

1 AN ACT relating to the Kentucky Employees Retirement System and declaring an
2 emergency.

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

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

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

7 (1) For purposes of this section:

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

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

17 2. For Kentucky Employees Retirement System employers making an
18 election to cease participating under the provisions of subsection (8) of
19 this section, it shall be June 30, 2020; and

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

1 longer qualified to participate in a governmental plan or has failed to comply
 2 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or

3 (c) If the employer is participating in the Kentucky Employees Retirement
 4 System, request an estimate of the cost of voluntarily ceasing participation
 5 in the system prior to officially making a request to cease participation. For
 6 those Kentucky Employees Retirement System nonhazardous employers
 7 who are considering ceasing participating in the system under the
 8 provisions of subsection (8) of this section on June 30, 2020, the request for
 9 an estimate to voluntarily cease participating must be made prior to
 10 December 31, 2019, and the estimate shall be provided to that employer
 11 within sixty (60) days of the request, except that no estimate shall be
 12 required to be provided prior to January 31, 2020;

13 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky
 14 Employees Retirement System or the County Employees Retirement System
 15 as provided by subsection (2)(a) of this section:

16 1. The employer shall adopt a resolution requesting to cease participation
 17 in the system and shall submit the resolution to the board for its
 18 approval. The board shall not be able to deny a resolution to cease
 19 participation in the Kentucky Employees Retirement System for any
 20 employer who seeks to voluntarily cease participation in the system as
 21 provided by subsection (8) of this section;

22 2. Except as provided by subsection (8)(d) of this section, the cessation of
 23 participation in the system shall apply to all employees of the employer;

24 3. The employer shall pay for all administrative costs of an actuarial study
 25 to be completed by the Kentucky Retirement Systems' consulting actuary
 26 and for any other administrative costs for discontinuing participation in
 27 the system as determined by the board and as provided by this section;

- 1 4. The employer shall provide an alternative retirement program for
2 employees who will no longer be covered by the system, which may
3 include a voluntary defined contribution plan but, for Kentucky
4 Employees Retirement System's employers with effective cessation
5 dates occurring on or after June 30, 2020, the alternative retirement
6 program shall not include a defined benefit plan which by its nature
7 can have an unfunded liability;
- 8 5. If the alternative retirement program established by the employer meets
9 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.
10 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of
11 both pre-tax and post-tax contributions, employees of the employer
12 ceasing participation may, except for those employees continuing to
13 participate in the system as provided by subsection (8)(d)2. of this
14 section, seek to transfer his or her account balance to the employer's
15 qualified alternate retirement program within sixty (60) days of the
16 employer's effective cessation date. An employee's election to transfer
17 his or her account balance within sixty (60) days of the employer's
18 effective cessation date is an irrevocable waiver of the right to obtain
19 service credits in the system for the time worked for the employer
20 ceasing participation; ~~and~~
- 21 6. The employer shall pay to the system by lump sum or in installments as
22 provided by subsection (8) of this section, if eligible, ~~[to the system]~~ the
23 full actuarial cost, except as provided by subsection (8)(g)4. of this
24 section, of the benefits accrued by its current and former employees in
25 the system as determined separately for the pension fund and the
26 insurance fund by the actuarial study required by subparagraph 3. of this
27 paragraph. If the employer makes an election for employees to

1 continue to participate in the system as provided by subsection (8)(d)2.
 2 of this section, the cost shall also include the present value of future
 3 normal costs of those employees who will continue to participate in the
 4 system after the employer's effective cessation date. The full actuarial
 5 cost shall not include any employee who seeks a transfer of his or her
 6 account balance within sixty (60) days of the employer's effective
 7 cessation date as provided by subparagraph 5. of this paragraph. The
 8 actuarial cost shall be fixed, and the employer shall not be subject to any
 9 increases or subsequent adjustments, once the lump sum is paid or the
 10 installment payments have commenced; and~~[-]~~

11 7. Kentucky Employees Retirement System employers ceasing
 12 participating under the provisions of subsection (8) of this section,
 13 who elect to pay their actuarial costs by a lump sum shall make the
 14 full lump-sum payment by June 30, 2021, and shall pay interest on the
 15 principal amount beginning on July 1, 2020, equal to a rate of five
 16 and one-quarter percent (5.25%) per annum for pension costs and at a
 17 rate of six and one-quarter percent (6.25%) per annum for retiree
 18 health costs until the lump-sum payment is made. If the ceasing
 19 employer fails to make the full lump-sum payment by June 30, 2021,
 20 the ceasing employer shall make installments as provided by
 21 subsection (8)(g) of this section, and the ceasing employer shall have
 22 the costs recalculated based upon making installment payments as
 23 provided by this section and shall be required to make up any missed
 24 installment payments as determined by the system.

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

27 1. The cessation of participation in the system shall apply to all employees

1 of the employer;

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

7 3. The employer shall pay by lump sum to the system the full actuarial cost
8 of the benefits accrued by its current and former employees in the
9 system as determined separately for the pension fund and the insurance
10 fund by the actuarial study required by subparagraph 2. of this
11 paragraph. The actuarial cost shall be fixed, and the employer shall not
12 be subject to any increases or subsequent adjustments, once the lump
13 sum is paid.~~[;]~~

14 *A Kentucky Employees Retirement System employer who ceases*
15 *participation in the systems under this paragraph shall not establish or*
16 *contribute to on behalf of its employees a defined benefit plan which by its*
17 *nature can have an unfunded liability;*

18 (4) Any employee hired on or after the employer's effective cessation date by an
19 employer who has ceased participation in the system as provided by this section
20 shall not, regardless of his or her membership date in the systems administered by
21 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees
22 Retirement System or the County Employees Retirement System through the
23 employer that ceased participation for the duration of his or her employment with
24 that employer;

25 (5) If an employer has ceased participation in the system as provided by this section:

26 (a) The rights of recipients and the vested rights of inactive members accrued as
27 of the employer's effective cessation date shall not be impaired or reduced in

1 any manner as a result of the employer ceasing participation in the system; and
2 (b) *Except as provided by subsection (8)(d)2. of this section,* employees of the
3 employer ceasing participation shall accrue benefits through the employer's
4 effective cessation date but shall not accrue any additional benefits in the
5 Kentucky Employees Retirement System or the County Employees Retirement
6 System, including earning years of service credit through the ceased employer,
7 after the employer's effective cessation date for as long as they remain
8 employed by the employer. The day after the employer's effective cessation
9 date, each employee described by this paragraph, *except as provided by*
10 *subsection (8)(d)2. of this section,* shall be considered an inactive member
11 with respect to his or her employment with the employer that ceased
12 participation and, subject to the provisions and limitations of KRS 61.510 to
13 61.705 and 78.510 to 78.852, shall:

- 14 1. Retain his or her accounts with the Kentucky Employees Retirement
15 System or the County Employees Retirement System and have those
16 accounts credited with interest in accordance with KRS 61.510 to
17 61.705 and 78.510 to 78.852;
- 18 2. Retain his or her vested rights in accordance with paragraph (a) of this
19 subsection; and
- 20 3. Be eligible to take a refund of his or her accumulated account balance in
21 accordance with KRS 61.625 or any other available distribution if
22 eligible;

23 (6) (a) Kentucky Employees Retirement System employers who are county attorney
24 offices, Commonwealth's attorney offices, local and district health
25 departments governed by KRS Chapter 212, master commissioners, executive
26 branch agencies whose employees are subject to KRS 18A.005 to 18A.200,
27 state-administered retirement systems, state-supported universities and

1 community colleges, property valuation administration offices, or employers
 2 in the legislative or judicial branch of Kentucky state government, shall not be
 3 eligible to voluntarily discontinue participation in the Kentucky Employees
 4 Retirement System, **except that:**

5 **1. Any**~~Unless the~~ employer **who** is a nonstock nonprofit corporation
 6 organized under KRS Chapter 273 **may voluntarily cease participation;**

7 **and**

8 **2. Local and district health departments governed by KRS Chapter 212,**
 9 **state-supported universities and community colleges, and the**
 10 **Kentucky Higher Education Student Loan Corporation may**
 11 **voluntarily cease participation in the Kentucky Employees Retirement**
 12 **System solely under the provisions and requirements of subsection (8)**
 13 **of this section.**

14 (b) Only the employers in the County Employees Retirement System who are a
 15 nonstock nonprofit corporation organized under KRS Chapter 273 may
 16 voluntarily cease participation in the County Employees Retirement System;

17 (7) For purposes of this section, the full actuarial cost shall be determined by the
 18 Kentucky Retirement Systems' consulting actuary separately for the pension fund
 19 and the insurance fund using the assumptions and methodology established by the
 20 system specifically for determining the full actuarial cost of ceasing participation as
 21 of the employer's effective cessation date. For purposes of determining the full
 22 actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser
 23 of the assumed rate of return utilized in the system's most recent actuarial valuation
 24 or the yield on a thirty (30) year United States treasury bond as of the employer's
 25 effective cessation date, but shall in no case be lower than;

26 **(a) Except as provided by paragraphs (b) to (e) of this subsection,** the assumed
 27 rate of return utilized in the system's most recent actuarial valuation minus

1 three and one-half percent (3.5%);

2 (b) Four and one-half percent (4.5%) for those Kentucky Employees
3 Retirement System employers who voluntarily cease participation under the
4 provisions of subsection (8) of this section who pay the costs of ceasing
5 participation by lump-sum payment by June 30, 2021, and who do not make
6 an election for their employees to continue to participate in the system after
7 the employer's effective cessation date as provided by subsection (8)(d)3. of
8 this section;

9 (c) Three and one-half percent (3.5%) for those Kentucky Employees
10 Retirement System employers who voluntarily cease participation under the
11 provisions of subsection (8) of this section who pay the costs of ceasing
12 participation by lump-sum payment by June 30, 2021, and who do make an
13 election for employees to continue to participate in the system after the
14 employer's effective cessation date as provided by subsection (8)(d)2. of this
15 section;

16 (d) Three and one-half percent (3.5%) for those Kentucky Employees
17 Retirement System employers who voluntarily cease participation under the
18 provisions of subsection (8) of this section who pay the costs of ceasing
19 participation by installment payments who do not make an election for
20 employees to continue to participate in the system after the employer's
21 effective cessation date as provided by subsection (8)(d)3. of this section; or

22 (e) Three percent (3%) for those Kentucky Employees Retirement System
23 employers who voluntarily cease participation under the provisions of
24 subsection (8) of this section who pay the costs of ceasing participation by
25 installment payments and who do make an election for employees to
26 continue to participate in the system after the employer's effective cessation
27 date as provided by subsection (8)(d)2. of this section;

- 1 (8) Notwithstanding the provisions of this section, any Kentucky Employees
2 Retirement System employer who is eligible to voluntarily cease participating as
3 provided by subsection (6) of this section, may, on or after April 1, 2020, but prior
4 to May 1, 2020, elect to voluntarily cease participating in the systems for its
5 nonhazardous employees by submitting a resolution in accordance with
6 subsection (3)(a)1. of this section. If an employer makes an election to voluntarily
7 cease participation by submitting a resolution as provided by this subsection:
- 8 (a) The board shall accept any election to cease participation on or before June
9 30, 2020, and the employer's effective cessation date shall be June 30, 2020.
10 Prior to May 1, 2020, an employer may rescind a previously submitted
11 election to cease participation;
- 12 (b) Nonhazardous employees hired on or after the employer's effective
13 cessation date by an employer who has ceased participation in the system as
14 provided by this section shall not, regardless of his or her membership date
15 in the systems administered by Kentucky Retirement Systems, be eligible to
16 participate in the Kentucky Employees Retirement System through the
17 employer that ceased participation for the duration of his or her
18 employment with that ceasing employer;
- 19 (c) Nonhazardous employees hired prior to the employer's effective cessation
20 date, who began participating in the systems administered by Kentucky
21 Retirement Systems on or after January 1, 2014, and who are participating
22 in the hybrid cash balance plan as provided by KRS 61.597, shall continue
23 to contribute and earn service credit in the systems through the employer's
24 effective cessation date. After the employer's effective cessation date, the
25 employee shall participate in the alternative retirement plan established by
26 the employer as provided by subsection (3)(a)4. of this section. A
27 nonhazardous employee covered by this paragraph who elects to transfer

1 his or her account balance within sixty (60) days of the employer's effective
2 cessation date as provided by subsection (3)(a)5. of this section, shall,
3 notwithstanding KRS 61.597, receive a transfer of the employee's
4 accumulated account balance, including the entire accumulated employer
5 credit, regardless of the employee's years of service credit;

6 (d) 1. The employer shall in the resolution submitted in accordance with
7 subsection (3)(a)1. of this section, make an election as to whether or
8 not nonhazardous employees hired prior to the employer's effective
9 cessation date, who began participating in the systems administered by
10 Kentucky Retirement Systems prior to January 1, 2014, who are
11 participating in the systems administered by Kentucky Retirement
12 Systems through the employer, will continue to participate in the
13 system after the employer's effective cessation date.

14 2. If the employer makes an election for the employees described by this
15 paragraph to continue participating in the system after the employer's
16 effective cessation date, these employees will continue to contribute
17 and earn service credit in the systems for as long as they remain
18 employed by the employer in a regular full-time position that is
19 eligible to participate in the systems, except in the event the employer
20 fails to make installment payments as provided by subsection (4) of
21 Section 2 of this Act. Any costs for the present value of future normal
22 costs of the employees covered by this subparagraph who will
23 contribute and earn service in the system after the employer's effective
24 cessation date shall be included in the cost calculation established by
25 subsection (7) of this section.

26 3. If the employer does not make an election for the employees described
27 by this paragraph to continue participating in the system after the

1 employer's effective cessation date, these employees shall continue to
2 contribute and earn service credit in the systems through the
3 employer's effective cessation date. After the employer's effective
4 cessation date, these employees shall participate in the alternative
5 retirement plan established by the employer as provided by subsection
6 (3)(a)4. of this section;

7 (e) The cost of ceasing participating to an individual employer shall be equal to
8 the cost determined under subsection (7) of this section and shall include
9 the costs of those employees who continue to participate in the system as
10 provided by paragraph (d)2. of this subsection;

11 (f) The employer may pay the full actuarial cost of ceasing participation by
12 lump-sum payment or in installments as provided by paragraph (g) of this
13 subsection;

14 (g) If the employer elects to pay the costs in installment payments, the cost of
15 ceasing participation as provided by this subsection shall be financed by the
16 systems using the following method:

17 1. Annual payments occurring on or after July 1, 2020, shall be a set
18 dollar value and shall be paid in monthly installments. In fiscal year
19 2020-2021, the set dollar value shall be equal to the higher of the
20 actual contributions paid by the employer in fiscal year 2019-2020 or
21 the annualized average of the creditable compensation reported to the
22 systems by the ceasing employer over the last sixty (60) months
23 occurring prior to July 1, 2019, for which contributions were paid by
24 the ceasing employer, and multiplied by an employer rate of forty-nine
25 and forty-seven one-hundredths percent (49.47%). Annual payments,
26 for fiscal years occurring on or after July 1, 2021, which shall be paid
27 monthly, shall be increased by one and one-half percent (1.5%)

1 annually and shall be paid until the cost as provided by subsection (7)
2 of this section and as adjusted annually by subparagraphs 2. and 3. of
3 this paragraph are paid in full or until an employer as described by
4 subparagraph 4. of this paragraph has paid for thirty (30) years from
5 the effective cessation date;

6 2. Interest shall be assigned to the principal amount annually beginning
7 on July 1, 2020, and for each July 1 thereafter, that is equal to a rate
8 of five and one-quarter percent (5.25%) per annum for pension costs
9 and at a rate of six and one-quarter percent (6.25%) per annum for
10 retiree health costs;

11 3. If an employer is not projected by the systems to pay off the full
12 actuarial costs to cease participation with interest as provided by
13 subparagraph 2. of this paragraph at the conclusion of the thirty (30)
14 year installment period from the employer's effective cessation date,
15 and the employer makes an election for employees to continue to
16 participate in the system after the employer's effective cessation date
17 as provided by subsection (8)(d)2. of this section, then the systems
18 shall adjust the base value for the first annual payments occurring on
19 or after July 1, 2020, in order to keep the maximum period of
20 installments to thirty (30) years; and

21 4. If an employer is not projected by the systems to pay off the full
22 actuarial costs to cease participation with interest as provided by
23 subparagraph 2. of this paragraph at the conclusion of the thirty (30)
24 year installment period from the employer's effective cessation date,
25 and the employer does not make an election for employees to continue
26 to participate in the system after the employer's effective cessation date
27 as provided by subsection (8)(d)3. of this section, the employer shall

1 pay the amount determined by subparagraph 1. of this paragraph for
2 thirty (30) years from the effective cessation date and no additional
3 costs shall be billed to a ceasing employer after the conclusion of the
4 thirty (30) year period nor shall the employer be subject to adjustments
5 under subparagraph 3. of this paragraph. The system may request in
6 future biennial executive branch budgets the additional funding
7 needed on an annual basis to fully pay off the installments at the
8 conclusion of the thirty (30) year period for the employers described by
9 this paragraph, and it is the intent of the General Assembly to pay the
10 additional funding needed by appropriation in the biennial executive
11 branch budget.

12 An employer ceasing participation who is making installment payments as
13 provided by this paragraph may at any time pay off a portion of the
14 remaining balance or the entire remaining balance and shall not be
15 charged any interest for periods beyond the pay-off date for the balance that
16 is paid off;

17 (h) Kentucky Employees Retirement System employers eligible to cease
18 participation under the provisions of this subsection who do not make an
19 election to cease participation in the system prior to May 1, 2020, shall be
20 required to pay the full actuarially determined contributions established by
21 KRS 61.565 and 61.702 for fiscal years occurring on or after July 1, 2020;
22 and

23 (i) Kentucky Employees Retirement System employers who elect to cease
24 participation in the system as provided by this subsection who are currently
25 receiving a distribution of general fund appropriations in the biennial
26 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part
27 I, G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch.

1 169, Part I, G., 9., (2) to help pay employer contributions to the system shall
 2 continue to receive the same level of distribution of general fund
 3 appropriations to help pay the costs of ceasing participation until such time
 4 that the employer's full actuarial costs of ceasing participation are paid off;

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

7 (10) (a) ~~(9)~~ Any employer who voluntarily ceases participation, or who is required
 8 to involuntarily cease participation as provided in this section, shall hold the
 9 Commonwealth and the Kentucky Retirement Systems, including board
 10 members and employees of the Kentucky Retirement Systems, harmless from
 11 damages, attorney's fees and costs from legal claims for any cause of action
 12 brought by any member or retired member of the departing employer related
 13 to the employer's cessation of participation as set forth in this section.

14 (b) Any employer who is voluntarily ceasing participation under the provisions
 15 of subsection (8) of this section, shall be required to pledge any security in
 16 any relevant real estate, chattel paper, deposit accounts, documents, goods
 17 covered by documents, instruments, investment property, letters of credit
 18 rights, and money to the costs of ceasing participation until all costs of
 19 ceasing participation are paid in full; and

20 (11) Notwithstanding any other provision of statute to the contrary, the provisions of
 21 KRS 61.510 to 61.705 and 78.510 to 78.852, and the administrative regulations
 22 promulgated thereunder, shall prevail regarding any question of participation in
 23 the systems of any employer or any employee of an employer who ceases
 24 participation in the Kentucky Employees Retirement System.

25 ➔Section 2. KRS 61.675 is amended to read as follows:

26 (1) The employer shall prepare the records and, from time to time, shall furnish the
 27 information the system may require in the discharge of its duties. Upon employment

1 of an employee, the employer shall inform him of his duties and obligations in
2 connection with the system as a condition of employment.

3 (2) The system may at any time conduct an audit of the employer in order to determine
4 if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610
5 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine
6 all books, accounts, reports, correspondence files, and records of any employer.
7 Every employer, employee, or agency reporting official of a department or county,
8 as defined in KRS 78.510(3), having records in his possession or under his control,
9 shall permit access to and examination of the records upon the request of the
10 system.

11 (3) (a) Any agency participating in the Kentucky Employees Retirement System
12 which is not an integral part of the executive branch of state government shall
13 file the following at the retirement office on or before the tenth day of the
14 month following the period being reported:

- 15 1. The employer and employee contributions required under KRS 61.560,
16 61.565, and 61.702;
- 17 2. The employer contributions and reimbursements for retiree health
18 insurance premiums required under KRS 61.637; and
- 19 3. A record of all contributions to the system on the forms prescribed by
20 the board.

21 (b) If the agency fails to file all contributions and reports on or before the tenth
22 day of the month following the period being reported, interest on the
23 delinquent contributions at the actuarial rate adopted by the board
24 compounded annually, but not less than one thousand dollars (\$1,000), may be
25 added to the amount due the system.

26 **(4) If an employer who voluntarily ceases participation in the Kentucky Employees**
27 **Retirement System as provided by subsection (8) of Section 1 of this Act elects to**

1 pay off the costs of ceasing participation by installment payments as provided by
 2 subsection (8)(g) of Section 1 of this Act and subsequently is delinquent in
 3 making installment payments for ninety (90) days or more:

4 (a) Employees of the employer who are continuing to participate in the system
 5 after the employer's effective cessation date as provided by subsection
 6 (8)(d)2. of Section 1 of this Act, shall not accrue any additional service
 7 credit or benefits in the system through the ceasing employer until such
 8 time the employer has satisfied the required installment payments to the
 9 system;

10 (b) The board may file an action in the Franklin Circuit Court to collect any
 11 delinquent installment payments owed by the employer and to attach so
 12 much of the general fund appropriations of the delinquent employer as is
 13 necessary to achieve full compliance with the provisions of subsection (8) of
 14 Section 1 of this Act; and

15 (c) The systems shall notify the Finance and Administration Cabinet, and the
 16 Finance and Administration Cabinet may withhold or intercept from the
 17 ceasing employer a sufficient portion of any appropriated state funds not yet
 18 disbursed to the ceasing employer to satisfy the required installment
 19 payments to the system.

20 ➔Section 3. KRS 18A.225 is amended to read as follows:

21 (1) (a) The term "employee" for purposes of this section means:

- 22 1. Any person, including an elected public official, who is regularly
 23 employed by any department, office, board, agency, or branch of state
 24 government; or by a public postsecondary educational institution; or by
 25 any city, urban-county, charter county, county, or consolidated local
 26 government, whose legislative body has opted to participate in the state-
 27 sponsored health insurance program pursuant to KRS 79.080; and who

- 1 is either a contributing member to any one (1) of the retirement systems
2 administered by the state, including but not limited to the Kentucky
3 Retirement Systems, Kentucky Teachers' Retirement System, the
4 Legislators' Retirement Plan, or the Judicial Retirement Plan; or is
5 receiving a contractual contribution from the state toward a retirement
6 plan; or, in the case of a public postsecondary education institution, is an
7 individual participating in an optional retirement plan authorized by
8 KRS 161.567; or is eligible to participate in a retirement plan
9 established by an employer who ceases participating in the Kentucky
10 Employees Retirement System pursuant to Section 1 of this Act whose
11 employees participated in the health insurance plans administered by
12 the Personnel Cabinet prior to the employer's effective cessation date
13 in the Kentucky Employees Retirement System;
- 14 2. Any certified or classified employee of a local board of education;
15 3. Any elected member of a local board of education;
16 4. Any person who is a present or future recipient of a retirement
17 allowance from the Kentucky Retirement Systems, Kentucky Teachers'
18 Retirement System, the Legislators' Retirement Plan, the Judicial
19 Retirement Plan, or the Kentucky Community and Technical College
20 System's optional retirement plan authorized by KRS 161.567, except
21 that a person who is receiving a retirement allowance and who is age
22 sixty-five (65) or older shall not be included, with the exception of
23 persons covered under KRS 61.702(4)(c), unless he or she is actively
24 employed pursuant to subparagraph 1. of this paragraph; and
25 5. Any eligible dependents and beneficiaries of participating employees
26 and retirees who are entitled to participate in the state-sponsored health
27 insurance program;

- 1 (b) The term "health benefit plan" for the purposes of this section means a health
2 benefit plan as defined in KRS 304.17A-005;
- 3 (c) The term "insurer" for the purposes of this section means an insurer as defined
4 in KRS 304.17A-005; and
- 5 (d) The term "managed care plan" for the purposes of this section means a
6 managed care plan as defined in KRS 304.17A-500.
- 7 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
8 recommendation of the secretary of the Personnel Cabinet, shall procure, in
9 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
10 from one (1) or more insurers authorized to do business in this state, a group
11 health benefit plan that may include but not be limited to health maintenance
12 organization (HMO), preferred provider organization (PPO), point of service
13 (POS), and exclusive provider organization (EPO) benefit plans encompassing
14 all or any class or classes of employees. With the exception of employers
15 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
16 employers of any class of employees or former employees shall enter into a
17 contract with the Personnel Cabinet prior to including that group in the state
18 health insurance group. The contracts shall include but not be limited to
19 designating the entity responsible for filing any federal forms, adoption of
20 policies required for proper plan administration, acceptance of the contractual
21 provisions with health insurance carriers or third-party administrators, and
22 adoption of the payment and reimbursement methods necessary for efficient
23 administration of the health insurance program. Health insurance coverage
24 provided to state employees under this section shall, at a minimum, contain
25 the same benefits as provided under Kentucky Kare Standard as of January 1,
26 1994, and shall include a mail-order drug option as provided in subsection
27 (13) of this section. All employees and other persons for whom the health care

1 coverage is provided or made available shall annually be given an option to
2 elect health care coverage through a self-funded plan offered by the
3 Commonwealth or, if a self-funded plan is not available, from a list of
4 coverage options determined by the competitive bid process under the
5 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
6 during annual open enrollment.

7 (b) The policy or policies shall be approved by the commissioner of insurance and
8 may contain the provisions the commissioner of insurance approves, whether
9 or not otherwise permitted by the insurance laws.

10 (c) Any carrier bidding to offer health care coverage to employees shall agree to
11 provide coverage to all members of the state group, including active
12 employees and retirees and their eligible covered dependents and
13 beneficiaries, within the county or counties specified in its bid. Except as
14 provided in subsection (20) of this section, any carrier bidding to offer health
15 care coverage to employees shall also agree to rate all employees as a single
16 entity, except for those retirees whose former employers insure their active
17 employees outside the state-sponsored health insurance program.

18 (d) Any carrier bidding to offer health care coverage to employees shall agree to
19 provide enrollment, claims, and utilization data to the Commonwealth in a
20 format specified by the Personnel Cabinet with the understanding that the data
21 shall be owned by the Commonwealth; to provide data in an electronic form
22 and within a time frame specified by the Personnel Cabinet; and to be subject
23 to penalties for noncompliance with data reporting requirements as specified
24 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
25 to protect the confidentiality of each individual employee; however,
26 confidentiality assertions shall not relieve a carrier from the requirement of
27 providing stipulated data to the Commonwealth.

- 1 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
2 for timely analysis of data received from carriers and, to the extent possible,
3 provide in the request-for-proposal specifics relating to data requirements,
4 electronic reporting, and penalties for noncompliance. The Commonwealth
5 shall own the enrollment, claims, and utilization data provided by each carrier
6 and shall develop methods to protect the confidentiality of the individual. The
7 Personnel Cabinet shall include in the October annual report submitted
8 pursuant to the provisions of KRS 18A.226 to the Governor, the General
9 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
10 financial stability of the program, which shall include but not be limited to
11 loss ratios, methods of risk adjustment, measurements of carrier quality of
12 service, prescription coverage and cost management, and statutorily required
13 mandates. If state self-insurance was available as a carrier option, the report
14 also shall provide a detailed financial analysis of the self-insurance fund
15 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 16 (f) If any agency participating in the state-sponsored employee health insurance
17 program for its active employees terminates participation and there is a state
18 appropriation for the employer's contribution for active employees' health
19 insurance coverage, then neither the agency nor the employees shall receive
20 the state-funded contribution after termination from the state-sponsored
21 employee health insurance program.
- 22 (g) Any funds in flexible spending accounts that remain after all reimbursements
23 have been processed shall be transferred to the credit of the state-sponsored
24 health insurance plan's appropriation account.
- 25 (h) Each entity participating in the state-sponsored health insurance program shall
26 provide an amount at least equal to the state contribution rate for the employer
27 portion of the health insurance premium. For any participating entity that used

1 the state payroll system, the employer contribution amount shall be equal to
2 but not greater than the state contribution rate.

3 (3) The premiums may be paid by the policyholder:

4 (a) Wholly from funds contributed by the employee, by payroll deduction or
5 otherwise;

6 (b) Wholly from funds contributed by any department, board, agency, public
7 postsecondary education institution, or branch of state, city, urban-county,
8 charter county, county, or consolidated local government; or

9 (c) Partly from each, except that any premium due for health care coverage or
10 dental coverage, if any, in excess of the premium amount contributed by any
11 department, board, agency, postsecondary education institution, or branch of
12 state, city, urban-county, charter county, county, or consolidated local
13 government for any other health care coverage shall be paid by the employee.

14 (4) If an employee moves his place of residence or employment out of the service area
15 of an insurer offering a managed health care plan, under which he has elected
16 coverage, into either the service area of another managed health care plan or into an
17 area of the Commonwealth not within a managed health care plan service area, the
18 employee shall be given an option, at the time of the move or transfer, to change his
19 or her coverage to another health benefit plan.

20 (5) No payment of premium by any department, board, agency, public postsecondary
21 educational institution, or branch of state, city, urban-county, charter county,
22 county, or consolidated local government shall constitute compensation to an
23 insured employee for the purposes of any statute fixing or limiting the
24 compensation of such an employee. Any premium or other expense incurred by any
25 department, board, agency, public postsecondary educational institution, or branch
26 of state, city, urban-county, charter county, county, or consolidated local
27 government shall be considered a proper cost of administration.

- 1 (6) The policy or policies may contain the provisions with respect to the class or classes
2 of employees covered, amounts of insurance or coverage for designated classes or
3 groups of employees, policy options, terms of eligibility, and continuation of
4 insurance or coverage after retirement.
- 5 (7) Group rates under this section shall be made available to the disabled child of an
6 employee regardless of the child's age if the entire premium for the disabled child's
7 coverage is paid by the state employee. A child shall be considered disabled if he
8 has been determined to be eligible for federal Social Security disability benefits.
- 9 (8) The health care contract or contracts for employees shall be entered into for a period
10 of not less than one (1) year.
- 11 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
12 State Health Insurance Subscribers to advise the secretary or his designee regarding
13 the state-sponsored health insurance program for employees. The secretary shall
14 appoint, from a list of names submitted by appointing authorities, members
15 representing school districts from each of the seven (7) Supreme Court districts,
16 members representing state government from each of the seven (7) Supreme Court
17 districts, two (2) members representing retirees under age sixty-five (65), one (1)
18 member representing local health departments, two (2) members representing the
19 Kentucky Teachers' Retirement System, and three (3) members at large. The
20 secretary shall also appoint two (2) members from a list of five (5) names submitted
21 by the Kentucky Education Association, two (2) members from a list of five (5)
22 names submitted by the largest state employee organization of nonschool state
23 employees, two (2) members from a list of five (5) names submitted by the
24 Kentucky Association of Counties, two (2) members from a list of five (5) names
25 submitted by the Kentucky League of Cities, and two (2) members from a list of
26 names consisting of five (5) names submitted by each state employee organization
27 that has two thousand (2,000) or more members on state payroll deduction. The

1 advisory committee shall be appointed in January of each year and shall meet
2 quarterly.

3 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
4 provided to employees pursuant to this section shall not provide coverage for
5 obtaining or performing an abortion, nor shall any state funds be used for the
6 purpose of obtaining or performing an abortion on behalf of employees or their
7 dependents.

8 (11) Interruption of an established treatment regime with maintenance drugs shall be
9 grounds for an insured to appeal a formulary change through the established appeal
10 procedures approved by the Department of Insurance, if the physician supervising
11 the treatment certifies that the change is not in the best interests of the patient.

12 (12) Any employee who is eligible for and elects to participate in the state health
13 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
14 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
15 state health insurance contribution toward health care coverage as a result of any
16 other employment for which there is a public employer contribution. This does not
17 preclude a retiree and an active employee spouse from using both contributions to
18 the extent needed for purchase of one (1) state sponsored health insurance policy for
19 that plan year.

20 (13) (a) The policies of health insurance coverage procured under subsection (2) of
21 this section shall include a mail-order drug option for maintenance drugs for
22 state employees. Maintenance drugs may be dispensed by mail order in
23 accordance with Kentucky law.

24 (b) A health insurer shall not discriminate against any retail pharmacy located
25 within the geographic coverage area of the health benefit plan and that meets
26 the terms and conditions for participation established by the insurer, including
27 price, dispensing fee, and copay requirements of a mail-order option. The

1 retail pharmacy shall not be required to dispense by mail.

2 (c) The mail-order option shall not permit the dispensing of a controlled
3 substance classified in Schedule II.

4 (14) The policy or policies provided to state employees or their dependents pursuant to
5 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
6 aid-related services for insured individuals under eighteen (18) years of age, subject
7 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
8 pursuant to KRS 304.17A-132.

9 (15) Any policy provided to state employees or their dependents pursuant to this section
10 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
11 consistent with KRS 304.17A-142.

12 (16) Any policy provided to state employees or their dependents pursuant to this section
13 shall provide coverage for obtaining amino acid-based elemental formula pursuant
14 to KRS 304.17A-258.

15 (17) If a state employee's residence and place of employment are in the same county, and
16 if the hospital located within that county does not offer surgical services, intensive
17 care services, obstetrical services, level II neonatal services, diagnostic cardiac
18 catheterization services, and magnetic resonance imaging services, the employee
19 may select a plan available in a contiguous county that does provide those services,
20 and the state contribution for the plan shall be the amount available in the county
21 where the plan selected is located.

22 (18) If a state employee's residence and place of employment are each located in counties
23 in which the hospitals do not offer surgical services, intensive care services,
24 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
25 services, and magnetic resonance imaging services, the employee may select a plan
26 available in a county contiguous to the county of residence that does provide those
27 services, and the state contribution for the plan shall be the amount available in the

1 county where the plan selected is located.

2 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
3 in the best interests of the state group to allow any carrier bidding to offer health
4 care coverage under this section to submit bids that may vary county by county or
5 by larger geographic areas.

6 (20) Notwithstanding any other provision of this section, the bid for proposals for health
7 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
8 the statewide rating structure provided in calendar year 2003 and a bid scenario that
9 allows for a regional rating structure that allows carriers to submit bids that may
10 vary by region for a given product offering as described in this subsection:

11 (a) The regional rating bid scenario shall not include a request for bid on a
12 statewide option;

13 (b) The Personnel Cabinet shall divide the state into geographical regions which
14 shall be the same as the partnership regions designated by the Department for
15 Medicaid Services for purposes of the Kentucky Health Care Partnership
16 Program established pursuant to 907 KAR 1:705;

17 (c) The request for proposal shall require a carrier's bid to include every county
18 within the region or regions for which the bid is submitted and include but not
19 be restricted to a preferred provider organization (PPO) option;

20 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
21 carrier all of the counties included in its bid within the region. If the Personnel
22 Cabinet deems the bids submitted in accordance with this subsection to be in
23 the best interests of state employees in a region, the cabinet may award the
24 contract for that region to no more than two (2) carriers; and

25 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
26 other requirements or criteria in the request for proposal.

27 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or

1 after July 12, 2006, to public employees pursuant to this section which provides
2 coverage for services rendered by a physician or osteopath duly licensed under KRS
3 Chapter 311 that are within the scope of practice of an optometrist duly licensed
4 under the provisions of KRS Chapter 320 shall provide the same payment of
5 coverage to optometrists as allowed for those services rendered by physicians or
6 osteopaths.

7 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
8 after July 12, 2006, to public employees pursuant to this section shall comply with
9 the provisions of KRS 304.17A-270 and 304.17A-525.

10 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or
11 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to
12 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to
13 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to
14 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641
15 pertaining to emergency medical care, KRS 304.99-123, and any administrative
16 regulations promulgated thereunder.

17 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on
18 or after July 1, 2019, to public employees pursuant to this section shall comply with KRS
19 304.17A-138.

20 ➔Section 4. KRS 18A.205 is amended to read as follows:

21 (1) The secretary of the Finance and Administration Cabinet, upon the recommendation
22 of the secretary, may procure from one (1) or more life insurance companies,
23 authorized to do business in this state, a policy or policies of group life insurance
24 insuring the lives of all or any class or classes of public employees. The policy or
25 policies shall be approved by the commissioner of insurance and may contain such
26 provisions as the commissioner of insurance approves whether or not otherwise
27 permitted by the insurance laws. It is intended that life insurance may be made

1 available for public employees, except that the procuring is permissive.

2 (2) (a) As used in KRS 18A.205 to 18A.215, "public employee" shall mean a person

3 who:

4 1. Is regularly employed by a public employer; and

5 2. Is also:

6 a. A contributing member of any one (1) of the state-administered
7 retirement systems;

8 b. A retiree of a state-administered retirement system who is
9 employed in a regular full-time position for purposes of retirement
10 coverage, but who is not eligible to contribute to one (1) of the
11 systems administered by Kentucky Retirement Systems pursuant to
12 KRS 61.637(17);~~or~~

13 c. An individual participating in an optional retirement plan
14 authorized by KRS 161.567; or

15 *d. An individual eligible to participate in a retirement plan*
16 *established by an employer who ceases participating in the*
17 *Kentucky Employees Retirement System pursuant to Section 1 of*
18 *this Act whose employees participated in the life insurance plans*
19 *administered by the Personnel Cabinet prior to the employer's*
20 *effective cessation date in the Kentucky Employees Retirement*
21 *System.*

22 (b) Notwithstanding the definition of "public employee" in this subsection, any
23 federally funded time-limited employee may receive insurance coverage.

24 (3) As used in this section and KRS 18A.210, "public employer" shall mean the
25 following employers, if the employer has opted to participate in the state-sponsored
26 group life insurance program:

27 (a) Any department, office, board, agency, commission, authority, or branch of

1 state government;

2 (b) A public postsecondary educational institution;

3 (c) Any department, office, board, agency, commission, authority, or branch of a
4 city, urban-county, charter county, county, unified local government, or
5 consolidated local government; or

6 (d) Any certified or classified employee or elected member of a local board of
7 education.

8 (4) As used in KRS 18A.205 to 18A.225, "premiums" shall mean premiums to be paid
9 on any type of insurance authorized under KRS 18A.205 to 18A.225.

10 ➔Section 5. A Kentucky Employees Retirement System employer ceasing
11 participation under the provisions of subsection (8) of Section 1 of this Act may finance
12 the aggregate amount necessary to pay the full actuarial cost of ceasing participation, plus
13 any associated transaction costs, and the amount necessary to fund any required reserves.
14 The financing may be undertaken by the issuance of bonds by the ceasing employer, or its
15 agency or instrumentality, through financing agreements with the Kentucky
16 Asset/Liability Commission or other available sources of funding. The sale of any bonds
17 or entering into of any financing agreement or other source of funding may be by public
18 or private negotiated sale.

19 ➔Section 6. Notwithstanding any other provision of KRS 61.565 or 61.702, 2018
20 Ky. Acts ch. 169, Part IV, 5., and 2018 Ky. Acts ch. 203 to the contrary, the employer
21 contribution rate from July 1, 2019, through June 30, 2020, shall be 49.47 percent,
22 consisting of 41.06 percent for pension and 8.41 percent for health insurance for
23 nonhazardous duty employees participating in the Kentucky Employees Retirement
24 System who are employed by Mental Health/Mental Retardation Boards, Local and
25 District Health Departments, domestic violence shelters, rape crisis centers, child
26 advocacy centers, state-supported universities and community colleges, and any other
27 agency eligible to voluntarily cease participating in the Kentucky Employees Retirement

1 System pursuant to KRS 61.522. The provisions of this section shall be retroactive to July
2 1, 2019.

3 ➔Section 7. Notwithstanding KRS 446.090, the General Assembly finds and
4 declares that all provisions, sections, and subsections of this Act contained herein are
5 essentially and inseparably connected with and dependent upon each other, and
6 consequently the General Assembly intends that the provisions, sections, and subsections
7 of this Act are nonseverable so that if any court finds any provision, section, or subsection
8 of this Act contained herein to be unconstitutional, or unenforceable under state or federal
9 law, the entire Act, and all of the provisions, sections, and subsections of this Act
10 contained herein, are, and shall be declared, void and unenforceable.

11 ➔Section 8. Whereas ensuring the financial health of quasi-governmental
12 employers is vital to the future of Kentucky, an emergency is declared to exist, and this
13 Act takes effect upon its passage and approval by the Governor or upon its otherwise
14 becoming a law.