

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2018 REGULAR SESSION
Unofficial Document

Amend printed copy of **HFA 1 TO SB 113/GA**

On page 1 and continuing until page 16 by deleting Sections 1. and 2. in their entirety, and inserting in lieu thereof:

"➔Section 1. KRS 61.645 is amended to read as follows:

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

- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
- (b) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
- (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
- (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Retirement System;

Amendment No. HFA 3

Rep. Rep. James Kay

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: Gross, Brad

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

Not for Filing

Employees Retirement System; and

- (e) Ten (10) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment.

Of the ten (10) trustees appointed by the Governor:

1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;
 2. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
 3. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
 4. One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and
 5. Six (6) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
 - a. A portfolio manager acting in a fiduciary capacity;
 - b. A professional securities analyst or investment consultant;
 - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 - d. A chartered financial analyst in good standing as determined by the CFA Institute; or
 - e. A university professor, teaching investment-related studies.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not

limited to the following powers:

- (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) ~~{Except as provided in KRS 61.650(6), }~~To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57;
 - (e) To purchase fiduciary liability insurance;
 - (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his ***or her*** official duties ***in good faith and in compliance with this section and Sections 2 and 3 of this Act.*** The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the

- Governor under subsection (1)(e) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
- (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.
- (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall ***include***~~carry~~ the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.
- (d) ***Except as provided by paragraph (j) of this subsection,*** the ballots shall be distributed to the eligible voters by mail to their last known residence address.
- (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky ***or***

- submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.
- (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided~~[printed]~~ on the ballot.
- (g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
- (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
- (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
 2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
 3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.

Unofficial Document

(j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct trustee elections using electronic ballots.

- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.
- (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of **subsection (15) of this section**,~~{any provision of}~~ KRS 11A.020,~~{or}~~ 11A.040, **or Section 2 or 3 of this Act** by a court of competent jurisdiction.
- (c) A current or former employee of Kentucky Retirement Systems shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state

administrative regulations and standards.

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

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

- (10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (11) The Attorney General~~{,}~~ or designee~~{an assistant designated by him,}~~ may attend each meeting of the board and, upon request, shall~~{may}~~ receive the agenda, board minutes, and other information distributed to trustees of the board~~{upon request}~~. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B. Notwithstanding

this section, the Attorney General or designee shall possess jurisdiction, concurrent with that of county and Commonwealth's attorneys, to investigate and prosecute a violation of subsection (15) of this section or Section 2 or 3 of this Act.

- (12) (a) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.
- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any

other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her duties as a member of a committee:
1. In good faith;
 2. On an informed basis; and
 3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his or her duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he or she:
1. Has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted; or
 2. **Has a conflict of interest as provided under Section 5 of this Act, which he or she fails to disclose in writing to the Kentucky Retirement Systems prior to discharging his or her duties as trustee.**
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

- (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
1. Benefits and benefits administration;
 2. Investment concepts, policies, and current composition and administration of retirement systems investments;
 3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
 4. Actuarial and financial concepts pertaining to the retirement systems.

- If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the trustee has completed the orientation program;
- (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the board member has met the annual training requirements; and
 - (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the retirement systems' Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement systems' Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
 - (b) The Comprehensive Annual Financial Report with the information as follows:
 1. A general overview and update on the retirement systems by the executive director;
 2. A listing of the board of trustees;
 3. A listing of key staff;

4. An organizational chart;
 5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
 6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net of fees return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
 8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;
- (c) All external audits;
 - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
 - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
 - (f) The retirement systems' summary plan description;
 - (g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;
 - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (i) All investment holdings in aggregate, fees, and commissions for each fund

Unofficial Document

administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. *Investment holdings, fees, and commissions shall be disclosed by each individual manager, including underlying individual managers in fund of funds and individual underlying holdings, and investment fees and commissions shall include any profit sharing, carried interest, or any other partnership incentive arrangements or agreements. Any investment manager, partnership, or other person or entity providing investment services to the systems who fails to disclose the information required under this paragraph shall forfeit to the systems all fees and commissions otherwise offered in a contract with the systems. For failure to comply with this paragraph, the board may file an action in the Franklin Circuit Court to collect money and to attach so much of the funds or adequate security of an investment manager, partnership, or other person or entity as is necessary to ensure full repayment of the fees and commissions forfeited.*

The systems shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;
2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

— In addition to the requirements of this paragraph, the systems shall also disclose the

- ~~name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested];~~
- (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;
 - (k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the systems' Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;
 - (l) All contracts or offering documents for services, goods, or property purchased or utilized by the systems; and
 - (m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.
- (20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661 or ~~exempt under KRS 61.878, [or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes,]~~ except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, **or the disclosure of investment fees and commissions as provided by this section** ~~[by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public~~

~~record contains material which is not excepted under this section, the systems shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination].~~

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

➔Section 2. KRS 61.650 is amended to read as follows:

- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
- (b) 1. The board shall establish an investment committee whose membership shall be composed of the following:
- a. The six (6) trustees appointed by the Governor pursuant to KRS 61.645(1)(e)5.; and
 - b. Three (3) trustees appointed by the board chair.
2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

- (c) A trustee, officer, employee, or other fiduciary shall discharge duties with respect to the retirement system:
1. Solely in the interest of the members and beneficiaries;
 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 4. Impartially, taking into account any differing interests of members and beneficiaries;
 5. Incurring any costs that are appropriate and reasonable; and
 6. In accordance with a good-faith interpretation of the law governing the retirement system.
- (d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection, all individuals associated with the investment and management of retirement system assets, **including**~~[whether contracted]~~ investment advisors **who contract or renew a contract with the systems on or after the effective date of this Act**, board members, or staff employees, shall **adopt and** adhere to the Code of Ethics and Standards of Professional Conduct, the Asset Manager Code of Professional Conduct if the individual is managing retirement system assets, and the Code of Conduct for Members of a Pension Scheme Governing Body if the individual is a board member. **An investment advisor who has a contract or contract renewal with the systems on or after the effective date of this Act and who violates this paragraph by action or omission shall forfeit to the systems all fees and commissions otherwise offered in a contract with the systems.** All codes cited in this paragraph are promulgated by the

CFA Institute.

- (2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.
- (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.
- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) All contracts for the investment or management of assets of the systems shall ~~not~~ be subject to KRS Chapters 45, 45A, 56, and 57. ~~Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:~~
 - ~~(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment~~

management procurement;

- ~~(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;~~
- ~~(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;~~
- ~~(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;~~
- ~~(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and~~
- ~~(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.]~~

➔Section 5. KRS 61.655 is amended to read as follows:

(1) No trustee or employee of the Kentucky Retirement Systems board shall:

- ~~(a){(1)}~~ Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, save insofar as any such trustee or employee may be a member, employee, or beneficiary of the retirement system;
- ~~(b){(2)}~~ Directly or indirectly, for himself ***or herself*** or as an agent, use the assets of the retirement system, except to make current and necessary payments authorized by the board;
- ~~(c){(3)}~~ Become an indorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board;

- ~~(d)(4)~~ Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee, *or have a contractual relationship with, or any interest in, entities that provide services to the retirement system;*
- ~~(e)(5)~~ Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
- ~~(f)(6)~~ Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person;~~or~~
- ~~(g)(7)~~ Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in one (1) of the systems administered by Kentucky Retirement Systems; *or*
- ~~(h)~~ *Receive, directly or indirectly, any interest, fees, or profit from entities that provide services to the Kentucky Retirement Systems, except that any such trustee or employee may be a member, employee, or beneficiary of the retirement system.*
- ~~(2)~~ *No trustee or employee of the board, who has served as a trustee or employee of the board on or after the effective date of this Act, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the retirement system.*
- ~~(3)~~ *(a) No person who is serving as a member of the General Assembly or is a public servant as defined by KRS 11A.010 shall have any interest, direct or indirect, in the*

Unofficial Document

gains or profits of any investment or any other legal, business, or financial transaction made by the board, except that any such trustee or public servant may be a member, employee, or beneficiary of the retirement system; and

(b) No person who was serving as a member of the General Assembly on or after the effective date of this Act, or was serving as a public servant as defined by KRS 11A.010 on or after the effective date of this Act, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the system or plans administered by the board.

(4) On January 1, 2019, or upon appointment or election to the board after January 1, 2019, and on January 1 of each year thereafter, a trustee who occupies his or her position during any portion of the previous calendar year, beginning with 2018, shall file with the Kentucky Retirement Systems a disclosure of financial holdings. The disclosure of financial holdings shall include, at a minimum, any publicly or privately held asset in which the trustee has any ownership interest during any portion of the calendar year. The disclosure of financial holdings shall be filed on a form prescribed by the Kentucky Retirement Systems and shall be a public record.

➔Section 3. KRS 61.990 is amended to read as follows:

- (1) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than six (6) months, or both.
- (2) Any person who violates any of the provisions of KRS 61.360 shall be fined not less than

Unofficial Document

twenty-five dollars (\$25) nor more than five hundred dollars (\$500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.

(3) Any person who willfully violates the provisions of KRS 61.102(1) shall be guilty of a Class A misdemeanor.

(4) A court, in rendering a judgment in an action filed under KRS 61.102 and 61.103, shall order, as it considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, exemplary or punitive damages, or any combination thereof. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

(5) Any person who knowingly violates subsection (15) of Section 1 of this Act or Section 2 or 3 of this Act shall be guilty of a Class D felony.

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