

1 AN ACT relating to the Teachers' Retirement System and declaring an emergency.

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

3 ➔Section 1. KRS 161.605 is amended to read as follows:

4 Any member retired by reason of service may return to work in a position covered by the  
5 Kentucky Teachers' Retirement System and continue to receive his or her retirement  
6 allowance under the following conditions:

7 (1) Any member who is retired with thirty (30) or more years of service may return to  
8 work in a full-time or a part-time position, ***or in a position providing substitute***  
9 ***teaching service,*** covered by the Kentucky Teachers' Retirement System and earn  
10 up to a maximum of seventy-five percent (75%) of the member's last annual  
11 compensation measured on a daily rate to be determined by the board of trustees.  
12 For purposes of determining whether the salary of a member returning to work is  
13 seventy-five percent (75%) or less of the member's last annual compensation, all  
14 remuneration paid and benefits provided to the member, on an actual dollar or fair  
15 market value basis as determined by the retirement system, ***excluding employer-***  
16 ***provided medical insurance required under subsection (5) of this section,*** shall be  
17 considered. Members who were retired on or before June 30, 2002, shall be entitled  
18 to return to work under the provisions of this section as if they had retired with  
19 thirty (30) years of service. Nonqualified service credit purchased under the  
20 provisions of KRS 161.5465 or elsewhere with any state-administered retirement  
21 system shall not be used to meet the thirty (30) year requirement set forth in this  
22 subsection. Out-of state teaching service provided in public schools for kindergarten  
23 through grade twelve (12) may count toward the thirty (30) year requirement set  
24 forth in this subsection even if it is not purchased as service credit, if the member  
25 obtains from his or her out-of-state employer certification of this service on forms  
26 prescribed by the retirement system;

27 (2) Any member who is retired with less than thirty (30) years of service after June 30,

1       2002, may return to work in a full-time or part-time position, or in a position  
2       providing substitute teaching service, covered by the ~~the Kentucky~~ Teachers'  
3       Retirement System and earn up to a maximum of sixty-five percent (65%) of the  
4       member's last annual compensation measured on a daily rate to be determined by  
5       the board of trustees. For purposes of determining whether the salary of a member  
6       returning to work is sixty-five percent (65%) or less of the member's last annual  
7       compensation, all remuneration paid and benefits provided to the member, on an  
8       actual dollar or fair market value basis as determined by the retirement system,  
9       excluding employer-provided medical insurance required under subsection (5) of  
10      this section, shall be considered;

11      (3) Reemployment of a retired member under subsection (1) or (2) of this section in a  
12      full-time teaching or nonteaching position in a local school district shall be  
13      permitted only if the employer certifies to the Kentucky Teachers' Retirement  
14      System that there are no other qualified applicants available to fill the teaching or  
15      nonteaching position. The employer may use any source considered reliable  
16      including but not limited to data provided by the Education Professional Standards  
17      Board and the Department of Education to determine whether other qualified  
18      applicants are available to fill the teaching or nonteaching position. The Kentucky  
19      Board of Education shall promulgate administrative regulations to establish  
20      procedures to determine whether other qualified applicants are available to fill a  
21      teaching or nonteaching position and, if not, for filling the position with a retired  
22      member who will then be permitted to return to work in that position under  
23      subsection (1) or (2) of this section. The administrative regulations shall assure that  
24      a retired member shall not be hired in a teaching or nonteaching position by a local  
25      school district until the superintendent of the school district assures the Kentucky  
26      Teachers' Retirement System that every reasonable effort has been made to recruit  
27      other qualified applicants for the position on an annual basis;

1 (4) Under this section, an employer may employ full-time a number of retired members  
2 not to exceed three percent (3%) of the membership actively employed full-time by  
3 that employer. The board of trustees may reduce this three percent (3%) cap upon  
4 recommendation of the retirement system's actuary if a reduction is necessary to  
5 maintain the actuarial soundness of the retirement system. The board of trustees  
6 may increase the three percent (3%) cap upon a determination that an increase is  
7 warranted to help address a shortage in the number of available teachers and upon  
8 the determination of the retirement system's actuary that the proposed cap increase  
9 allows the actuarial soundness of the retirement system to be maintained. For  
10 purposes of this subsection, "full-time" means the same as defined by KRS  
11 161.220(21). A local school district may exceed the quota established by this  
12 subsection by making an annual written request to the Kentucky Department of  
13 Education which the department may approve on a year-by-year basis if the  
14 statewide quota has not been met. A district's written request to exceed its quota  
15 shall be submitted no sooner than two (2) weeks after the start of the school year;

16 (5) (a) Except as provided by subsection (10) of this section, a member returning to  
17 work in a full-time or part-time position, or in a position providing substitute  
18 teaching service, under subsection (1) or (2) of this section ~~shall~~<sup>will</sup>  
19 contribute to an account with the retirement system that ~~shall~~<sup>will</sup> be  
20 administered independently from and with no reciprocal impact with the  
21 member's original retirement account, or any other account from which the  
22 member is eligible to draw a retirement allowance.

23 (b) Except as provided by subsection (10) of this section, a member returning to  
24 work under subsection (1) or (2) of this section shall make contributions to the  
25 retirement system at the rate provided under KRS 161.540. The new account  
26 shall independently meet ~~all~~<sup>all</sup>~~the five (5) year~~ vesting  
27 requirements~~requirement~~ as well as all other conditions set forth in KRS

1           161.600(1) before any retirement allowance is payable from this account. The  
2           retirement allowance accruing under this new account shall be calculated  
3           pursuant to KRS 161.620(1)(b). This new account shall not entitle the member  
4           to a duplication of the benefits offered under KRS 161.620(7) or 161.675, nor  
5           shall this new account provide the benefits offered by KRS 161.520, 161.525,  
6           161.620(3), 161.655, 161.661, or 161.663.

7           (c) A member returning to work under subsection (1) or (2) of this section shall  
8           waive his or her medical insurance with the ~~the Kentucky~~ Teachers' Retirement  
9           System during the period of reemployment and shall receive the medical  
10          insurance coverage that is generally provided by the member's active employer  
11          to the other members of the retirement system that the active employer  
12          employs. If medical insurance coverage is not available from the employer,  
13          the Kentucky Teachers' Retirement System may provide coverage for the  
14          member.

15          (d) A member returning to work under subsection (1) or (2) of this section shall  
16          not be eligible to purchase service credit for any service provided after the  
17          member's effective date of retirement but prior to the date that the member  
18          returns to work. A member returning to work under subsection (1) or (2) of  
19          this section shall not be eligible to purchase service credit that the member  
20          would have otherwise been eligible to purchase prior to the member's ~~initial~~  
21          retirement.

22          (e) A member who returns to work under subsection (1) or (2) of this section, or  
23          in the event of the death of the member, the member's estate or applicably  
24          designated beneficiary, shall be entitled, within ninety (90) days of the posting  
25          of the annual report submitted by the employer, to a refund of contributions as  
26          permitted and limited by KRS 161.470;

27          (6) The board of trustees may annually, on July 1, adjust the current daily rate of a

1 member's last annual compensation, for each full twelve (12) month period that has  
2 elapsed subsequent to the member earning his or her last annual compensation, by  
3 the percentage increase in the annual average of the consumer price index for all  
4 urban consumers for the calendar year preceding the adjustment as published by the  
5 Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each  
6 annual adjustment shall become part of the member's daily rate base. Failure to  
7 comply with the salary limitations set forth in subsections (1) and (2) of this section  
8 as may be adjusted by this subsection shall result in a reduction of the member's  
9 retirement allowance or any other benefit to which the member would otherwise be  
10 entitled on a dollar-for-dollar basis for each dollar that the member exceeds these  
11 salary limitations, and the member shall be refunded his or her retirement  
12 contributions made on the compensation that exceeds these salary limitations.

13 Notwithstanding any other provision of law to the contrary, a member retiring from  
14 a local school district who returns to work for a local school district under  
15 subsection (1) or (2) of this section shall be entitled, without any reduction to his or  
16 her retirement allowance or any other retirement benefit, to earn a minimum amount  
17 equal to one hundred seventy dollars (\$170) per day;

18 (7) (a) A retired member returning to work under subsection (1) or (2) of this section  
19 shall have separated from service for a period of at least one (1) year if  
20 returning to work for the same employer on a full-time basis, and at least three  
21 (3) months if returning to work for a different employer on a full-time basis. A  
22 retired member returning to work under subsection (1) or (2) of this section on  
23 a part-time basis shall have separated from service for a period of at least three  
24 (3) months before returning to work for any employer.

25 (b) As an alternative to the separation-from-service requirements in paragraph (a)  
26 of this subsection, a retired member who is returning to work for the same  
27 employer in a full-time position under subsections (1) and (2) of this section

1           may elect a separation-from-service of not less than two (2) months followed  
2           by a forfeiture of the retired member's retirement allowance on a month-to-  
3           month basis for each month that the member has separated from service for  
4           less than twelve (12) full months. A retired member returning to work for the  
5           same employer in a part-time position, or for a different employer in a full-  
6           time position, may elect an alternative separation-from-service requirement of  
7           at least two (2) months followed by a forfeiture of the member's retirement  
8           allowance for one (1) month. During the period that the member forfeits his or  
9           her retirement allowance and thereafter, member and employer contributions  
10          shall be made to the retirement system as a result of employment in any  
11          position subject to membership in the retirement system. The member shall  
12          contribute to an account with the retirement system subject to the conditions  
13          set forth in subsection (5) of this section.~~[For purposes of measuring the~~  
14          ~~separation from service requirements set forth throughout this section, a~~  
15          ~~member's separation from service begins on the first day following the last~~  
16          ~~day of paid employment for the member prior to retirement.]~~

17          (c) *A retired member who is returning to work for an employer that has*  
18          *employees who participate in the Teachers' Retirement System shall comply*  
19          *with the separation-from-service requirements in this subsection before*  
20          *performing any service for the employer, regardless of whether the retired*  
21          *member is providing service in a position covered by the Teachers'*  
22          *Retirement System.*

23          (d) *The starting date for any separation from service required under this*  
24          *subsection shall be the effective date of the member's retirement.*

25          (e) *The separation-from-service requirements of this subsection are not met if*  
26          *there is a prearranged agreement between the member and an employer*  
27          *that has employees who participate in the Teachers' Retirement System*

1           prior to retirement for the member to work for the employer after  
2           retirement.

3           (f) The Teachers' Retirement System may require the member and the  
4           employer for which the member is returning to work to certify in writing on  
5           a form prescribed by the Teachers' Retirement System that no prearranged  
6           agreement was or will be entered into between the member and employer  
7           prior to retirement for the member to work for the employer after  
8           retirement.

9           (g) Failure to comply with the separation-from-service requirements in this  
10           subsection voids a member's retirement and the member shall be required to  
11           return all the retirement benefits he or she received, with interest, for the  
12           period of time that the member returned to work without a sufficient  
13           separation from service;

14       (8) (a) Effective July 1, 2004, local school districts may employ retired members in  
15           full-time or part-time teaching or administrative positions without limitation  
16           on the compensation of the retired members that is otherwise required by  
17           subsections (1) and (2) of this section. Under provisions of this subsection, a  
18           local school district may only employ retired members to fill critical shortage  
19           positions for which there are no other qualified applicants as determined by  
20           the local superintendent. The number of retired members that a local school  
21           district may employ under this subsection shall be no more than two (2)  
22           members per local school district or one percent (1%) of the total active  
23           members employed by the local school district on a full-time basis as defined  
24           under KRS 161.220(21), whichever number is greater. Retired members  
25           returning to work under this subsection shall be subject to the separation-  
26           from-service requirements set forth in subsection (7) of this section. Retired  
27           members returning to work under this subsection shall waive their medical

1 insurance coverage with the retirement system during their period of  
2 reemployment and receive medical insurance coverage that is offered to other  
3 full-time members employed by the local school district. Retired members  
4 returning to work under this subsection shall contribute to an account subject  
5 to the conditions set forth in subsection (5) of this section. Retired members  
6 returning to work under this subsection shall make contributions to the  
7 retirement system at the rate provided under KRS 161.540. The employer  
8 shall make contributions at the rate provided under KRS 161.550. Local  
9 school districts shall make annual payments to the retirement system on the  
10 compensation paid to the reemployed retirees at the rates determined by the  
11 retirement system's actuary that reflect any accrued liability resulting from the  
12 reemployment of these members.

13 (b) The Department of Education may employ retired members in full-time or  
14 part-time teaching or nonteaching positions without the limitations on  
15 compensation otherwise required by subsections (1) and (2) of this section to  
16 fill critical shortage areas in the schools it operates, including the Kentucky  
17 School for the Blind, the Kentucky School for the Deaf, and the Kentucky  
18 Virtual High School, and to serve on audit teams. The department shall be  
19 subject to the same requirements as local school districts as provided in  
20 paragraph (a) of this subsection, except the ~~the Kentucky~~ Teachers' Retirement  
21 System shall determine the maximum number of employees that may be  
22 employed under this paragraph;

23 (9) The return to work limitations set forth in this section shall apply to retired  
24 members who are returning to work in the same position from which they retired, or  
25 a position substantially similar to the one from which they retired, or a position  
26 described in KRS 161.046 or any position listed in KRS 161.220(4) which requires  
27 membership in the retirement system. Positions which generally require certification



1 or graduation from a four (4) year college or university as a condition of  
2 employment which are created, or changed to remove the position from coverage  
3 under KRS 161.220(4) are also subject to the return to work limitations set forth in  
4 this section. The board of trustees shall determine whether employment in a  
5 nonteaching position is subject to this subsection;

6 (10) (a) Notwithstanding the provisions of this section, individuals who retire and  
7 begin drawing a retirement allowance from one (1) or more of the systems or  
8 plans administered by the Kentucky Retirement Systems, the Teachers'  
9 Retirement System, or the Judicial Form Retirement System on or after  
10 January 1, 2019, who are reemployed on or after January 1, 2019, with an  
11 employer participating in the Teachers' Retirement System shall not be  
12 eligible to contribute to or earn benefits in a second retirement account during  
13 the period of reemployment. Employers shall be required to pay the employer  
14 normal cost for pension benefits established by KRS 161.550 for any period of  
15 full-time reemployment to help pay down the unfunded liability of the  
16 Teachers' Retirement System pension fund.

17 (b) The provisions of subsections (1) to (8) of this section are not subject to KRS  
18 161.714;

19 (11) Any member retired by reason of service may waive his or her annuity and return to  
20 full-time employment in a position covered by the Kentucky Teachers' Retirement  
21 System under the following conditions:

22 (a) The member shall receive no annuity payments while employed in a covered  
23 position, shall waive his or her medical insurance coverage with the Kentucky  
24 Teachers' Retirement System during the period of reemployment, and shall  
25 receive the medical insurance coverage that is generally offered by the  
26 member's active employer to the other members of the retirement system  
27 employed by the active employer. The member's estate or, if there is a

1 beneficiary applicably designated by the member, then the beneficiary, shall  
2 continue to be eligible for life insurance benefits as provided in KRS 161.655.  
3 Service subsequent to retirement shall not be used to improve an annuity,  
4 except as provided in paragraphs (b) and (c) of this subsection;

5 (b) Any member who waives regular annuity benefits and returns to teaching or  
6 covered employment shall be entitled to make contributions on the salaries  
7 received for this service and have his retirement annuity recalculated as  
8 provided in the regular retirement formula in KRS 161.620(1), less any  
9 applicable actuarial discount applied to the original retirement allowance due  
10 to the election of a joint and last survivor option. Retirement option and  
11 beneficiary designation on original retirement shall not be altered by  
12 postretirement employment, and dependents and spouses of the members shall  
13 not become eligible for benefits under KRS 161.520, 161.525, or 161.661  
14 because of postretirement employment;

15 (c) When a member returns to full-time teaching or covered employment as  
16 provided in subsection (b) of this section, the employer is required to withhold  
17 and remit regular retirement contributions. The member must be employed  
18 full-time for at least one (1) consecutive contract year to be eligible to  
19 improve an annuity. The member shall be returned to the annuity rolls on July  
20 1 following completion of the contract year or on the first day of the month  
21 following the month of termination of service if full-time employment  
22 exceeds one (1) consecutive contract year. **A member shall not be returned to**  
23 **the annuity rolls until after he or she has filed a retirement application in**  
24 **compliance with KRS 161.600(5).** Any discounts applied at the time of the  
25 original retirement due to service or age may be reduced or eliminated due to  
26 additional employment if full-time employment is for one (1) consecutive  
27 contract year or longer; and

1 (d) A member retired by reason of service who has been employed the equivalent  
2 of twenty-five (25) days or more during a school year under KRS 161.605  
3 may waive the member's retirement annuity and return to regular employment  
4 covered by the Kentucky Teachers' Retirement System during that school year  
5 a maximum of one (1) time during any five (5) year period, beginning with  
6 that school year;

7 (12) Retired members may be employed in a part-time teaching capacity by an agency  
8 described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12)  
9 teaching hours in any one (1) fiscal year. Retired members may be employed for a  
10 period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal  
11 year in a part-time administrative or nonteaching capacity by an agency described in  
12 KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the  
13 retirement system. *Except as otherwise provided by this subsection,* the return to  
14 work provisions set forth in subsections (1) to (8) of this section shall not apply to  
15 retired members who return to work solely for an agency described in KRS  
16 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-  
17 time teaching, substitute teaching, or part-time employment in a nonteaching  
18 capacity under this section shall not exceed the ratio between a school year and the  
19 actual months of retirement for the member during that school year. The board of  
20 trustees by administrative regulation may establish fractional equivalents of a day of  
21 teaching service. Any member who exceeds the twelve (12) hour or one hundred  
22 (100) day limitations of this subsection shall be subject to having his or her  
23 retirement voided and be required to return all retirement allowances and other  
24 benefits paid to the member or on the member's behalf since the effective date of  
25 retirement. In lieu of voiding a member's retirement, the system may reduce the  
26 member's retirement allowance or any other benefit to which the member would  
27 otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation

1 that the member earns in employment exceeding twelve (12) hours, one hundred  
2 (100) days, or any apportionment of the two (2) combined. **Retired members**  
3 **returning to work on or after July 1, 2020, for an employer described in KRS**  
4 **161.220(4)(b) or (n) shall comply with the separation-from-service requirements**  
5 **of subsection (7) of this section;**

6 (13) When a retired member returns to employment in a part-time teaching capacity or in  
7 a nonteaching capacity as provided in subsection (12) of this section, the employer  
8 shall contribute annually to the retirement system on the compensation paid to the  
9 retired member at rates determined by the retirement system actuary that reflect  
10 accrued liability for retired members who return to work under subsection (12) of  
11 this section; and

12 (14) For retired members who return to work during any one (1) fiscal year in both a  
13 position described in KRS 161.220(4)(b) or (n) and in a position described under  
14 another provision under KRS 161.220(4), and for retired members who return to  
15 work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and  
16 an administrative or nonteaching capacity, the board of trustees shall adopt a  
17 methodology for a pro rata apportionment of days and hours that the retired member  
18 may work in each position.

19 ➔Section 2. KRS 161.612 is amended to read as follows:

20 Effective July 1, 2002, any individual occupying a position on a part-time basis that  
21 requires certification or graduation from a four (4) year college or university as a  
22 condition of employment and any individual providing part-time or substitute teaching  
23 services that are the same or similar to those teaching services provided by certified, full-  
24 time teachers shall be a member of the ~~the Kentucky~~ Teachers' Retirement System,  
25 according to the conditions and only to the extent set forth in this section, if the individual  
26 is employed by one (1) of the public boards, institutions, or agencies set forth in KRS  
27 161.220, excluding those public boards, institutions, and agencies described in KRS

1 161.220(4)(b) and (n). Members providing part-time and substitute services shall  
2 participate in the retirement system as follows:

3 (1) Members providing part-time and substitute services shall accrue service credit as  
4 provided under KRS 161.500 and be entitled to a retirement allowance upon  
5 meeting the service retirement conditions of KRS 161.235 or 161.600, as  
6 applicable. The board of trustees shall adopt a methodology for accrediting service  
7 credit to these members on a pro rata basis. The methodology adopted by the board  
8 of trustees may be amended as necessary to ensure its actuarial soundness. The  
9 retirement allowance for members providing part-time and substitute services shall  
10 be calculated pursuant to KRS 161.235 or 161.620, as applicable, except that the  
11 provisions of KRS 161.620(3) shall not apply. Members providing part-time and  
12 substitute services who meet the service retirement conditions of KRS 161.235 or  
13 161.600, as applicable, may also be eligible to participate as approved by the board  
14 of trustees in the medical insurance program provided by the retirement system  
15 under KRS 161.675. Members providing part-time and substitute services shall  
16 make contributions to the ~~the Kentucky~~ Teachers' Retirement System at the rate  
17 provided under KRS 161.540. A member who provides part-time or substitute  
18 services, or in the event of the death of the member, the member's estate or  
19 applicably designated beneficiary, will be entitled, within ninety (90) days of the  
20 posting of the annual report submitted by the member's employer, to a refund of  
21 contributions as permitted and limited by KRS 161.470;

22 (2) (a) 1. The board of trustees shall adopt eligibility conditions under which  
23 members providing part-time and substitute services may participate in  
24 the benefits provided under KRS 161.520, 161.655, 161.661, and  
25 161.663.

26 2. For all disability retirement applications filed with the Teachers'  
27 Retirement System on or after July 1, 2020, disability retirement

1                   payments and any other recurring payments payable by a state-  
 2                   administered retirement system to members providing part-time or  
 3                   substitute services shall be applied to reduce, on a dollar-for-dollar  
 4                   basis, the minimum monthly disability retirement allowance of five  
 5                   hundred dollars (\$500) provided for under subsection (6) of Section 3  
 6                   of this Act.

7                   3. Effective July 1, 2020, members providing part-time or substitute  
 8                   services shall not be eligible to apply for a disability retirement  
 9                   allowance if they are eligible for a service retirement allowance that is  
 10                   not subject to an actuarial reduction required under KRS  
 11                   161.600(1)(b) or (d).

12           **(b)** The board of trustees may permit members providing part-time or substitute  
 13           services to participate in other benefits offered by the retirement system by  
 14           promulgating administrative regulations that establish eligibility conditions  
 15           for participation in these benefits. All eligibility conditions adopted by the  
 16           board of trustees pursuant to this subsection may be amended as necessary to  
 17           ensure their actuarial soundness;

18           (3) In addition to the pro rata methodology adopted by the board of trustees under  
 19           subsection (1) of this section, members providing part-time and substitute services  
 20           shall be subject to all limitations and conditions regarding the accrual, retention,  
 21           accreditation, and use of service credit that apply to members providing full-time  
 22           services. In addition to the eligibility conditions set forth by the board of trustees  
 23           under subsection (2) of this section, members providing part-time and substitute  
 24           services shall be subject to all limitations and conditions regarding both the  
 25           eligibility to participate and the extent of participation in any benefit offered under  
 26           KRS 161.220 to 161.716 that apply to members providing full-time services;

27           (4) Notwithstanding any other provisions of this section to the contrary, instructional

1 assistants who provide teaching services in the local school districts on a full-time  
 2 basis in positions covered by the County Employees Retirement System who are  
 3 used as substitute teachers on an emergency basis for five (5) days or less during  
 4 any one (1) fiscal year shall not be considered members of the Teachers' Retirement  
 5 System during that period in which they are serving as substitute teachers for five  
 6 (5) days or less;

7 (5) The board of trustees may adopt a pro rata methodology to determine the annual  
 8 compensation of members providing part-time and substitute services in order to  
 9 determine benefits provided under KRS 161.661 and 161.663. Members providing  
 10 part-time and substitute services who had retirement contributions posted to their  
 11 accounts during the previous fiscal year and who have not had those contributions  
 12 refunded to them are eligible to vote for the board of trustees;

13 (6) The board of trustees of the Teachers' Retirement System shall be responsible for  
 14 final determination of membership eligibility and may direct employers to take  
 15 whatever action that may be necessary to correct any error relating to membership;

16 **and**

17 (7) ~~Effective January 1, 2019, this section does not apply to any individual who retires~~  
 18 ~~on or after January 1, 2019, and is reemployed on or after January 1, 2019; and~~

19 ~~(8) The provisions of this section are not subject to KRS 161.714.~~

20 ➔Section 3. KRS 161.661 is amended to read as follows:

21 (1) **(a)** Any member who **is accredited by the Teachers' Retirement System for** ~~has~~  
 22 ~~completed~~ five (5) or more years of ~~accredited~~ service in ~~the public schools~~  
 23 ~~of~~ Kentucky after July 1, 1941, may retire for disability and be granted a  
 24 disability allowance if found to be eligible as provided in this section.  
 25 Application for disability benefits shall be made within one (1) year of the last  
 26 contributing service in Kentucky, and the disability must have occurred during  
 27 the most recent period of employment in a position covered by the Teachers'

1 Retirement System and subsequent to the accreditation by the Teachers'  
 2 Retirement System~~[completion]~~ of five (5) years of retirement  
 3 system~~[teaching]~~ service credit in Kentucky. A disability occurring during the  
 4 regular vacation immediately following the last period of active service in  
 5 Kentucky or during an official leave for which the member is entitled to make  
 6 regular contributions to the retirement system, shall be considered as having  
 7 occurred during a period of active service.

8 **(b)** The annual disability allowance shall be equal to sixty percent (60%) of the  
 9 member's final average salary.

10 **(c)** The following individuals shall not be eligible for disability benefits under  
 11 this section:

12 1. Members with~~[Individuals who became members prior to January 1,~~  
 13 ~~2019, who have]~~ twenty-seven (27) or more years of service credit; and  
 14 2. Individuals who become members on or after July 1, 2020, who are  
 15 eligible for an unreduced benefit under KRS 161.600(1)(b)2. or (d)~~[are~~  
 16 ~~eligible for service retirement only. Individuals who become members~~  
 17 ~~on or after January 1, 2019, who have met the requirements of KRS~~  
 18 ~~161.235(6)(b) shall be eligible for service retirement only].~~

19 (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this  
 20 section shall not apply to disability retirees whose benefits were calculated on the  
 21 service retirement formula nor to survivors of these members.

22 (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty  
 23 percent (60%) of the member's final average salary, for each four (4) years of  
 24 service in a covered position, but any member meeting the service requirement for  
 25 disability retirement shall be credited with no less than five (5) years of eligibility.

26 (4) A member retired by reason of disability shall continue to earn service credit at the  
 27 rate of one (1) year for each year retired for disability. This service shall be credited



1 to the member's account at the expiration of entitlement as defined in subsection (3)  
2 of this section, or when the member's eligibility for disability benefits is terminated  
3 upon recommendation of a medical review committee, and this service shall be used  
4 in calculating benefits as provided in subsection (5) of this section, but under no  
5 circumstances shall this service be used to provide the member with more than  
6 twenty-seven (27) years of total service credit or the level of service credit needed  
7 to meet the requirements of KRS 161.235(6)(b), as applicable. The service credit  
8 shall be valued at the same level as service earned by active members as provided  
9 under KRS 161.235, 161.600, or 161.620, as applicable. Members participating in  
10 the hybrid cash balance plan as provided by KRS 161.235 shall also be credited  
11 with employer credits and interest credits for each year of service earned under the  
12 provisions of this subsection based upon the salary in which the last employer credit  
13 was paid. Payments during the entitlement period as specified by subsection (3) of  
14 this section shall not reduce the accumulated account balance of a member  
15 participating in the hybrid cash balance plan.

16 (5) Any member retired by reason of disability and remaining disabled at the expiration  
17 of the entitlement period shall have his disability benefits recalculated using the  
18 service retirement formula with service credit and any additional accumulated  
19 account balance earned as set out in subsection (4) of this section. For persons who  
20 became members prior to January 1, 2019, the retirement allowance shall be  
21 calculated as set forth in KRS 161.620, except that those persons less than sixty  
22 (60) years of age shall be considered as sixty (60) years of age. For persons who  
23 become members on or after January 1, 2019, the retirement allowance or benefit  
24 shall be calculated as set forth in KRS 161.235, except that those persons less than  
25 age sixty-five (65) shall be considered as sixty-five (65) years of age. Members  
26 having their disability benefits recalculated under this subsection shall not be  
27 entitled to a benefit based upon an average of their three (3) highest salaries as set

- 1        forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- 2        (6) Members who have their disability retirement allowance recalculated at the  
3        expiration of the entitlement period shall continue to have coverage under the post-  
4        retirement medical insurance program. Restrictions on employment shall remain in  
5        effect until the member attains age seventy (70) or until the member's eligibility is  
6        discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability  
7        retirees whose retirement allowances have been recalculated at the expiration of the  
8        entitlement period. Members who have their disability retirement allowance  
9        recalculated at the expiration of their entitlement period shall be entitled to a  
10       minimum monthly allowance of five hundred dollars (\$500) as the basic straight life  
11       annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to  
12       those members who have had their allowance recalculated prior to that date and to  
13       disability retirees who will have their benefit allowance recalculated on or after that  
14       date. *For individuals who become members on or after July 1, 2020, disability*  
15       *retirement payments and any other recurring payments payable by any state-*  
16       *administered retirement system shall be applied to reduce, on a dollar-for-dollar*  
17       *basis, the minimum monthly disability retirement allowance payable under this*  
18       *subsection.*
- 19       (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be  
20       entitled to a minimum monthly allowance of five hundred dollars (\$500) as their  
21       basic straight life annuity and their surviving spouse shall be eligible for survivor  
22       benefits as provided in KRS 161.520(1)(a) and (b).
- 23       (8) Any member retired by reason of disability may voluntarily waive disability benefits  
24       and return to teaching or any individual who became a member prior to January 1,  
25       2019, who is age sixty (60) years or older, may elect to waive disability benefits and  
26       retire for service on the basis of service credited to the member on the effective date  
27       of the disability retirement, or any individual who becomes a member on or after

1 January 1, 2019, who is sixty-five (65) years of age or older, may elect to waive  
2 disability benefits and retire for service on the basis of his or her accumulated  
3 account balance and service credited to the member on the effective date of  
4 disability retirement.

5 (9) In order to qualify for retirement by reason of disability a member must suffer from  
6 a physical or mental condition presumed to be permanent in duration and of a nature  
7 as to render the member incapable of being gainfully employed in a covered  
8 position. The incapability must be revealed by a competent examination by a  
9 licensed physician or physicians and must be approved by a majority of a medical  
10 review committee.

11 (10) A member retired by reason of disability shall be required to undergo periodic  
12 examinations at the discretion of the board of trustees to determine whether the  
13 disability allowance shall be continued. When examination and recommendation of  
14 a medical review committee indicate the disability no longer exists, the allowance  
15 shall be discontinued.

16 (11) Eligibility for payment shall begin on the first day of the month following receipt of  
17 the application in the Teachers' Retirement System office, or the first of the month  
18 next following the last payment of salary or sick leave benefits by the employer,  
19 whichever is the later date.

20 (12) No person who receives a disability allowance may be employed in a position that  
21 entails duties or qualification requirements similar to positions subject to  
22 participation in the retirement system either within or without the State of  
23 Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the  
24 allowance from the first date of this service. **For purposes of this subsection and**  
25 **subsection (13) of this section, "employment" and "occupation," and derivatives**  
26 **thereof, mean any activity engaged in by the member receiving disability**  
27 **allowance from which income is earned.** A member who applies for and is

1 approved for disability retirement on or after July 1, 2002, and whose annual  
2 disability benefit is less than forty thousand dollars (\$40,000) may earn income in  
3 any occupation other than covered employment only to the extent that the annual  
4 income from the other employment when added to the annual disability benefit does  
5 not exceed forty thousand dollars (\$40,000). For any member who exceeds this  
6 limit as a result of income from other employment, the ~~[Kentucky]~~ Teachers'  
7 Retirement System shall reduce the member's disability benefit on a dollar-for-  
8 dollar basis for each dollar that the member's combined annual disability benefit and  
9 annual income from other employment exceeds forty thousand dollars (\$40,000).  
10 The board of trustees may annually increase the forty thousand dollar (\$40,000)  
11 limit by the percentage increase in the annual average of the consumer price index  
12 for all urban consumers for the most recent calendar year as published by the  
13 Federal Bureau of Labor Statistics, not to exceed five percent (5%). **The retirement**  
14 **system may require income verification from the member, including but not**  
15 **limited to copies of tax returns and federal forms W-2 and W-4P.**

16 (13) All members who applied for disability retirement before July 1, 2002, and were  
17 approved as a result of that application shall be subject to the income limitations as  
18 they existed on June 30, 2002, until July 1, 2006. Effective July 1, 2006, the twenty-  
19 seven thousand dollar (\$27,000) limitation shall be increased to forty thousand  
20 dollars (\$40,000) and may be adjusted by the board of trustees by the consumer  
21 price index in the manner described in subsection (12) of this section. The recipient  
22 of a disability allowance who engages in any gainful occupation other than covered  
23 employment must make a report of the duties involved, compensation received, and  
24 any other pertinent information required by the board of trustees. **The retirement**  
25 **system may require income verification from the member, including but not**  
26 **limited to copies of tax returns and federal forms W-2 and W-4P.**

27 (14) The board of trustees shall designate medical review committees, each consisting of

1 three (3) licensed physicians. A medical review committee shall pass upon all  
2 applications for disability retirement and upon all applicant statements, medical  
3 certifications, and examinations submitted in connection with disability  
4 applications. The disposition of each case shall be recommended by a medical  
5 review committee in writing to the retirement system. Members of a medical review  
6 committee shall follow administrative regulations regarding procedures as the board  
7 of trustees may enact and shall be paid reasonable fees and expenses as authorized  
8 by the board of trustees in compliance with the provisions of KRS 161.330 and  
9 161.340. The retirement system may secure additional medical examinations and  
10 information as it deems necessary. A member may appeal any final agency decision  
11 denying his or her disability retirement application pursuant to the provisions of  
12 KRS 161.250(2).

13 (15) A disability may be presumed to be permanent if the condition creating the  
14 disability may be reasonably expected to continue for one (1) year or more from the  
15 date of application for disability benefits.

16 (16) Any member who has voluntarily waived disability benefits or whose disability  
17 benefits have been discontinued on recommendation of a medical review  
18 committee, may apply for reinstatement of disability benefits. The application for  
19 reinstatement must be made to the retirement system within twelve (12) months of  
20 the date disability benefits terminated. If the termination of benefits were voluntary,  
21 the reinstatement may be made without medical examination if application is made  
22 within three (3) months of the termination date. Other applications for reinstatement  
23 will be processed in the same manner as new applications for benefits.

24 (17) No person who is receiving disability benefits under this section may be employed  
25 in a position which qualifies the person for membership in a retirement system  
26 financed wholly or in part with public funds. Employment in a position prohibited  
27 by this subsection shall result in disqualification for those disability benefits from

1 the date of employment in the prohibited position.

2 (18) Any person who is receiving benefits and becomes disqualified from receiving  
3 those benefits under this section, or becomes disqualified from receiving a portion  
4 of those benefits due to income from other than covered employment, shall  
5 immediately notify the Teachers' Retirement System of this disqualification in  
6 writing and shall return all benefits paid after the date of disqualification. Failure to  
7 comply with these provisions shall create an indebtedness of that person to the  
8 Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum  
9 shall be charged if the debt is not repaid within sixty (60) days after the date of  
10 disqualification. Failure to repay this debt creates a lien in favor of the Teachers'  
11 Retirement System upon all property of the person who improperly receives benefits  
12 and does not repay those benefits. The ~~Kentucky~~ Teachers' Retirement System  
13 may, in order to collect an outstanding debt, reduce or terminate any benefit that a  
14 member is otherwise entitled to receive.

15 ➔Section 4. Whereas the fiduciary and legal responsibilities of the Teachers'  
16 Retirement System are a matter of the utmost importance to its members and the  
17 Commonwealth, an emergency is declared to exist, and this Act takes effect upon its  
18 passage and approval by the Governor or upon its otherwise becoming a law.