

1 AN ACT relating to retirement.

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

3 ➔Section 1. KRS 61.522 is amended to read as follows:

4 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
5 contrary:

6 (1) For purposes of this section:

- 7 (a) "Active member" means a member who is participating in the system;
- 8 (b) "Employer" means the governing body of a department, as defined by KRS  
9 61.510, or a county as defined by KRS 78.510;
- 10 (c) "Employer's effective cessation date" means:

11 1. The last day of the system's plan year in the year in which the employer  
12 has elected to cease participation in the system, provided the employer  
13 has met the requirements of this section and has given the Kentucky  
14 Retirement Systems sufficient notice as provided by administrative  
15 regulations promulgated by the systems; or

16 2. For employers making an election to cease participating under the  
17 provisions of subsection (8) of this section, it shall be June 30, 2019;

18 and

- 19 (d) "Inactive member" means a member who is not participating with the system;
- 20 (2) Any employer participating in the Kentucky Employees Retirement System or the  
21 County Employees Retirement System on July 1, 2015, except as limited by  
22 subsection (6) of this section, may:
- 23 (a) Voluntarily cease participation in its respective retirement system subject to  
24 the requirements and restrictions of this section; or
- 25 (b) Be required to involuntarily cease participation in the system under the  
26 provisions of this section if the board has determined the employer is no  
27 longer qualified to participate in a governmental plan or has failed to comply

- 1 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;
- 2 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky  
3 Employees Retirement System or the County Employees Retirement System  
4 as provided by subsection (2)(a) of this section:
- 5 1. The employer shall adopt a resolution requesting to cease participation  
6 in the system and shall submit the resolution to the board for its  
7 approval;
  - 8 2. The cessation of participation in the system shall apply to all employees  
9 of the employer;
  - 10 3. **Except as provided by subsection (8) of this section,** the employer shall  
11 pay for all administrative costs of an actuarial study to be completed by  
12 the Kentucky Retirement Systems' consulting actuary and for any other  
13 administrative costs for discontinuing participation in the system as  
14 determined by the board and as provided by this section;
  - 15 4. The employer shall provide an alternative retirement program for  
16 employees who will no longer be covered by the system, which may  
17 include a voluntary defined contribution plan **but, for effective cessation**  
18 **dates occurring on or after June 30, 2019, shall not include a defined**  
19 **benefit plan which by nature can have an unfunded liability;**
  - 20 5. If the alternative retirement program established by the employer meets  
21 the qualification requirements under 26 U.S.C. sec. 401(a) and is  
22 capable of accepting trustee-to-trustee transfers of both pre-tax and post-  
23 tax contributions, employees of the employer ceasing participation may  
24 seek to transfer his or her account balance to the employer's qualified  
25 alternate retirement program within sixty (60) days of the employer's  
26 effective cessation date. An employee's election to transfer his or her  
27 account balance within sixty (60) days of the employer's effective

1           cessation date is an irrevocable waiver of the right to obtain service  
2           credits in the system for the time worked for the employer ceasing  
3           participation; and

4           6. **Except as provided by subsection (8) of this section,** the employer shall  
5           pay by lump sum to the system the full actuarial cost of the benefits  
6           accrued by its current and former employees in the system as determined  
7           separately for the pension fund and the insurance fund by the actuarial  
8           study required by subparagraph 3. of this paragraph. The full actuarial  
9           cost shall not include any employee who seeks a transfer of his or her  
10          account balance within sixty (60) days of the employer's effective  
11          cessation date as provided by subparagraph 5. of this paragraph. The  
12          actuarial cost shall be fixed, and the employer shall not be subject to any  
13          increases or subsequent adjustments, once the lump sum is paid.

14          (b) If the board determines an employer must involuntarily cease participation in  
15          the system as provided by subsection (2)(b) of this section:

16           1. The cessation of participation in the system shall apply to all employees  
17           of the employer;

18           2. The employer shall pay for all administrative costs of an actuarial study  
19           to be completed by the Kentucky Retirement Systems' consulting actuary  
20           and for any other administrative costs for discontinuing participation in  
21           the system as determined by the board and as provided by this section;  
22           and

23           3. The employer shall pay by lump sum to the system the full actuarial cost  
24           of the benefits accrued by its current and former employees in the  
25           system as determined separately for the pension fund and the insurance  
26           fund by the actuarial study required by subparagraph 2. of this  
27           paragraph. The actuarial cost shall be fixed, and the employer shall not

1 be subject to any increases or subsequent adjustments, once the lump  
2 sum is paid.~~[;]~~

3 **An employer who is required to involuntarily cease participating in the**  
4 **systems shall not establish or contribute to on behalf of its employees a**  
5 **defined benefit plan which by nature can have an unfunded liability;**

6 (4) Any employee hired on or after the employer's effective cessation date by an  
7 employer who has ceased participation in the system as provided by this section  
8 shall not, regardless of his or her membership date in the systems administered by  
9 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees  
10 Retirement System or the County Employees Retirement System through the  
11 employer that ceased participation for the duration of his or her employment with  
12 that employer;

13 (5) If an employer has ceased participation in the system as provided by this section:  
14 (a) The rights of recipients and the vested rights of inactive members accrued as  
15 of the employer's effective cessation date shall not be impaired or reduced in  
16 any manner as a result of the employer ceasing participation in the system; and  
17 (b) Employees of the employer ceasing participation shall accrue benefits through  
18 the employer's effective cessation date but shall not accrue any additional  
19 benefits in the Kentucky Employees Retirement System or the County  
20 Employees Retirement System, including earning years of service credit  
21 through the ceased employer, after the employer's effective cessation date for  
22 as long as they remain employed by the employer. The day after the  
23 employer's effective cessation date, each employee described by this  
24 paragraph shall be considered an inactive member with respect to his or her  
25 employment with the employer that ceased participation and, subject to the  
26 provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852,  
27 shall:

- 1           1. Retain his or her accounts with the Kentucky Employees Retirement  
2           System or the County Employees Retirement System and have those  
3           accounts credited with interest in accordance with KRS 61.510 to  
4           61.705 and 78.510 to 78.852;
- 5           2. Retain his or her vested rights in accordance with paragraph (a) of this  
6           subsection; and
- 7           3. Be eligible to take a refund of his or her accumulated account balance in  
8           accordance with KRS 61.625 or any other available distribution if  
9           eligible;
- 10 (6) (a) Kentucky Employees Retirement System employers who are county attorney  
11       offices, Commonwealth's attorney offices, ~~local and district health~~  
12       ~~departments governed by KRS Chapter 212,~~ master commissioners,  
13       executive branch agencies whose employees are subject to KRS 18A.005 to  
14       18A.200, state-administered retirement systems, ~~state-supported universities~~  
15       ~~and community colleges,~~ property valuation administration offices, or  
16       employers in the legislative or judicial branch of Kentucky state government,  
17       shall not be eligible to voluntarily discontinue participation in the Kentucky  
18       Employees Retirement System unless the employer is a nonstock nonprofit  
19       corporation organized under KRS Chapter 273.
- 20       (b) Only the employers in the County Employees Retirement System who are a  
21       nonstock nonprofit corporation organized under KRS Chapter 273 may  
22       voluntarily cease participation in the County Employees Retirement System;
- 23 (7) For purposes of this section **and except as provided by subsection (8) of this**  
24       **section**, the full actuarial cost shall be determined by the Kentucky Retirement  
25       Systems' consulting actuary separately for the pension fund and the insurance fund  
26       using the assumptions and methodology established by the system specifically for  
27       determining the full actuarial cost of ceasing participation as of the employer's

1 effective cessation date. For purposes of determining the full actuarial cost, the  
2 assumed rate of return used to calculate the cost shall be the lesser of the assumed  
3 rate of return utilized in the system's most recent actuarial valuation or the yield on  
4 a thirty (30) year United States treasury bond as of the employer's effective  
5 cessation date, but shall in no case be lower than the assumed rate of return utilized  
6 in the system's most recent actuarial valuation minus three and one-half percent  
7 (3.5%);

8 (8) *An employer who is eligible to voluntarily cease participating as provided by*  
9 *subsection (6) of this section, and who contributed to the systems in fiscal year*  
10 *2017-2018, may prior to July 1, 2018, elect to voluntarily cease participating in*  
11 *the systems. If an employer makes an election as provided by this subsection:*

12 *(a) The employer's effective cessation date shall be June 30, 2019. Employees*  
13 *shall continue to contribute and earn service credit in the systems through*  
14 *June 30, 2019. On or after July 1, 2019, the employee shall participate in*  
15 *the alternative retirement plan established by the employer as provided by*  
16 *subsection (3)(a)4. of this section;*

17 *(b) The cost of ceasing participating to an individual employer shall be equal to*  
18 *the employer's prorated share of the unfunded liability of the system in*  
19 *which the employer participates as of the 2018 actuarial valuation. The*  
20 *prorated amount for an employer making an election under this subsection*  
21 *shall be determined by multiplying the individual employer's average*  
22 *percentage of the total creditable compensation reported by all employers in*  
23 *the system in which the employer participated in fiscal years 2014-2015,*  
24 *2015-2016, and 2016-2017, and multiplying that value by the system's total*  
25 *unfunded liability as of the 2018 actuarial valuation; and*

26 *(c) The cost of ceasing participation under this subsection and as determined*  
27 *by paragraph (b) of this subsection shall be financed by the system with no*

1 interest payable by the employer ceasing participation and shall be subject  
 2 to the following payment schedule:

3 1. For fiscal years 2018-2019 and 2019-2020, the employer ceasing  
 4 participating shall pay the same dollar amount of contribution as the  
 5 employer contributed in fiscal year 2017-2018; and

6 2. On or after July 1, 2020, the dollar amount of the contribution paid  
 7 each fiscal year shall not increase by more than five percent (5%) per  
 8 year over the prior fiscal year and shall continue until the cost  
 9 determined under paragraph (b) of this subsection is fully paid off.  
 10 However, the period of installments provided by this paragraph shall  
 11 not extend beyond forty (40) years.

12 An employer ceasing participation who is making installment payments as  
 13 provided by this paragraph, may at any time payoff the remaining balance.

14 (9) The Kentucky Retirement Systems shall promulgate administrative regulations  
 15 pursuant to KRS Chapter 13A to administer this section; and

16 ~~(10)~~<sup>(9)</sup> Any employer who voluntarily ceases participation, or who is required to  
 17 involuntarily cease participation as provided in this section, shall hold the  
 18 Commonwealth harmless from damages, attorney's fees and costs from legal claims  
 19 for any cause of action brought by any member or retired member of the departing  
 20 employer.

21 ➔Section 2. KRS 61.565 is amended to read as follows:

22 (1) (a) Each employer participating in the State Police Retirement System as  
 23 provided for in KRS 16.505 to 16.652, each employer participating in the  
 24 County Employees Retirement System as provided for in KRS 78.510 to  
 25 78.852, and each employer participating in the Kentucky Employees  
 26 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute  
 27 annually to the respective retirement system an amount equal to the percent, as

1           computed under subsection (2) of this section, of the creditable compensation  
2           of its employees to be known as the "normal contributions," and an additional  
3           amount to be known as the "actuarially accrued liability contribution" which  
4           shall be computed by amortizing the total unfunded actuarially accrued  
5           liability over a period of thirty (30) years using the level-percentage-of-payroll  
6           amortization method. This method shall be used beginning with the 2007  
7           actuarial valuation. The initial thirty (30) year amortization period shall begin  
8           with the 2007 actuarial valuation, except as provided by paragraph (b) of this  
9           subsection.

10          (b) Effective with the 2013 actuarial valuation, the amortization period for the  
11           Kentucky Employees Retirement System, the County Employees Retirement  
12           System, and the State Police Retirement System shall be reset to a new thirty  
13           (30) year period for purposes of calculating the actuarially accrued liability  
14           contribution prescribed by this subsection.

15          (c) Any significant increase in the actuarially accrued liability due to benefit  
16           improvements after the 2007 valuation shall be amortized using the level-  
17           percentage-of-payroll amortization method over a separate thirty (30) year  
18           period commencing in the year of the actuarial valuation in which the benefit  
19           improvements are first reflected.

20          (2) The normal contribution rate shall be determined by the entry age normal cost  
21           funding method. The actuarially accrued liability shall be determined by actuarial  
22           method consistent with the methods prescribed for determining the normal  
23           contribution rate. Normal contributions and the actuarially accrued liability  
24           contribution shall be determined on actuarial bases adopted by the board.

25          (3) (a) Normal contribution and the actuarially accrued liability contribution rates  
26           shall be determined by the board on the basis of the annual actuarial valuation  
27           last preceding the July 1 of a new biennium.



- 1 (b) The board may amend contribution rates as of July 1 of the second year of a  
2 biennium for the County Employees Retirement System, if it is determined on  
3 the basis of a subsequent actuarial valuation that amended contribution rates  
4 are necessary to satisfy the requirements of subsections (1) and (2) of this  
5 section.
- 6 (c) Effective for employer contribution rates payable on or after July 1, 2014, the  
7 board shall not have the authority to amend contribution rates as of July 1 of  
8 the second year of the biennium for the Kentucky Employees Retirement  
9 System and the State Police Retirement System.
- 10 (4) The system shall advise each employer prior to the beginning of each biennium, or  
11 prior to July 1 of the second year of a biennium for employers participating in the  
12 County Employees Retirement System, of any change in the employer contribution  
13 rate. Based on the employer contribution rate, each employer shall include in the  
14 budget sufficient funds to pay the employer contributions as determined by the  
15 board under subsections (1) to (3) of this section.
- 16 (5) The General Assembly shall pay the full actuarially required contribution rate, as  
17 prescribed by this section, to the Kentucky Employees Retirement System and the  
18 State Police Retirement System in fiscal years occurring on or after July 1, 2014.
- 19 (6) Notwithstanding any other provision of KRS Chapter 61 to the contrary, the ~~board~~  
20 ~~shall establish~~ employer contribution ***established by the board*** ~~rates~~ for the  
21 County Employees Retirement System ***that are payable on or after July 1, 2018,***  
22 ***and until June 30, 2028,*** ~~that will phase in to the full actuarially required~~  
23 ~~contribution~~ for the ***pension and*** health insurance ***funds, including the normal***  
24 ***cost contribution and the actuarially accrued liability contribution for each fund,***  
25 ***shall not increase by more than twelve percent (12%) over the prior fiscal***  
26 ***year*** ~~fund over a ten (10) year period using the [2007-2008] fiscal year employer~~  
27 ~~contribution for the health insurance fund as a base employer rate and incrementally~~

1        ~~increasing the employer rate from fiscal year 2008-2009 through fiscal year 2017-~~  
2        ~~2018].~~

3        ➔Section 3.    Whereas addressing the financial concerns facing the state-  
4        administered retirement systems is imperative to public employers, an emergency is  
5        declared to exist, and this Act takes effect upon its passage and approval by the Governor  
6        or upon its otherwise becoming law.