets, a
17 schedule of investments, a statement of funded status and funding
18 progress, and other supporting data;
- 19 6. Investment information, including a general overview, a list of the
20 retirement system's professional consultants, a total net of fees return on
21 retirement systems investments over a historical period, an investment
22 summary, contracted investment management expenses, transaction
23 commissions, and a schedule of investments;
- 24 7. The annual actuarial valuation report on the pension benefit and the
25 medical insurance benefit; and
- 26 8. A general statistical section, including information on contributions,
27 benefit payouts, and retirement systems' demographic data;

- 1 (c) All external audits;
- 2 (d) All board minutes or other materials that require adoption or ratification by
3 the board of trustees. The items listed in this paragraph shall be posted within
4 seventy-two (72) hours of adoption or ratification of the board;
- 5 (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 6 (f) The retirement systems' summary plan description;
- 7 (g) A document containing an unofficial copy of the statutes governing the
8 systems administered by Kentucky Retirement Systems;
- 9 (h) A listing of the members of the board of trustees and membership on each
10 committee established by the board, including any investment committees;
- 11 (i) All investment holdings in aggregate, fees, and commissions for each fund
12 administered by the board, which shall be updated on a quarterly basis for
13 fiscal years beginning on or after July 1, 2017. The systems shall request from
14 all managers, partnerships, and any other available sources all information
15 regarding fees and commissions and shall, based on the requested information
16 received:
- 17 1. Disclose the dollar value of fees and commissions paid to each
18 individual manager or partnership;
 - 19 2. Disclose the dollar value of any profit sharing, carried interest, or any
20 other partnership incentive arrangements, partnership agreements, or any
21 other partnership expenses received by or paid to each manager or
22 partnership; and
 - 23 3. As applicable, report each fee or commission by manager or partnership
24 consistent with standards established by the Institutional Limited
25 Partners Association (ILPA).

26 In addition to the requirements of this paragraph, the systems shall also
27 disclose the name and address of all individual underlying managers or

- 1 partners in any fund of funds in which system assets are invested;
- 2 (j) An update of net of fees investment returns, asset allocations, and the
3 performance of the funds against benchmarks adopted by the board for each
4 fund, for each asset class administered by the board, and for each manager.
5 The update shall be posted on a quarterly basis for fiscal years beginning on or
6 after July 1, 2017;
- 7 (k) A searchable database of the systems' expenditures and a listing of each
8 individual employed by the systems along with the employee's salary or
9 wages. In lieu of posting the information required by this paragraph to the
10 systems' Web site, the systems may provide the information through a Web
11 site established by the executive branch to inform the public about executive
12 branch agency expenditures and public employee salaries and wages;
- 13 (l) All contracts or offering documents for services, goods, or property purchased
14 or utilized by the systems; and
- 15 (m) Information regarding the systems' financial and actuarial condition that is
16 easily understood by the members, retired members, and the public.
- 17 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement
18 systems shall not be required to furnish information that is protected under KRS
19 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the
20 retirement systems' ability to competitively invest in real estate or other asset
21 classes, except that no provision of this section or KRS 61.878 shall exclude
22 disclosure and review of all contracts, including investment contracts, by the board,
23 the Auditor of Public Accounts, and the Government Contract Review Committee
24 established pursuant to KRS 45A.705 or the disclosure of investment fees and
25 commissions as provided by this section. If any public record contains material
26 which is not excepted under this section, the systems shall separate the excepted
27 material by removal, segregation, or redaction, and make the nonexcepted material

1 available for examination.

2 (21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705,
3 and 78.510 to 78.852 to the contrary, no funds of the systems administered by
4 Kentucky Retirement Systems, including fees and commissions paid to an
5 investment manager, private fund, or company issuing securities, who manages
6 systems assets, shall be used to pay fees and commissions to placement agents. For
7 purposes of this subsection, "placement agent" means a third-party individual, who
8 is not an employee, or firm, wholly or partially owned by the entity being hired,
9 who solicits investments on behalf of an investment manager, private fund, or
10 company issuing securities.

11 ➔Section 4. Notwithstanding the provisions of Section 3 of this Act or 2013 Ky.
12 Acts ch. 120 to the contrary, the successor of the County Employees Retirement System
13 trustee whose election as trustee was completed in accordance with 2013 Ky. Acts ch.
14 120, sec. 82, shall be elected during the period of January 1, 2021, through March 31,
15 2021, in accordance with procedures set forth in Section 3 of this Act and the election
16 policy adopted by the board of trustees, but shall not take office until November 1, 2021,
17 and shall serve a term of office ending March 31, 2025.

18 ➔Section 5. Whereas ensuring continuity of elected officials in local governments
19 is important to the Commonwealth of Kentucky, an emergency is declared to exist, and
20 this Act takes effect upon its passage and approval by the Governor or upon its otherwise
21 becoming law.