

1 AN ACT relating to retirement benefit participation for members of the General
2 Assembly.

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

4 ➔SECTION 1. A NEW SECTION OF KRS 6.145 TO 6.237 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) Notwithstanding any provision of KRS 6.500 to 6.577, 21.345 to 21.580, and*
7 *61.510 to 61.705 to the contrary:*

8 *(a) Any person who becomes a member of the General Assembly on or after the*
9 *effective date of this Act, who has not contributed to the Legislators'*
10 *Retirement Plan or the Kentucky Employees Retirement System as a*
11 *member of the General Assembly prior to the effective date of this Act, may*
12 *make a one (1) time irrevocable election to not participate in the Kentucky*
13 *Employees Retirement System or the Legislators' Retirement Plan for the*
14 *duration of his or her service to the Kentucky General Assembly; and*

15 *(b) Any person who began contributing to the Legislators' Retirement Plan or*
16 *the Kentucky Employees Retirement System for his or her service to the*
17 *General Assembly before the effective date of this Act, but who has not yet*
18 *met the requirements for vesting, may make a one (1) time irrevocable*
19 *election within sixty (60) days of the effective date of this Act, to discontinue*
20 *participation in the Kentucky Employees Retirement System or the*
21 *Legislators' Retirement Plan for the duration of his or her service to the*
22 *Kentucky General Assembly. A person who makes an election to*
23 *discontinue participation in the Kentucky Employees Retirement System or*
24 *the Legislators' Retirement Plan under this paragraph shall be refunded his*
25 *or her accumulated account balance, and upon request, the system or plan*
26 *may directly transfer the refund to another plan or individual retirement*
27 *account as a rollover contribution under the United States Internal Revenue*

1 Code.

2 **(2) The elections provided by this section shall:**

3 **(a) Be made in writing and on a form prescribed jointly by the board of trustees**
 4 **of the Kentucky Retirement Systems and the Judicial Form Retirement**
 5 **System; and**

6 **(b) Apply to all future service as a member of the General Assembly, whether in**
 7 **the same or a different office as a member of the General Assembly, and**
 8 **whether or not the service is in successive terms.**

9 ➔Section 2. KRS 6.505 is amended to read as follows:

10 (1) (a) **Except as provided by Section 1 of this Act,** each legislator in office on July 1,
 11 1980, may within thirty (30) days after that date, and any legislator thereafter
 12 taking office may within thirty (30) days after the date thereof, elect to make
 13 monthly contributions to the Legislators' Retirement Plan, in an amount equal
 14 to five percent (5%) of his monthly creditable compensation, as defined in
 15 KRS 61.510(13). The election shall be effective to establish membership in the
 16 plan as of July 1, 1980, or as of the date from which the thirty (30) day period
 17 is measured, as the case may be. Provided, however, that any legislator who
 18 was in office on July 1, 1980, and who is in office at the time he makes the
 19 election may, after the expiration of the thirty (30) day period and until May 1,
 20 1982, make the election, in which event he shall pay to the Legislators'
 21 Retirement Plan, for the months between July 1, 1980, and the date of his
 22 election such sum as, when added to any member's contribution by him that is
 23 transferred from another retirement system under KRS 6.535, will equal the
 24 member's contribution required by this section. If the member makes his
 25 election after February 1, 1981, he shall in addition pay to the plan interest on
 26 the foregoing sum, at six percent (6%) per annum, calculated as if the sum
 27 consisted of equal monthly payments, one (1) of which was due at the end of

1 each month between July 1, 1980, and the date the election was made. The
2 election shall be addressed to and filed with the secretary of the Finance and
3 Administration Cabinet and shall constitute an authorization to the secretary to
4 thereafter cause to be deducted from the member's monthly creditable
5 compensation an amount equal to five percent (5%) thereof, as a voluntarily
6 elected contribution by the member towards the funding of the Legislators'
7 Retirement Plan.

8 (b) 1. For a member who begins participating in the Legislators' Retirement
9 Plan prior to January 1, 2014, the election shall operate to create an
10 inviolable contract between such member and the Commonwealth,
11 guaranteeing to and vesting in the member the rights and benefits
12 provided for under KRS 6.515 to 6.530.

13 2. a. For members who begin participating in the Legislators' Retirement
14 Plan on or after January 1, 2014, the General Assembly reserves
15 the right to amend, suspend, or reduce the benefits and rights
16 provided under KRS 6.500 to 6.577 if, in its judgment, the welfare
17 of the Commonwealth so demands, except that the amount of
18 benefits the member has accrued at the time of amendment,
19 suspension, or reduction shall not be affected.

20 b. For purposes of this subparagraph, the amount of benefits the
21 member has accrued at the time of amendment, suspension, or
22 reduction shall be limited to the accumulated account balance the
23 member has accrued at the time of amendment, suspension, or
24 reduction.

25 c. The provisions of this subsection shall not be construed to limit the
26 General Assembly's authority to change any other benefit or right
27 specified by KRS 6.500 to 6.577, for members who begin

1 participating in the Legislators' Retirement Plan on or after January
2 1, 2014, except the benefits specified by subparagraph 2.b. of this
3 paragraph.

4 3. The provisions of this paragraph shall not be construed to limit the
5 General Assembly's authority to amend, reduce, or suspend the benefits
6 and rights of members of the Legislators' Retirement Plan as provided by
7 KRS 6.500 to 6.577 that the General Assembly had the authority to
8 amend, reduce, or suspend, prior to July 1, 2013.

9 (c) An election once made under this section either to participate or not to
10 participate in the Legislators' Retirement Plan, shall be considered to apply to
11 all future service as a legislator, whether in the same or a different office as a
12 legislator, and whether or not it is in successive terms, **except as provided by**
13 **subsection (1)(b) of Section 1 of this Act.**

14 (d) Notwithstanding the provisions of this subsection:

15 1. **Except as provided by Section 1 of this Act,** a legislator who becomes a
16 member of the Legislators' Retirement Plan on or after September 1,
17 2008, but prior to January 1, 2014, shall make monthly contributions to
18 the Legislators' Retirement Plan in an amount equal to six percent (6%)
19 of his monthly creditable compensation, as defined in KRS 61.510(13).

20 2. **Except as provided by Section 1 of this Act,** a legislator who becomes a
21 member of the Legislators' Retirement Plan on or after January 1, 2014,
22 shall make monthly contributions to the Legislators' Retirement Plan in
23 an amount equal to six percent (6%) of his or her monthly creditable
24 compensation, as defined in KRS 61.510(13), of which:

25 a. Five percent (5%) of his or her monthly creditable compensation,
26 as defined in KRS 61.510(13), shall be used to provide funding for
27 benefits provided under KRS 21.402; and

1 b. One percent (1%) of his or her monthly creditable compensation, as
2 defined in KRS 61.510(13), shall be used exclusively to help fund
3 retiree health benefits as provided by KRS 6.577 and shall not be
4 refunded to the member if the member withdraws his or her
5 accumulated account balance as provided by KRS 21.460. The
6 amounts deducted under this subdivision shall be credited to an
7 account established pursuant to 26 U.S.C. sec. 401(h), within the
8 fund established by KRS 6.530.

9 (2) A legislator entitled to elect membership in the retirement system who failed to elect
10 membership within thirty (30) days after taking office may elect membership not
11 later than August 31, 2005. An election, upon being made pursuant to this section,
12 shall operate to create an inviolable contract between the member entitled to elect
13 membership under this subsection and the Commonwealth, guaranteeing to and
14 vesting in the member the rights and benefits provided for under the terms and
15 conditions of KRS 6.500 to 6.577.

16 (3) When any legislator makes a delayed election of membership in the Legislators'
17 Retirement Plan under subsection (2) of this section, his active membership in the
18 Kentucky Employees Retirement System shall terminate, as of the date his
19 membership in the Legislators' Retirement Plan becomes effective, and any credit in
20 the Kentucky Employees Retirement System, earned for service as a legislator,
21 which he then has or which he subsequently regains while being an active member of
22 the Legislators' Retirement Plan, shall be transferred to and counted as service credit
23 in the Legislators' Retirement Plan, and shall no longer constitute credit in the
24 Kentucky Employees Retirement System, except for the purpose of validating any
25 other credit in that system if the member pays the difference, if any, between the
26 amount transferred from the Kentucky Employees Retirement System and the
27 actuarial value of the transferred service. However, any credit he then has in the

1 Kentucky Employees Retirement System, earned for service in any capacity other
2 than a legislator, shall not be affected. No person may attain credit in more than one
3 (1) of the retirement plans or systems mentioned in this section for the same period
4 of service. When credit is transferred from the Kentucky Employees Retirement
5 System to the Legislators' Retirement Plan, the Kentucky Employees Retirement
6 System shall transfer to the Legislators' Retirement Fund an amount equal to the
7 employee's and employer's contributions attributable to that credit, together with
8 interest on the contributions from the date made to the date of transfer at the
9 actuarially assumed interest rate of the Kentucky Employees Retirement System in
10 effect at the time the contributions were made, compounded annually at that same
11 interest rate.

12 (4) The state shall, solely for the purpose of compliance with Section 414(h) of the
13 United States Internal Revenue Code, pick up the employee contributions required
14 by this section for all compensation earned after August 1, 1982, and the
15 contributions so picked up shall be treated as employer contributions in determining
16 tax treatment under the United States Internal Revenue Code and KRS 141.010(10).
17 The picked-up employee contribution shall satisfy all obligations to the retirement
18 system satisfied prior to August 1, 1982, by the employee contribution, and the
19 picked-up employee contribution shall be in lieu of an employee contribution. The
20 state shall pay these picked-up employee contributions from the same source of
21 funds which is used to pay earnings to the employee. The employee shall have no
22 option to receive the contributed amounts directly instead of having them paid by the
23 employer to the system. Employee contributions picked up after August 1, 1982,
24 shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to
25 the same extent as employee contributions made prior to August 1, 1982.

26 (5) When any legislator elects membership in the Legislators' Retirement Plan in
27 accordance with this section, his active membership in the Kentucky Employees

1 Retirement System, State Police Retirement System, County Employees Retirement
2 System, or Teachers' Retirement System shall terminate, as of the date his
3 membership in the Legislators' Retirement Plan becomes effective, and any credit in
4 such other system or systems, earned for service as a legislator, which he then has or
5 which he subsequently regains while being an active member of the Legislators'
6 Retirement Plan, shall be transferred to and counted as service credit in the
7 Legislators' Retirement Plan, and shall no longer constitute credit in such other
8 retirement system except for the purpose of validating any other credit in that
9 system. However, any credit he then has in such other retirement system, earned for
10 service in any capacity other than a legislator, shall not be affected. No person may
11 attain credit in more than one (1) of the retirement plans or systems mentioned in
12 this section, for the same period of service.

13 (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS
14 61.552, to repurchase credit in the Kentucky Employees Retirement System, for
15 previous service as a legislator, which credit had been lost by refund of
16 contributions, may pay the amount required by KRS 61.552 directly to the
17 Legislators' Retirement Plan and thereby obtain credit in that plan for such service,
18 rather than making payment to the Kentucky Employees Retirement System for
19 credit which would be transferred to the Legislators' Retirement Plan. In such event,
20 the Kentucky Employees Retirement System shall transfer to the Legislators'
21 Retirement Plan an amount equal to the employer's contributions that originally were
22 made to the Kentucky Employees Retirement System for the regained service credit,
23 with interest as provided in KRS 6.535. Six (6) months' current service shall be
24 required in the Legislators' Retirement Plan in order for the repurchased credit to
25 remain in force, the same as provided in KRS 61.552. Service purchased under this
26 subsection on or after January 1, 2014, shall not be used to determine the member's
27 participation date in the Legislators' Retirement Plan.

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

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

3 (1) "System" means the Kentucky Employees Retirement System created by KRS
4 61.510 to 61.705;

5 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

6 (3) "Department" means any state department or board or agency participating in the
7 system in accordance with appropriate executive order, as provided in KRS 61.520.
8 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the
9 General Assembly and any other body, entity, or instrumentality designated by
10 executive order by the Governor, shall be deemed to be a department,
11 notwithstanding whether said body, entity, or instrumentality is an integral part of
12 state government;

13 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

14 (5) "Employee" means the members, officers, and employees of the General Assembly
15 and every regular full-time, appointed or elective officer or employee of a
16 participating department, including the Department of Military Affairs. The term
17 employee does not include:

18 (a) Persons engaged as independent contractors, seasonal, emergency, temporary,
19 interim, and part-time workers. In case of any doubt, the board shall determine
20 if a person is an employee within the meaning of KRS 61.510 to 61.705; or

21 (b) Members of the General Assembly who, in accordance with Section 1 of
22 this Act, make an irrevocable election to not participate in the system or
23 who make an irrevocable election to discontinue participation in the system;

24 (6) "Employer" means a department or any authority of a department having the power
25 to appoint or select an employee in the department, including the Senate and the
26 House of Representatives, or any other entity, the employees of which are eligible
27 for membership in the system pursuant to KRS 61.525;

- 1 (7) "State" means the Commonwealth of Kentucky;
- 2 (8) "Member" means any employee who is included in the membership of the system or
3 any former employee whose membership has not been terminated under KRS
4 61.535;
- 5 (9) "Service" means the total of current service and prior service as defined in this
6 section;
- 7 (10) "Current service" means the number of years and months of employment as an
8 employee, on and after July 1, 1956, except that for members, officers, and
9 employees of the General Assembly this date shall be January 1, 1960, for which
10 creditable compensation is paid and employee contributions deducted, except as
11 otherwise provided, and each member, officer, and employee of the General
12 Assembly shall be credited with a month of current service for each month he serves
13 in the position;
- 14 (11) "Prior service" means the number of years and completed months, expressed as a
15 fraction of a year, of employment as an employee, prior to July 1, 1956, for which
16 creditable compensation was paid; except that for members, officers, and employees
17 of the General Assembly, this date shall be January 1, 1960. An employee shall be
18 credited with one (1) month of prior service only in those months he received
19 compensation for at least one hundred (100) hours of work; provided, however, that
20 each member, officer, and employee of the General Assembly shall be credited with a
21 month of prior service for each month he served in the position prior to January 1,
22 1960. Twelve (12) months of current service in the system are required to validate
23 prior service;
- 24 (12) "Accumulated contributions" at any time means the sum of all amounts deducted
25 from the compensation of a member and credited to his individual account in the
26 members' account, including employee contributions picked up after August 1, 1982,
27 pursuant to KRS 61.560(4), together with interest credited on such amounts and any

1 other amounts the member shall have contributed thereto, including interest credited
2 thereon. For members who begin participating on or after September 1, 2008,
3 "accumulated contributions" shall not include employee contributions that are
4 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
5 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS
6 61.702(2)(b);

7 (13) "Creditable compensation":

8 (a) Means all salary, wages, tips to the extent the tips are reported for income tax
9 purposes, and fees, including payments for compensatory time, paid to the
10 employee as a result of services performed for the employer or for time during
11 which the member is on paid leave, which are includable on the member's
12 federal form W-2 wage and tax statement under the heading "wages, tips,
13 other compensation," including employee contributions picked up after August
14 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it
15 shall mean all amounts which are includable on the member's federal form W-2
16 wage and tax statement under the heading "wages, tips, other compensation,"
17 including employee contributions picked up after August 1, 1982, pursuant to
18 KRS 6.505(4) or 61.560(4);

19 (b) Includes:

- 20 1. Lump-sum bonuses, severance pay, or employer-provided payments for
21 purchase of service credit, which shall be averaged over the employee's
22 total service with the system in which it is recorded if it is equal to or
23 greater than one thousand dollars (\$1,000);
- 24 2. Cases where compensation includes maintenance and other perquisites,
25 but the board shall fix the value of that part of the compensation not paid
26 in money;
- 27 3. Lump-sum payments for creditable compensation paid as a result of an

1 order of a court of competent jurisdiction, the Personnel Board, or the
 2 Commission on Human Rights, or for any creditable compensation paid
 3 in anticipation of settlement of an action before a court of competent
 4 jurisdiction, the Personnel Board, or the Commission on Human Rights,
 5 including notices of violations of state or federal wage and hour statutes
 6 or violations of state or federal discrimination statutes, which shall be
 7 credited to the fiscal year during which the wages were earned or should
 8 have been paid by the employer. This subparagraph shall also include
 9 lump-sum payments for reinstated wages pursuant to KRS 61.569, which
 10 shall be credited to the period during which the wages were earned or
 11 should have been paid by the employer;

- 12 4. Amounts which are not includable in the member's gross income by
 13 virtue of the member having taken a voluntary salary reduction provided
 14 for under applicable provisions of the Internal Revenue Code; and
 15 5. Elective amounts for qualified transportation fringes paid or made
 16 available on or after January 1, 2001, for calendar years on or after
 17 January 1, 2001, that are not includable in the gross income of the
 18 employee by reason of 26 U.S.C. sec. 132(f)(4); and

19 (c) Excludes:

- 20 1. Living allowances, expense reimbursements, lump-sum payments for
 21 accrued vacation leave, and other items determined by the board;
 22 2. For employees who begin participating on or after September 1, 2008,
 23 lump-sum payments for compensatory time; and
 24 3. For employees who begin participating on or after August 1, 2016,
 25 nominal fees paid for services as a volunteer;

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

- 27 (a) For a member who begins participating before September 1, 2008, who is not

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

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

21 (c) For a member who begins participating before September 1, 2008, who is
22 employed in a hazardous position, as provided in KRS 61.592, the creditable
23 compensation of the member during the three (3) fiscal years he was paid at
24 the highest average monthly rate divided by the number of months of service
25 credit during that three (3) year period multiplied by twelve (12). The three (3)
26 years may be fractional and need not be consecutive. If the number of months
27 of service credit during the three (3) year period is less than twenty-four (24),

1 one (1) or more additional fiscal years shall be used;

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

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

23 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
24 calculated during the twelve (12) month period immediately preceding the member's
25 effective retirement date, including employee contributions picked up after August 1,
26 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the
27 employer and the following equivalents shall be used to convert the rate to an annual

- 1 rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen
2 hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two
3 hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- 4 (16) "Retirement allowance" means the retirement payments to which a member is
5 entitled;
- 6 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis
7 of the actuarial tables that are adopted by the board. In cases of disability retirement,
8 the options authorized by KRS 61.635 shall be computed by adding ten (10) years to
9 the age of the member, unless the member has chosen the Social Security adjustment
10 option as provided for in KRS 61.635(8), in which case the member's actual age
11 shall be used. For members who began participating in the system prior to January 1,
12 2014, no disability retirement option shall be less than the same option computed
13 under early retirement;
- 14 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless
15 otherwise provided in KRS 61.510 to 61.705;
- 16 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
17 following June 30, which shall also be the plan year. The "fiscal year" shall be the
18 limitation year used to determine contribution and benefit limits as established by 26
19 U.S.C. sec. 415;
- 20 (20) "Officers and employees of the General Assembly" means the occupants of those
21 positions enumerated in KRS 6.150. The term shall also apply to assistants who
22 were employed by the General Assembly for at least one (1) regular legislative
23 session prior to July 13, 2004, who elect to participate in the retirement system, and
24 who serve for at least six (6) regular legislative sessions. Assistants hired after July
25 13, 2004, shall be designated as interim employees;
- 26 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all
27 positions that average one hundred (100) or more hours per month determined by

1 using the number of months actually worked within a calendar or fiscal year,
2 including all positions except:

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

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

9 (c) Temporary positions which are positions of employment with a participating
10 department for a period of time not to exceed nine (9) months and are
11 nonrenewable;

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

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

19 (22) "Delayed contribution payment" means an amount paid by an employee for purchase
20 of current service. The amount shall be determined using the same formula in KRS
21 61.5525, and the payment shall not be picked up by the employer. A delayed
22 contribution payment shall be deposited to the member's account and considered as
23 accumulated contributions of the individual member. In determining payments under
24 this subsection, the formula found in this subsection shall prevail over the one found
25 in KRS 212.434;

26 (23) "Parted employer" means a department, portion of a department, board, or agency,
27 such as Outwood Hospital and School, which previously participated in the system,

1 but due to lease or other contractual arrangement is now operated by a publicly held
2 corporation or other similar organization, and therefore is no longer participating in
3 the system. The term "parted employer" shall not include a department, board, or
4 agency that ceased participation in the system pursuant to KRS 61.522;

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

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

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

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

20 (28) "Level-percentage-of-payroll amortization method" means a method of determining
21 the annual amortization payment on the unfunded actuarial accrued liability as
22 expressed as a percentage of payroll over a set period of years. Under this method,
23 the percentage of payroll shall be projected to remain constant for all years
24 remaining in the set period and the unfunded actuarially accrued liability shall be
25 projected to be fully amortized at the conclusion of the set period;

26 (29) "Increment" means twelve (12) months of service credit which are purchased. The
27 twelve (12) months need not be consecutive. The final increment may be less than

- 1 twelve (12) months;
- 2 (30) "Person" means a natural person;
- 3 (31) "Retirement office" means the Kentucky Retirement Systems office building in
4 Frankfort;
- 5 (32) "Last day of paid employment" means the last date employer and employee
6 contributions are required to be reported in accordance with KRS 16.543, 61.543,
7 or 78.615 to the retirement office in order for the employee to receive current
8 service credit for the month. Last day of paid employment does not mean a date the
9 employee receives payment for accrued leave, whether by lump sum or otherwise, if
10 that date occurs twenty-four (24) or more months after previous contributions;
- 11 (33) "Objective medical evidence" means reports of examinations or treatments; medical
12 signs which are anatomical, physiological, or psychological abnormalities that can be
13 observed; psychiatric signs which are medically demonstrable phenomena indicating
14 specific abnormalities of behavior, affect, thought, memory, orientation, or contact
15 with reality; or laboratory findings which are anatomical, physiological, or
16 psychological phenomena that can be shown by medically acceptable laboratory
17 diagnostic techniques, including but not limited to chemical tests,
18 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 19 (34) "Participating" means an employee is currently earning service credit in the system as
20 provided in KRS 61.543;
- 21 (35) "Month" means a calendar month;
- 22 (36) "Membership date" means:
- 23 (a) The date upon which the member began participating in the system as provided
24 in KRS 61.543; or
- 25 (b) For a member electing to participate in the system pursuant to KRS
26 196.167(4) who has not previously participated in the system or the Kentucky
27 Teachers' Retirement System, the date the member began participating in a

- 1 defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- 2 (37) "Participant" means a member, as defined by subsection (8) of this section, or a
- 3 retired member, as defined by subsection (24) of this section;
- 4 (38) "Qualified domestic relations order" means any judgment, decree, or order, including
- 5 approval of a property settlement agreement, that:
- 6 (a) Is issued by a court or administrative agency; and
- 7 (b) Relates to the provision of child support, alimony payments, or marital
- 8 property rights to an alternate payee;
- 9 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 10 participant, who is designated to be paid retirement benefits in a qualified domestic
- 11 relations order;
- 12 (40) "Accumulated employer credit" mean the employer pay credit deposited to the
- 13 member's account and interest credited on such amounts as provided by KRS 16.583
- 14 and 61.597;
- 15 (41) "Accumulated account balance" means:
- 16 (a) For members who began participating in the system prior to January 1, 2014,
- 17 the member's accumulated contributions; or
- 18 (b) For members who began participating in the system on or after January 1,
- 19 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
- 20 the combined sum of the member's accumulated contributions and the
- 21 member's accumulated employer credit;
- 22 (42) "Volunteer" means an individual who:
- 23 (a) Freely and without pressure or coercion performs hours of service for an
- 24 employer participating in one (1) of the systems administered by Kentucky
- 25 Retirement Systems without receipt of compensation for services rendered,
- 26 except for reimbursement of actual expenses, payment of a nominal fee to
- 27 offset the costs of performing the voluntary services, or both; and

1 (b) If a retired member, does not become an employee, leased employee, or
2 independent contractor of the employer for which he or she is performing
3 volunteer services for a period of at least twenty-four (24) months following
4 the retired member's most recent retirement date; and

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

10 ➔Section 4. KRS 61.525 is amended to read as follows:

11 Membership in the system shall consist of the following:

12 (1) All persons who become employees of a participating department after the date such
13 department first participates in the system;

14 (2) (a) All persons who are employees of a department on the date the department
15 first participates in the system, either in service or on authorized leave from
16 service, and who elect within thirty (30) days following the department's
17 participation, or in the case of persons on authorized leave, within thirty (30)
18 days of their return to active service, to become members and thereby agree to
19 make contributions as provided in KRS 61.515 to 61.705;

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

25 (3) All persons who are employees of any credit union whose membership was initially
26 limited to employees of state government and their families and which subsequently
27 may have been extended to local government employees and their families;

- 1 (4) All persons who were professional staff employees of the Council on Postsecondary
 2 Education or the Higher Education Assistance Authority and were contributing to
 3 the system on the effective date of Executive Order 74-762 or 75-964, respectively,
 4 and file a written election of their desire to continue in the system and all
 5 administrative and professional staff employees of the Higher Education Assistance
 6 Authority who, on or after January 1, 1993, are not participating in another
 7 retirement plan sponsored by the Higher Education Assistance Authority;
- 8 (5) All persons who were professional staff employees of the Kentucky Authority for
 9 Educational Television on and after July 1, 1974;
- 10 (6) All persons who are employees of the Teachers' Retirement System except
 11 employees who are required to participate under the Teachers' Retirement System
 12 under KRS 161.220(4)(d);
- 13 (7) Membership in the system shall not include:
- 14 (a) Persons who are not eligible to participate in the system as provided by KRS
 15 61.522; ~~{or}~~
- 16 (b) ~~{those}~~ Employees who are simultaneously participating in another state-
 17 administered defined benefit plan within Kentucky other than those
 18 administered by the Kentucky Retirement Systems, except for employees who
 19 have ceased to contribute to one (1) of the state-administered retirement plans
 20 as provided in KRS 21.360; or ~~{and}~~
- 21 (c) *Members of the General Assembly who, in accordance with Section 1 of*
 22 *this Act, make an irrevocable election to not participate in the system or*
 23 *who make an irrevocable election to discontinue participation in the system;*
 24 *and*
- 25 (8) Effective January 1, 1998, employees of the Kentucky Community and Technical
 26 College System who were previously contributing members and are not required to
 27 participate in the Teachers' Retirement System as a member; employees who were

1 previously contributing members transferred from the former Cabinet for Workforce
 2 Development as provided in KRS 164.5805(1)(a) and who have not exercised the
 3 option to participate in the new Kentucky Community and Technical College
 4 personnel system as provided in KRS 164.5805(1)(e); and new employees as of July
 5 1, 1997, who are not eligible under the Teachers' Retirement System or who are not
 6 contributing to an optional retirement plan established by the board of regents for
 7 the Kentucky Community and Technical College System.

8 ➔Section 5. KRS 61.535 is amended to read as follows:

9 (1) The membership of any person in the system shall cease:

10 (a) Upon withdrawal of his accumulated account balance at or any time after
 11 termination of employment, regardless of length of service;

12 **(b) Upon the election by a member of the General Assembly, in accordance**
 13 **with Section 1 of this Act, to make an irrevocable election to not participate**
 14 **in the system or to make an irrevocable election to discontinue participation**
 15 **in the system;**

16 ~~(c)~~~~(b)~~ Upon disability retirement;

17 ~~(d)~~~~(e)~~ Upon service retirement;

18 ~~(e)~~~~(d)~~ Upon death;

19 ~~(f)~~~~(e)~~ For persons hired prior to August 1, 2000, upon termination of
 20 employment with prejudice; or

21 ~~(g)~~~~(f)~~ For persons hired on or after August 1, 2000, upon conviction of a
 22 felony relating to the person's employment as provided in subsection (3) of this
 23 section.

24 (2) For purposes of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852,
 25 termination of employment with prejudice shall mean termination as the result of
 26 conviction of the member in a court of competent jurisdiction of embezzlement or
 27 larceny of public funds or property or malfeasance in office, or the forcing of a

1 member to make restitution for any funds or property criminally taken by said
2 member at the time of termination of employment.

3 (3) Notwithstanding any provision of law to the contrary, an employee hired on or after
4 August 1, 2000, who participates in one (1) of the retirement systems administered
5 by the Kentucky Retirement Systems and who is convicted, in any state or federal
6 court of competent jurisdiction, of a felony related to his employment shall forfeit
7 rights and benefits earned under the retirement system, except for the return of his
8 accumulated contributions and interest credited on those contributions. The payment
9 of retirement benefits ordered forfeited shall be stayed pending any appeal of the
10 conviction. If the conviction is reversed on final judgment, no retirement benefit shall
11 be forfeited. The employer shall notify the retirement system when an employee is
12 convicted under the provisions of this subsection.

13 ➔Section 6. KRS 61.625 is amended to read as follows:

14 (1) (a) Prior to the member's effective retirement date, a member if living, or if not
15 living, his designated beneficiary, shall have the right to request a refund of his
16 accumulated account balance if the member's employment has been terminated
17 and the member is not participating in the same system, or if a member of the
18 General Assembly who, in accordance with Section 1 of this Act, makes an
19 irrevocable election to discontinue participation in the system.

20 (b) Upon the death of a member occurring on or after his or her effective
21 retirement date, the member's beneficiary shall have the right to request a
22 refund of the member's accumulated contributions, reduced by the amount of
23 any retirement allowances previously received.

24 (2) Payments made under this section shall be in lieu of any other benefits due for the
25 period of service under any of the provisions of KRS 16.505 to 16.652, 61.510 to
26 61.705, and 78.510 to 78.852, unless the period of service is regained as provided
27 under KRS 61.552. Payments of taxable distributions made pursuant to this section

1 shall be subject to state and federal tax as appropriate.

2 (3) A refund of contributions of members whose benefits have been terminated pursuant
3 to KRS 6.696 shall be governed by that section.

4 (4) A refund of contributions to members whose benefits have been terminated pursuant
5 to KRS 61.535(3) shall be governed by the provisions of that subsection.