

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2020 REGULAR SESSION
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Amend printed copy of **SB 249/HCS 1**

On page 21, by deleting lines 10 to 12 in its' entirety and inserting the following in lieu thereof:

"(46) "Monthly average pay" means:

- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in Section 4 of this Act or who dies as a result of a duty-related injury as defined in Section 6 of this Act, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or**
- (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in Section 4 of this Act or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred."; and**

On page 22, between lines 15 and 16 by inserting the following:

"➔Section 4. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

Amendment No. HFA 1

Rep. Rep. John Blanton

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

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- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation":
 - (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid

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leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
3. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
4. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec.

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132(f)(4); and

(c) Excludes:

1. Uniform, equipment, or any other expense allowances paid on or after January 1, 2019, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; and
3. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

(9) "Final compensation" means:

- (a) For a member who begins participating prior to September 1, 2008, who retires prior to January 1, 2019, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
- (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, or for a member who begins participating prior to September 1, 2008, who retires on or after January 1, 2019, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less

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- than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;

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- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
 - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22). Solely in the case where~~ease of~~ a member ~~who~~ dies as a direct result of an act in line of duty as defined in this section, ~~or who~~ dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as a direct result of an act in the line of duty as defined in this section, or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means:
- (a) A single~~an~~ act occurring or a single thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060;~~;~~
 - (b) For employees in hazardous positions under KRS 61.592, ~~an "act in line of duty"~~

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~~shall mean~~ a single~~an~~ act occurring which was required in the performance of the principal duties of the position as defined by the job description; or

(c) For employees participating in the State Police Retirement System and for employees who are in hazardous positions under KRS 61.592, a single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;

(20) "Early retirement date" means:

(a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or

(b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

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

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member

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in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that

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can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583;
- (40) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the

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member's accumulated contributions; or

- (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit; and

(41) "Monthly average pay" means:

- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in this section or who dies as a result of a duty-related injury as defined in Section 6 of this Act,** the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; **or**
- (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in this section or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred.**

→Section 5. KRS 16.582 is amended to read as follows:

- (1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
- (b) Hazardous disability means a disability which results in the member's total incapacity

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to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

- (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
 - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
- (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
 - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
 - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
 - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
 - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time

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officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane; or

2. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

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2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
 2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires

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sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
 4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
 5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added

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- under this section, shall not exceed twenty (20) years.
- (b) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
 - (c) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 16.583.
- (6) If the member receives a satisfactory determination of ~~total and permanent disability or~~ hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty ***as defined in Section 4 of this Act***, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
 - (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

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(7) If the member receives a satisfactory determination of total and permanent disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty as defined in Section 4 of this Act, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, the benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than seventy-five percent (75%) of the member's monthly average pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly average pay, except that:

1. Member and dependent children payments under this subsection shall not exceed one hundred percent (100%) of the member's monthly average pay; and

2. Total maximum dependent children's benefits shall not exceed twenty-five percent (25%) of the member's monthly average pay while the member is living and forty percent (40%) of the member's monthly average pay after the member's death. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system and shall be divided equally among all dependent children.

~~(8)(7)~~ No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

~~(9)(8)~~ If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job

description by the system's medical examiner.

~~(10)~~~~(9)~~ For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) to (7)~~for (6)~~ of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

➔Section 6. KRS 61.621 is amended to read as follows:

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.
- (2) (a) For purposes of this section, "duty-related injury" means:
 1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or
 - b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and
 2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
- (b) "Duty-related injury" does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.
- (3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account, except as

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provided in KRS 61.542(2)(e).

- (b) The surviving spouse, provided he or she supersedes all previously designated beneficiaries, may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to seventy-five percent (75%) of the member's monthly average pay beginning in the month following the member's death and continuing each month until the surviving spouse remarries or until the death of the unmarried surviving spouse.
 - (c) The monthly payment to the surviving spouse upon remarriage shall be twenty-five percent (25%) of the member's monthly average pay beginning in the month following remarriage and continuing each month until death.
 - (d) In addition, if the member is also survived by dependent children, monthly payments shall be made for each dependent child equal to ten percent (10%) of the deceased member's monthly average pay, except that the combined maximum payment made to the:
 - 1. Surviving spouse and dependent children under this subsection shall not exceed one hundred percent (100%) of the deceased member's monthly average pay; and
 - 2. Dependent children, while the surviving spouse is living or prior to the surviving spouse remarrying, shall not exceed twenty-five percent (25%) of the deceased member's monthly average pay. Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.
- (4) If the employee dies as a result of a duty-related injury and is not survived by a spouse but is survived by a dependent child or children, the following benefits shall be paid to the

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dependent child or children:

- (a) Fifty percent (50%) of the deceased member's monthly average pay, if the deceased member has one (1) dependent child;
- (b) Sixty-five percent (65%) of the deceased member's monthly average pay, if the deceased member has two (2) dependent children; or
- (c) Seventy-five percent (75%) of the deceased member's monthly average pay, if the deceased member has three (3) or more dependent children.

Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.

- (5) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than seventy-five~~twenty-five~~ percent (75%)~~((25%))~~ of the employee's monthly average~~final rate of~~ pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.
- (6) In the period of time following a member's disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the disabled member's monthly average~~final rate of~~ pay~~;~~, except that:~~however,~~
 - 1. Member and dependent children payments under this section shall not exceed one hundred percent (100%) of the member's monthly average pay; and
 - 2. Total maximum dependent children's benefits shall not exceed twenty-five percent

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(25%) of the member's monthly average pay while the member is living and forty percent (40%) of the disabled member's monthly average~~[final rate of]~~ pay after the member's death~~[at the time any particular payment is due]~~. The payment shall commence in the month following the date of disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system and shall be divided equally among all dependent children.

- (7) Benefits for death as a result of a duty-related injury to a dependent child shall be payable under this section notwithstanding an election by a surviving spouse or beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.
- (8) (a) A spouse applying for benefits under this section who is also eligible for benefits under KRS 61.640 may elect to receive benefits under KRS 61.640(2)(a) or (b) while the application for benefits under this section is pending.
- (b) If a final determination results in a finding of eligibility for benefits under this section, the system shall recalculate the benefits due the spouse in accordance with this subsection.
- (c) If the spouse has been paid less than the amount of benefits to which the spouse was entitled to receive under this section, the system shall pay the additional funds due to the spouse.
- (d) If the spouse has been paid more than the benefit the spouse was eligible to receive under this section, then the system shall deduct the amount owed by the spouse from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

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(9) For purposes of this section, "dependent child" has the same meaning as in KRS 16.505.

(10) This section shall be known as "The Fred Capps Memorial Act."

➔Section 7. KRS 61.702 is amended to read as follows:

- (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.
2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.
3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
- a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
 - b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by

- 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
- c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.
- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
- (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.

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- (2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member having a membership date on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701, or partially to one (1) fund with the remainder deposited to the other fund. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520, and the Kentucky Retirement Systems insurance trust fund established under KRS 61.701 shall not be allowed.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited

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to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.

3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount payable to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this

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paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, or the Kentucky Retirement Systems insurance trust fund established under KRS 61.701, through the use of separate accounts.

- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
 1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
 3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
 4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the

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member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or
6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510,

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61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled as a direct result of an act in line of duty as defined in KRS 16.505 or as a result of a duty-related injury as defined in KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who ~~*dies*~~^{*is killed*} as a direct result of an act in line of duty as defined in KRS 16.505, ~~*or dies*~~^{*or*} as a result of a duty-related injury as defined in KRS 61.621, ***becomes totally and permanently disabled as a direct result of an act***

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in line of duty as defined in Section 4 of this Act, or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, shall have the premium for *his or her*~~[the]~~ *spouse, if the member is disabled, his or her* beneficiary, if the beneficiary is the member's spouse *and the member is deceased,* and for each dependent child as defined in KRS 16.505, paid so long as *the member, beneficiary, or dependent child*~~[they]~~ individually *remains*~~[remain]~~ eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (b) 1. For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one (1) of the other state-administered retirement plans.
2. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance trust fund accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and

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78.520, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance trust fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

3. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
 4. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
 5. The premium paid by the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not exceed one hundred percent (100%) of the monthly contribution rate toward hospital and medical insurance coverage approved by the board of trustees of the Kentucky Retirement Systems.
- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium

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for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.

- (b) The other provisions of this section notwithstanding, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

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- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts

established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8) (a) 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (b) An employee who meets the minimum service requirements as provided by paragraph

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(a) of this subsection shall be eligible for benefits as follows:

1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

- (c) 1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who receives a satisfactory determination of a hazardous disability that is ~~disabled as~~ a direct result of an act in line of duty as defined in KRS 16.505, and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
2. ~~The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled by a duty related injury as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.~~

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- 3-] Notwithstanding the provisions of this section, the minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505, who becomes totally and permanently disabled as a direct result of an act in line of duty as defined in Section 4 of this Act, ~~for~~ who dies as a result of a duty-related injury as defined in KRS 61.621, or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, and the premium for the member, member's spouse, and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as they individually remain eligible for a monthly retirement benefit.
- (d) Except as provided by paragraph (c)2.~~(e)3-]~~ of this subsection, the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- (e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-

time position.

➔Section 8. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected

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officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited, or investment returns earned as provided by KRS 61.5956, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon or investment returns earned as provided by KRS 61.5956. "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
 - (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary, wages,

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and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under

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applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Uniform, equipment, or any other expense allowances paid on or after January 1, 2019, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;
4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer;
5. For employees who are employed in a nonhazardous position, who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment; and
6. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the

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five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, except that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be complete fiscal years. If the number of months of service credit during the five (5) year period is less than forty-eight (48) for members retiring prior to January 1, 2019, one (1) or more additional fiscal years shall be used. If a member retiring on or after January 1, 2019, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;

- (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, and who retired prior to January 1, 2019, the creditable compensation of the member during the three (3) fiscal years

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he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in KRS 61.592, who retires on or after January 1, 2019, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall

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be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who

shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
 - (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months;
- or

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- (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following

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June 30;

- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's

account and interest credited on such amounts as provided by KRS 16.583 and 61.597;

(38) "Accumulated account balance" means:

- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions;
- (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit; or
- (c) For nonhazardous members who are participating in the 401(a) money purchase plan as provided by KRS 61.5956, the combined sum of the member's accumulated contributions and the member's accumulated employer contributions in the 401(a) money purchase plan;

(39) "Volunteer" means an individual who:

- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;

(40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to

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determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;

(41) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;

(42) "Accumulated employer contribution" means the employer contribution deposited to the member's account and any investment returns on such amounts as provided by KRS 61.5956; and

(43) "Monthly average pay" means:

(a) In the case of a member who dies as a direct result of an act in line of duty as defined in Section 4 of this Act or who dies as a result of a duty-related injury as defined in Section 6 of this Act, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; **or**

(b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in Section 4 of this Act or becomes disabled as a result of a duty-related injury as defined in Section 6 of this Act, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred.

→Section 9. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 161.220 to 161.716, or any provision of Sections 1 to 8 of this Act to the contrary, the Kentucky Retirement Systems shall provide the following benefit adjustments to members, and beneficiaries and dependent children of those members, who become disabled prior to the effective date of this Act and whose disability was determined by the systems to be a total and

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permanent disability that was the direct result of an act in line of duty as defined in subsection (19) of Section 4 of this Act or whose disability resulted from a duty-related injury as defined in Section 6 of this Act:

- (1) In the month following the effective date of this Act, the member, or the beneficiary of the member if the beneficiary is receiving a monthly benefit due to a member's death and selection of a payment pursuant to KRS 61.635 that provided a monthly payment to the beneficiary upon their death, and the dependent children of the member, shall have his or her monthly benefit increased to the amount specified by Section 5 or 6 of this Act, as applicable, except that the amount payable to the member or beneficiary of the member shall not be increased above a level that exceeds 100 percent of the member's monthly average pay when combined with any dependent child payments from the systems and prior to any adjustment for an optional payment plan selected by the member upon retirement in accordance with KRS 61.635. The systems may adjust this amount to reflect any optional payment plans selected by the member in accordance with KRS 61.635 upon disability retirement;
- (2) In the month following the effective date of this Act, any member, spouse of a disabled or deceased member, and any dependent child of a deceased member who is receiving a monthly benefit shall be eligible for the health benefits specified by the amendments to Section 7 of this Act; and
- (3) The provisions of this section shall only be construed to provide benefit adjustments to members, beneficiaries, and dependent children of those members who were disabled prior to the effective date of this Act and only in situations where the member's disability was determined by the systems to be a total and permanent disability that was the direct result of an act in line of duty as defined in subsection (19) of Section 4 of this Act or was a disability that resulted from a duty-related injury as defined in Section 6 of this Act.

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→Section 10. The provisions of Sections 1 to 9 of this Act shall not reduce any benefits payable to any member, beneficiary, or dependent children of a member who became disabled prior to the effective date of this Act and whose disability was determined by the systems to either be a total and permanent disability that was the direct result of an act in line of duty as defined in subsection (19) of Section 4 of this Act or was a disability that resulted from a duty-related injury as defined in Section 6 of this Act."; and

By renumbering subsequent sections accordingly.