

1 AN ACT relating to the disclosure of public retirement information.

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

3 ➔Section 1. KRS 21.540 is amended to read as follows:

4 (1) Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this  
5 section, the board of trustees of the Judicial Form Retirement System shall be  
6 charged with the administration of that system and of KRS 21.350 to 21.510, and  
7 shall have all powers necessary thereto, including the power to promulgate all  
8 reasonable administrative regulations, pass upon questions of eligibility and  
9 disability, make employments for services, and to contract for fiduciary liability  
10 insurance, and for investment counseling, actuarial, auditing, and other professional  
11 services subject to the limitations of KRS Chapters 45, 45A, 56, and 57. The  
12 administrative expenses shall be paid out of an administrative account which shall  
13 be funded by transfers of the necessary money, in appropriate ratio, from the funds  
14 provided for in KRS 21.550 and 21.560.

15 (2) (a) A qualified domestic relations order issued by a court or administrative  
16 agency shall be honored by the Judicial Form Retirement System if the order  
17 is in compliance with the requirements established by the retirement system.

18 (b) Except in cases involving child support payments, the Judicial Form  
19 Retirement System may charge reasonable and necessary fees and expenses to  
20 the participant and the alternate payee of a qualified domestic relations order  
21 for the administration of the qualified domestic relations order by the  
22 retirement system. All fees and expenses shall be established by  
23 administrative regulations promulgated by the board of trustees of the  
24 retirement system. The qualified domestic relations order shall specify  
25 whether the fees and expenses provided by this subsection shall be paid:

- 26 1. Solely by the participant;  
27 2. Solely by the alternate payee; or

- 1           3. Equally shared by the participant and alternate payee.
- 2           (c) For purposes of this subsection, a "qualified domestic relations order" shall
- 3           mean any judgment, decree, or order, including approval of a property
- 4           settlement agreement, that:
- 5           1. Is issued by a court or administrative agency; and
- 6           2. Relates to the provision of child support, alimony payments, or marital
- 7           property rights to a spouse, former spouse, child, or other dependent of a
- 8           member.
- 9           (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be
- 10          the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and
- 11          6.500 to 6.577 shall conform with federal statutes or regulations and meet the
- 12          qualification requirements under 26 U.S.C. sec. 401(a), applicable federal
- 13          regulations, and other published guidance, and the board shall have the authority to
- 14          promulgate administrative regulations, with retroactive effect if required under
- 15          federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement
- 16          Plan with federal statutes and regulations and to meet the qualification requirements
- 17          under 26 U.S.C. sec. 401(a).
- 18          (4) In order to improve public transparency regarding the administration of the
- 19          Legislators' Retirement Plan and the Judicial Retirement Plan, the board of trustees
- 20          of the Judicial Form Retirement System shall adopt a best-practices model by
- 21          posting the following information to the system's Web site and shall make it
- 22          available to the public:
- 23          (a) Meeting notices and agendas for all meetings of the board. Notices and
- 24          agendas shall be posted to the system's Web site at least seventy-two (72)
- 25          hours in advance of the board or committee meetings, except in the case of
- 26          special or emergency meetings as provided by KRS 61.823;
- 27          (b) A list of the members of the board of trustees and membership on each

- 1 committee established by the board, including any investment committees;
- 2 (c) A list of system staff and each staff's salary;
- 3 (d) A list of the fund's professional consultants and their respective fees and  
4 commissions paid by the system;
- 5 (e) A list of the system's expenditures;
- 6 (f) The annual financial audit of the system, which shall include but not be  
7 limited to a statement of plan net assets, a statement of changes in plan net  
8 assets, an actuarial value of assets, a schedule of investments, a statement of  
9 funded status and funding progress, and other supporting data;
- 10 (g) All external audits;
- 11 (h) The annual actuarial valuation report of pension and retiree health benefits of  
12 each retirement plan administered by the system, which shall include a general  
13 statistical section and information on contributions, benefit payouts, and  
14 retirement plan demographic data;
- 15 (i) All board minutes or other materials that require adoption or ratification by  
16 the board of trustees or committees of the board. The items listed in this  
17 paragraph shall be posted within seventy-two (72) hours of adoption or  
18 ratification by the board or committees;
- 19 (j) All bylaws, policies, or procedures adopted or ratified by the board of trustees  
20 or by committees of the board;
- 21 (k) The summary plan description for each plan administered by the system;
- 22 (l) A document or a link to documents containing an unofficial copy of the  
23 statutes governing the plans administered by the Judicial Form Retirement  
24 System;
- 25 (m) Investment information, including all investment holdings in aggregate, fees,  
26 and commissions for each fund administered by the board, which shall be  
27 updated on a quarterly basis for fiscal years beginning on or after July 1, 2017.

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

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

13           In addition to the requirements of this paragraph, the system shall also  
14           disclose the name and address of all individual underlying managers or  
15           partners in any fund of funds in which system assets are invested;

16          (n)   An update of net investment returns, asset allocations, and the performance of  
17                the funds against benchmarks adopted by the board for each fund, for each  
18                asset class administered by the board, and for each manager over a historical  
19                period. The update shall be posted on a quarterly basis for fiscal years  
20                beginning on or after July 1, 2017;

21          (o)   All contracts or offering documents for services, goods, or property purchased  
22                or utilized by the system. Notwithstanding KRS 61.878, all contracts,  
23                including investment contracts, shall be subject to review by the board, the  
24                Auditor of Public Accounts, and the Government Contract Review Committee  
25                established pursuant to KRS 45A.705. If any public record contains material  
26                which is not excepted under KRS 61.878, the system shall separate the  
27                excepted material by removal, segregation, or redaction, and make the

1 nonexcepted material available for examination; and

2 (p) Information regarding the system's financial and actuarial condition that is  
3 easily understood by the members, retired members, and the public.

4 Nothing in this subsection shall require or compel the Judicial Form Retirement  
5 System to disclose information specific to the account of an individual member of  
6 the Legislators' Retirement Plan or the Judicial Retirement Plan.

7 (5) No trustee or employee of the board shall:

8 (a) Have any interest, direct or indirect, in the gains or profits of any investment  
9 or transaction made by the board, provided that the provisions of this  
10 paragraph shall not prohibit a member or retiree of one (1) of the retirement  
11 plans administered by the system from serving as a trustee;

12 (b) Directly or indirectly, for himself or herself or as an agent, use the assets of  
13 the system, except to make current and necessary payments authorized by the  
14 board;

15 (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed  
16 from the board;

17 (d) Have a contract or agreement with the retirement system, individually or  
18 through a business owned by the trustee or the employee;

19 (e) Use his or her official position with the retirement system to obtain a financial  
20 gain or benefit or advantage for himself or herself or a family member;

21 (f) Use confidential information acquired during his or her tenure with the  
22 systems to further his or her own economic interests or that of another person;  
23 or

24 (g) Hold outside employment with, or accept compensation from, any person or  
25 business with which he or she has involvement as part of his or her official  
26 position with the system. The provisions of this paragraph shall not prohibit:

27 1. A trustee from serving as a judge or member of the General Assembly;

1 or

2 2. A trustee from serving on the board if the compensation is de minimus  
3 and incidental to the trustee's outside employment. If the compensation  
4 is more than de minimus, the trustee shall disclose the amount of the  
5 compensation to the other trustees and recuse himself or herself from  
6 any matters involving hiring or retaining a person or a business from  
7 whom more than de minimus amounts are received by the trustee. For  
8 purposes of this section, "de minimus" means an insignificant amount  
9 that does not raise a reasonable question as to the trustee's objectivity.

10 (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to  
11 the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement  
12 Plan, including fees and commissions paid to an investment manager, private fund,  
13 or company issuing securities, who manages systems assets, shall be used to pay  
14 fees and commissions to placement agents. For purposes of this subsection,  
15 "placement agent" means a third-party individual, who is not an employee, or firm,  
16 wholly or partially owned by the entity being hired, who solicits investments on  
17 behalf of an investment manager, private fund, or company issuing securities.

18 (7) All contracts for the investment or management of assets of the system shall not be  
19 subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the  
20 following process to develop and adopt an investment procurement policy with  
21 which all prospective contracts for the investment or management of assets of the  
22 system shall comply:

23 (a) On or before July 1, 2017, the board shall consult with the secretary of the  
24 Finance and Administration Cabinet or his or her designee to develop an  
25 investment procurement policy, which shall be written to meet best practices  
26 in investment management procurement;

27 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary

- 1 investment procurement policy to the secretary of the Finance and  
2 Administration Cabinet or his or her designee for review and comment;
- 3 (c) Upon receipt of comments from the secretary of the Finance and  
4 Administration Cabinet or his or her designee, the board shall choose to adopt  
5 or not adopt any recommended changes;
- 6 (d) Upon adoption, the board shall tender the final investment procurement policy  
7 to the secretary of the Finance and Administration Cabinet or his or her  
8 designee;
- 9 (e) No later than thirty (30) days after receipt of the investment procurement  
10 policy, the secretary or his or her designee shall certify whether the board's  
11 investment procurement policy meets or does not meet best practices for  
12 investment management procurement; and
- 13 (f) Any amendments to the investment procurement policy shall adhere to the  
14 requirements set forth by paragraphs (b) to (e) of this subsection.
- 15 (8) (a) 1. Upon request by any person, the Judicial Form Retirement System shall  
16 release the following information from the accounts of any member or  
17 retiree of the Legislators' Retirement Plan or the Judicial Retirement  
18 Plan~~[, if the member or retiree is a current or former officeholder in the~~  
19 ~~Kentucky General Assembly]:~~
- 20 a. The first and last name of the member or retiree;
- 21 b. The plan or plans in which the member has an account or from  
22 which the retiree is receiving a monthly retirement allowance;
- 23 c. The status of the member or retiree, including but not limited to  
24 whether he or she is a contributing to the plans, **is not currently**  
25 **contributing to the plans** but has not retired, or a retiree drawing a  
26 monthly retirement allowance;
- 27 d. If the individual is a retiree, the monthly retirement allowance that

1 he or she was receiving at the end of the most recently completed  
2 fiscal year; and

3 e. If the individual is a member who has not yet retired, the estimated  
4 monthly retirement allowance that he or she is eligible to receive  
5 on the first date he or she would be eligible for an unreduced  
6 retirement allowance, using his or her service credit, final  
7 compensation, and accumulated account balance at the end of the  
8 most recently completed fiscal year.

9 2. No information shall be disclosed under this paragraph from an account  
10 that is paying benefits to a beneficiary due to the death of a member or  
11 retiree.

12 (b) The release of information under paragraph (a) of this subsection shall not  
13 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

14 ➔Section 2. KRS 61.661 is amended to read as follows:

15 (1) (a) Each current, former, or retired member's account shall be administered in a  
16 confidential manner, and specific data regarding a current, former, or retired  
17 member shall not be released for publication, except that:

18 1. The member or recipient may authorize the release of his or her account  
19 information;

20 2. Kentucky Retirement Systems may release account information to the  
21 employer or to other state and federal agencies as it deems necessary or  
22 in response to a lawful subpoena or order issued by a court of law; or

23 3. a. Upon request by any person, the systems shall release the  
24 following information from the accounts of any member or retired  
25 member of the Kentucky Employees Retirement System, the  
26 County Employees Retirement System, or the State Police  
27 Retirement System, ~~if the member or retired member is a current~~



- 1 ~~or former officeholder in the Kentucky General Assembly}:~~
- 2 i. The first and last name of the member or retired member;
- 3 ii. The system or systems in which the member has an account
- 4 or from which the retired member is receiving a monthly
- 5 retirement allowance;
- 6 iii. The status of the member or retired member, including but
- 7 not limited to whether he or she is a contributing member, a
- 8 member who is not currently contributing to the systems but
- 9 has not retired, a retired member, or a retired member who
- 10 has returned to work following retirement with an agency
- 11 participating in the systems;
- 12 iv. If the individual is a retired member, the monthly retirement
- 13 allowance that he or she was receiving at the end of the most
- 14 recently completed fiscal year;
- 15 v. If the individual is a member who has not yet retired, the
- 16 estimated monthly retirement allowance that he or she is
- 17 eligible to receive at his or her normal retirement date based
- 18 upon his or her service credit, final compensation, and
- 19 accumulated account balance at the end of the most recently
- 20 completed fiscal year; and
- 21 vi. The current employer or last participating employer of the
- 22 member or retired member, if applicable.
- 23 b. No information shall be disclosed under this subparagraph from an
- 24 account that is paying benefits to a beneficiary due to the death of
- 25 a member or retired member.
- 26 (b) A current, former, or retired member's account shall be exempt from the
- 27 provisions of KRS 171.410 to 171.990.

- 1 (c) The release of information under paragraph (a)3. of this subsection shall not  
2 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 3 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement  
4 Systems, requiring production of any specific data regarding a current, former,  
5 or retired member, it is sufficient if the employee of the Kentucky Retirement  
6 Systems charged with the responsibility of being custodian of the original  
7 delivers within five (5) working days, by certified mail or by personal  
8 delivery, legible and durable copies of records, certified by the employee, or  
9 an affidavit stating the information required by the subpoena to the person  
10 specified in the subpoena. The production of documents or an affidavit shall  
11 be in lieu of any personal testimony of any employee of the Kentucky  
12 Retirement Systems unless, after the production of documents or affidavit, a  
13 separate subpoena is served upon the systems specifically directing the  
14 testimony of an employee of the systems. When a subpoena is served on any  
15 employee of the systems requiring the employee to give deposition for any  
16 purpose, in the absence of a court order requiring the deposition of a specific  
17 employee, the systems may designate an employee to be deposed upon the  
18 matter referred to in the subpoena.
- 19 (b) The certification required by this subsection shall be signed before a notary  
20 public by the employee and shall include the full name of the member or  
21 recipient, the member's or recipient's Social Security number, and a legend  
22 substantially to the following effect: "The records are true and complete  
23 reproductions of the original or microfiched records which are housed in the  
24 retirement systems office. This certification is given in lieu of his or her  
25 personal appearance."
- 26 (c) When an affidavit or copies of records are personally delivered, a receipt shall  
27 be presented to the person receiving the records for his signature and shall be

1 immediately signed and returned to the person delivering the records. When  
2 an affidavit or copies of records are sent via certified mail, the receipt used by  
3 the postal authorities shall be sufficient to prove delivery and receipt of the  
4 affidavit or copies of records.

5 (d) When the affidavit or copies of records are delivered to a party for use in  
6 deposition, they shall, after termination of the deposition, be delivered  
7 personally or by certified mail to the clerk of the court or other body before  
8 which the action or proceeding is pending. It shall be the responsibility of the  
9 party or attorney to transmit the receipt obtained to the employee of the  
10 Kentucky Retirement Systems charged with responsibility of being custodian  
11 of the original. Upon issuance of a final order terminating the case and after  
12 the normal retention period for court records expires, the affidavit or copies of  
13 records shall be permanently disposed of by the clerk in a manner that protects  
14 the confidentiality of the information contained therein.

15 (e) Records of the Kentucky Retirement Systems that are susceptible to  
16 photostatic reproduction may be proved as to foundation, identity, and  
17 authenticity without any preliminary testimony, by use of legible and durable  
18 copies, certified in accordance with the provisions of this subsection.

19 ➔Section 3. KRS 161.585 is amended to read as follows:

20 (1) Each member's or annuitant's account shall be administered in a confidential  
21 manner, and specific data regarding a member or annuitant shall not be released for  
22 publication, except that:

23 (a) The member or annuitant may authorize the release of his or her account  
24 information;

25 (b) The board of trustees may release member or annuitant account information to  
26 the employer or to other state and federal agencies as it deems necessary or in  
27 response to a lawful subpoena or order issued by a court of law; or

- 1 (c) 1. Upon request by any person, the system shall release the following  
2 information from the accounts of any member or annuitant of the  
3 ~~[Kentucky] Teachers' Retirement System[, if the member or annuitant is~~  
4 ~~a current or former officeholder in the Kentucky General Assembly]:~~
- 5 a. The first and last name of the member or annuitant;
  - 6 b. The status of the member or annuitant, including but not limited to  
7 whether he or she is a contributing member, a member who is not  
8 contributing but has not retired, a retiree receiving a monthly  
9 retirement allowance, or a retiree who has returned to work  
10 following retirement with an agency participating in the system;
  - 11 c. If the individual is an annuitant, the monthly retirement allowance  
12 that he or she was receiving at the end of the most recently  
13 completed fiscal year;
  - 14 d. If the individual is a member who has not yet retired, the estimated  
15 monthly retirement allowance that he or she is eligible to receive  
16 on the first date he or she would be eligible for an unreduced  
17 retirement allowance, using his or her service credit, accumulated  
18 account balance, and final average salary at the end of the most  
19 recently completed fiscal year; and
  - 20 e. The current or last participating employer of the member or  
21 annuitant, if applicable.
- 22 2. No information shall be disclosed under this paragraph from an account  
23 that is paying benefits to a beneficiary due to the death of a member or  
24 annuitant.
- 25 (2) The release of information under subsection (1)(c) of this section shall not  
26 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 27 (3) Medical records which are included in a member's or annuitant's file maintained by

1 the Teachers' Retirement System are confidential and shall not be released unless  
2 authorized by the member or annuitant in writing or as otherwise provided by law or  
3 in response to a lawful subpoena or order issued by a court of law.

4 (4) (a) When a subpoena is served upon any employee of the Kentucky Teachers'  
5 Retirement System requiring the production of any data, information, or  
6 records, it is sufficient if the employee of the Kentucky Teachers' Retirement  
7 System charged with the responsibility of being custodian of the original, or  
8 his or her designated staff, delivers within five (5) working days by certified  
9 mail or by personal delivery to the person specified in the subpoena either of  
10 the following:

- 11 1. Legible and durable copies of records certified by the employee or  
12 designated staff; or
- 13 2. An affidavit stating the information required by the subpoena.

14 (b) The production of records or an affidavit shall be in lieu of any personal  
15 testimony of any employee of the Kentucky Teachers' Retirement System  
16 unless, after the production of records or an affidavit, a separate subpoena is  
17 served upon the retirement system specifically directing the testimony of an  
18 employee of the retirement system. When a subpoena is served on any  
19 employee of the retirement system requiring the employee to give testimony  
20 or produce records for any purpose, in the absence of a court order requiring  
21 the testimony of or production of records by a specific employee, the system  
22 may designate an employee to give testimony or produce records upon the  
23 matter referred to in the subpoena. The board of trustees may promulgate an  
24 administrative regulation for the recovery of reasonable travel and  
25 administrative expenses for those occasions when an employee of the  
26 retirement system is required to travel from his or her home or office to  
27 provide testimony or records. Recoverable expenses may include the wages,

1 salary, and overtime paid to the employee by the retirement system for the  
2 period of time that the employee is away from the office. The cost of these  
3 expenses shall be borne by the party issuing the subpoena compelling the  
4 employee's travel. The board of trustees may also promulgate an  
5 administrative regulation establishing a reasonable fee for the copying,  
6 compiling, and mailing of requested records.

7 (c) The certification required by this subsection shall be signed before a notary  
8 public by the employee and shall include the full name of the member or  
9 annuitant, the member or annuitant identification number assigned to the  
10 member or annuitant by the retirement system, and a legend substantially to  
11 the following effect: "The records are true and complete reproductions of the  
12 original, microfiched, or electronically stored records which are housed in the  
13 retirement system's office. This certification is given in lieu of the  
14 undersigned's personal appearance."

15 (d) When an affidavit or copies of records are personally delivered, a receipt shall  
16 be presented to the person receiving the records for his or her signature and  
17 shall be immediately signed and returned to the person delivering the records.  
18 When an affidavit or copies of records are sent via certified mail, the receipt  
19 used by the postal authorities shall be sufficient to prove receipt of the  
20 affidavit or copies of records.

21 (e) When the affidavit or copies of records are delivered to a party for use in  
22 deposition they shall, after termination of the deposition, be delivered  
23 personally or by certified mail to the clerk of the court or other body before  
24 which the action or proceeding is pending.

25 (f) Upon completion of delivery by the retirement system of copies of records by  
26 their deposit in the mail or by their personal delivery to the requesting party,  
27 the retirement system shall cease to have any responsibility or liability for the

1 records and their continued maintenance in a confidential manner.

2 (g) Records of the Kentucky Teachers' Retirement System that are susceptible to  
3 reproduction may be proved as to foundation, identity, and authenticity  
4 without preliminary testimony, by use of legible and durable copies, certified  
5 in accordance with the provisions of this subsection.(h) The provisions of  
6 this subsection shall not be construed to prohibit the Kentucky Teachers'  
7 Retirement System from asserting any exemption, exception, or relief  
8 provided under the Kentucky Rules of Civil Procedure or other applicable  
9 law.

10 (5) For purposes of this section, "records" includes retirement estimates, affidavits, and  
11 other documents prepared by the  ~~Kentucky~~ Teachers' Retirement System in  
12 response to information requested in a lawful subpoena or order issued by a court of  
13 law.

14 ➔Section 4. Sections 1 to 3 of this Act shall take effect January 1, 2020.