

1 AN ACT relating to reemployment after retirement.

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

3 ➔Section 1. KRS 61.637 is amended to read as follows:

- 4 (1) A retired member who is receiving monthly retirement payments under any of the
5 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
6 as an employee by a participating agency prior to August 1, 1998, shall have his
7 retirement payments suspended for the duration of reemployment. Monthly
8 payments shall not be suspended for a retired member who is reemployed if he
9 anticipates that he will receive less than the maximum permissible earnings as
10 provided by the Federal Social Security Act in compensation as a result of
11 reemployment during the calendar year. The payments shall be suspended at the
12 beginning of the month in which the reemployment occurs.
- 13 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
14 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
15 except where monthly payments were not suspended as provided in subsection (1)
16 of this section or would not increase the retired member's last monthly retirement
17 allowance by at least one dollar (\$1), and the member shall be credited with
18 additional service credit.
- 19 (3) In the month following the termination of reemployment, retirement allowance
20 payments shall be reinstated under the plan under which the member was receiving
21 payments prior to reemployment.
- 22 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
23 accordance with subsection (1) of this section shall be paid retroactively to the
24 retired member, or his estate, if he does not receive more than the maximum
25 permissible earnings as provided by the Federal Social Security Act in
26 compensation from participating agencies during any calendar year of
27 reemployment.

1 (b) If the retired member is paid suspended payments retroactively in accordance
2 with this section, employee contributions deducted during his period of
3 reemployment, if any, shall be refunded to the retired employee, and no
4 service credit shall be earned for the period of reemployment.

5 (c) If the retired member is not eligible to be paid suspended payments for his
6 period of reemployment as an employee, his retirement allowance shall be
7 recomputed under the plan under which the member was receiving payments
8 prior to reemployment as follows:

- 9 1. The retired member's final compensation shall be recomputed using
10 creditable compensation for his period of reemployment; however, the
11 final compensation resulting from the recalculation shall not be less than
12 that of the member when his retirement allowance was last determined;
- 13 2. If the retired member initially retired on or subsequent to his normal
14 retirement date, his retirement allowance shall be recomputed by using
15 the formula in KRS 61.595(1);
- 16 3. If the retired member initially retired prior to his normal retirement date,
17 his retirement allowance shall be recomputed using the formula in KRS
18 61.595(2), except that the member's age used in computing benefits shall
19 be his age at the time of his initial retirement increased by the number of
20 months of service credit earned for service performed during
21 reemployment;
- 22 4. The retirement allowance payments resulting from the recomputation
23 under this subsection shall be payable in the month following the
24 termination of reemployment in lieu of payments under subparagraph 3.
25 The member shall not receive less in benefits as a result of the
26 recomputation than he was receiving prior to reemployment or would
27 receive as determined under KRS 61.691; and

1 5. Any retired member who was reemployed prior to March 26, 1974, shall
2 begin making contributions to the system in accordance with the
3 provisions of this section on the first day of the month following March
4 26, 1974.

5 (5) A retired member, or his estate, shall pay to the retirement fund the total amount of
6 payments which are not suspended in accordance with subsection (1) of this section
7 if the member received more than the maximum permissible earnings as provided
8 by the Federal Social Security Act in compensation from participating agencies
9 during any calendar year of reemployment, except the retired member or his estate
10 may repay the lesser of the total amount of payments which were not suspended or
11 fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings
12 during reemployment if under age sixty-five (65), or one dollar (\$1) for every three
13 dollars (\$3) earned if over age sixty-five (65).

14 (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a
15 retired member who has been ordered reinstated by the Personnel Board under
16 authority of KRS 18A.095.

17 (b) A retired member who has been ordered reinstated by the Personnel Board
18 under authority of KRS 18A.095 or by court order or by order of the Human
19 Rights Commission and accepts employment by an agency participating in the
20 Kentucky Employees Retirement System or County Employees Retirement
21 System shall void his retirement by reimbursing the system in the full amount
22 of his retirement allowance payments received.

23 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
24 section shall no longer apply to a retired member who is reemployed in a
25 position covered by the same retirement system from which the member
26 retired. Reemployed retired members shall be treated as new members upon
27 reemployment. Any retired member whose reemployment date preceded

1 August 1, 1998, who does not elect, within sixty (60) days of notification by
2 the retirement systems, to remain under the provisions of subsections (1) to
3 (4) of this section shall be deemed to have elected to participate under this
4 subsection.

5 (b) A retired member whose disability retirement was discontinued pursuant to
6 KRS 61.615 and who is reemployed in one (1) of the systems administered by
7 the Kentucky Retirement Systems prior to his or her normal retirement date
8 shall have his or her accounts combined upon termination for determining
9 eligibility for benefits. If the member is eligible for retirement, the member's
10 service and creditable compensation earned as a result of his or her
11 reemployment shall be used in the calculation of benefits, except that the
12 member's final compensation shall not be less than the final compensation last
13 used in determining his or her retirement allowance. The member shall not
14 change beneficiary or payment option designations. This provision shall apply
15 to members reemployed on or after August 1, 1998.

16 (8) If a retired member accepts employment or begins serving as a volunteer with an
17 employer participating in the systems administered by Kentucky Retirement
18 Systems within twelve (12) months of his or her retirement date, the retired member
19 shall notify the retirement system and the participating employer shall submit the
20 information required or requested by the systems to confirm the individual's
21 employment or volunteer status. The retired member shall not be required to notify
22 the retirement systems regarding any employment or volunteer service with a
23 participating agency that is accepted after twelve (12) months following his or her
24 retirement date.

25 (9) If the retired member is under a contract to provide services as an independent
26 contractor or leased employee to an employer participating in the systems
27 administered by Kentucky Retirement Systems within twelve (12) months of his or

1 her retirement date, the member shall submit a copy of that contract to the
2 retirement system, and the retirement system shall determine if the member is an
3 independent contractor or leased employee for purposes of retirement benefits. The
4 retired member and the participating employer shall submit the information required
5 or requested by the systems to confirm the individual's status as an independent
6 contractor or leased employee. The retired member shall not be required to notify
7 the retirement systems regarding any services entered into as an independent
8 contractor or leased employee with a participating agency that the employee enters
9 into after twelve (12) months following his or her retirement date.

10 (10) If a member is receiving a retirement allowance, or has filed the forms required for
11 a retirement allowance, and is employed within one (1) month of the member's
12 initial retirement date in a position that is required to participate in the same
13 retirement system from which the member retired, the member's retirement shall be
14 voided and the member shall repay to the retirement system all benefits received.
15 The member shall contribute to the member account established for him prior to his
16 voided retirement. The retirement allowance for which the member shall be eligible
17 upon retirement shall be determined by total service and creditable compensation.

18 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
19 department which participates in more than one (1) retirement system and is
20 reemployed within one (1) month of his initial retirement date by the same
21 department in a position participating in another retirement system, the retired
22 member's retirement allowance shall be suspended for the first month of his
23 retirement and the member shall repay to the retirement system all benefits
24 received for the month.

25 (b) A retired member of the County Employees Retirement System who after
26 initial retirement is hired by the county from which the member retired shall
27 be considered to have been hired by the same employer.

- 1 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
2 nonhazardous member who retired prior to age sixty-five (65), is reemployed
3 within six (6) months of the member's termination by the same employer, the
4 member shall obtain from his previous and current employers a copy of the
5 job description established by the employers for the position and a statement
6 of the duties performed by the member for the position from which he retired
7 and for the position in which he has been reemployed.
- 8 (b) The job descriptions and statements of duties shall be filed with the retirement
9 office.
- 10 (13) If the retirement system determines that the retired member has been employed in a
11 position with the same principal duties as the position from which the member
12 retired:
- 13 (a) The member's retirement allowance shall be suspended during the period that
14 begins on the month in which the member is reemployed and ends six (6)
15 months after the member's termination;
- 16 (b) The retired member shall repay to the retirement system all benefits paid from
17 systems administered by Kentucky Retirement Systems under reciprocity,
18 including medical insurance benefits, that the member received after
19 reemployment began;
- 20 (c) Upon termination, or subsequent to expiration of the six (6) month period
21 from the date of termination, the retired member's retirement allowance based
22 on his initial retirement account shall no longer be suspended and the member
23 shall receive the amount to which he is entitled, including an increase as
24 provided by KRS 61.691;
- 25 (d) Except as provided in subsection (7) of this section, if the position in which a
26 retired member is employed after initial retirement is a regular full-time
27 position, the retired member shall contribute to a second member account

1 established for him in the retirement system. Service credit gained after the
2 member's date of reemployment shall be credited to the second member
3 account; and

4 (e) Upon termination, the retired member shall be entitled to benefits payable
5 from his second retirement account.

6 (14) (a) If the retirement system determines that the retired member has not been
7 reemployed in a position with the same principal duties as the position from
8 which he retired, the retired member shall continue to receive his retirement
9 allowance.

10 (b) If the position is a regular full-time position, the member shall contribute to a
11 second member account in the retirement system.

12 (15) (a) If a retired member is reemployed at least one (1) month after initial
13 retirement in a different position, or at least six (6) months after initial
14 retirement in the same position, and prior to normal retirement age, the retired
15 member shall contribute to a second member account in the retirement system
16 and continue to receive a retirement allowance from the first member account.

17 (b) Service credit gained after reemployment shall be credited to the second
18 member account. Upon termination, the retired member shall be entitled to
19 benefits payable from the second member account.

20 (16) A retired member who is reemployed and contributing to a second member account
21 shall not be eligible to purchase service credit under any of the provisions of KRS
22 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to
23 purchase prior to his initial retirement.

24 (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this
25 section, the following shall apply to retired members who are reemployed by an
26 agency participating in one (1) of the systems administered by Kentucky Retirement
27 Systems on or after September 1, 2008:

1 (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
2 receiving a retirement allowance from one (1) of the systems administered by
3 Kentucky Retirement Systems, or has filed the forms required to receive a
4 retirement allowance from one (1) of the systems administered by Kentucky
5 Retirement Systems, and is employed in a regular full-time position required
6 to participate in one (1) of the systems administered by Kentucky Retirement
7 Systems or is employed in a position that is not considered regular full-time
8 with an agency participating in one (1) of the systems administered by
9 Kentucky Retirement Systems within three (3) months following the member's
10 initial retirement date, the member's retirement shall be voided, and the
11 member shall repay to the retirement system all benefits received, including
12 any health insurance benefits. If the member is returning to work in a regular
13 full-time position required to participate in one (1) of the systems
14 administered by Kentucky Retirement Systems:

15 1. The member shall contribute to a member account established for him or
16 her in one (1) of the systems administered by Kentucky Retirement
17 Systems, and employer contributions shall be paid on behalf of the
18 member by the participating employer; and

19 2. Upon subsequent retirement, the member shall be eligible for a
20 retirement allowance based upon total service and creditable
21 compensation, including any additional service or creditable
22 compensation earned after his or her initial retirement was voided;

23 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
24 receiving a retirement allowance from one (1) of the systems administered by
25 Kentucky Retirement Systems and is employed in a regular full-time position
26 required to participate in one (1) of the systems administered by Kentucky
27 Retirement Systems after a three (3) month period following the member's

1 initial retirement date, the member may continue to receive his or her
2 retirement allowance during the period of reemployment subject to the
3 following provisions:

- 4 1. If a member is reemployed by a participating agency within twelve (12)
5 months of the member's retirement date, the participating agency shall
6 certify in writing on a form prescribed by the board that no prearranged
7 agreement existed between the employee and agency prior to the
8 employee's retirement for the employee to return to work with the
9 participating agency. If an elected official is reelected to a new term of
10 office in the same position and has retired from the elected office within
11 twelve (12) months prior to taking the new term of office, he or she shall
12 be deemed by the system as having a prearranged agreement under the
13 provisions of this subparagraph and shall have his or her retirement
14 voided. If the participating agency fails to complete the certification, the
15 member's retirement shall be voided and the provisions of paragraph (a)
16 of this subsection shall apply to the member and the employer.
17 Employment that is accepted by the retired member after twelve (12)
18 months following the member's retirement date shall not constitute a
19 prearranged agreement under this paragraph;
- 20 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
21 the contrary, the member shall not contribute to the systems and shall
22 not earn any additional benefits for any work performed during the
23 period of reemployment;
- 24 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
25 except for any retiree employed as a school resource officer as defined
26 by KRS 158.441, the employer shall pay employer contributions as
27 specified by KRS 61.565 and 61.702 on all creditable compensation

- 1 earned by the employee during the period of reemployment. The
2 additional contributions paid shall be used to reduce the unfunded
3 actuarial liability of the systems; and
- 4 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
5 except for any retiree employed as a school resource officer as defined
6 by KRS 158.441, the employer shall be required to reimburse the
7 systems for the cost of the health insurance premium paid by the systems
8 to provide coverage for the retiree, not to exceed the cost of the single
9 premium. ~~[Effective July 1, 2015,]~~Local school boards shall not be
10 required to pay the reimbursement required by this subparagraph for
11 retirees employed by the board~~[for eighty (80) days or less during the~~
12 ~~fiscal year]~~;
- 13 (c) If a member is receiving a retirement allowance from the State Police
14 Retirement System or from hazardous duty retirement coverage with the
15 Kentucky Employees Retirement System or the County Employees Retirement
16 System, or has filed the forms required to receive a retirement allowance from
17 the State Police Retirement System or from hazardous duty retirement
18 coverage with the Kentucky Employees Retirement System or the County
19 Employees Retirement System, and is employed in a regular full-time position
20 required to participate in the State Police Retirement System or in a hazardous
21 duty position with the Kentucky Employees Retirement System or the County
22 Employees Retirement System within one (1) month following the member's
23 initial retirement date, the member's retirement shall be voided, and the
24 member shall repay to the retirement system all benefits received, including
25 any health insurance benefits. If the member is returning to work in a regular
26 full-time position required to participate in one (1) of the systems
27 administered by Kentucky Retirement Systems:

- 1 1. The member shall contribute to a member account established for him or
2 her in one (1) of the systems administered by Kentucky Retirement
3 Systems, and employer contributions shall be paid on behalf of the
4 member by the participating employer; and
 - 5 2. Upon subsequent retirement, the member shall be eligible for a
6 retirement allowance based upon total service and creditable
7 compensation, including any additional service or creditable
8 compensation earned after his or her initial retirement was voided;
- 9 (d) If a member is receiving a retirement allowance from the State Police
10 Retirement System or from hazardous duty retirement coverage with the
11 Kentucky Employees Retirement System or the County Employees Retirement
12 System and is employed in a regular full-time position required to participate
13 in the State Police Retirement System or in a hazardous duty position with the
14 Kentucky Employees Retirement System or the County Employees Retirement
15 System after a one (1) month period following the member's initial retirement
16 date, the member may continue to receive his or her retirement allowance
17 during the period of reemployment subject to the following provisions:
- 18 1. If a member is reemployed by a participating agency within twelve (12)
19 months of the member's retirement date, the participating agency shall
20 certify in writing on a form prescribed by the board that no prearranged
21 agreement existed between the employee and agency prior to the
22 employee's retirement for the employee to return to work with the
23 participating agency. If an elected official is reelected to a new term of
24 office in the same position and has retired from the elected office within
25 twelve (12) months prior to taking the new term of office, he or she shall
26 be deemed by the system as having a prearranged agreement under the
27 provisions of this subparagraph and shall have his or her retirement

- 1 voided. If the participating agency fails to complete the certification, the
2 member's retirement shall be voided and the provisions of paragraph (c)
3 of this subsection shall apply to the member and the employer.
4 Employment that is accepted by the retired member after twelve (12)
5 months following the member's retirement date shall not constitute a
6 prearranged agreement under this paragraph;
- 7 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
8 the contrary, the member shall not contribute to the systems and shall
9 not earn any additional benefits for any work performed during the
10 period of reemployment;
- 11 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
12 except for any retiree employed as a school resource officer as defined
13 by KRS 158.441, the employer shall pay employer contributions as
14 specified by KRS 61.565 and 61.702 on all creditable compensation
15 earned by the employee during the period of reemployment. The
16 additional contributions paid shall be used to reduce the unfunded
17 actuarial liability of the systems;
- 18 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
19 except for any retiree employed as a school resource officer as defined
20 by KRS 158.441, the employer shall be required to reimburse the
21 systems for the cost of the health insurance premium paid by the systems
22 to provide coverage for the retiree, not to exceed the cost of the single
23 premium;
- 24 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
25 who qualifies as a volunteer for an employer participating in one (1) of the
26 systems administered by Kentucky Retirement Systems and who is receiving
27 reimbursement of actual expenses, a nominal fee for his or her volunteer

1 services, or both, shall not be considered an employee of the participating
2 employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

- 3 1. Prior to the retired member's most recent retirement date, he or she did
4 not receive creditable compensation from the participating employer in
5 which the retired member is performing volunteer services;
- 6 2. Any reimbursement or nominal fee received prior to the retired
7 member's most recent retirement date has not been credited as creditable
8 compensation to the member's account or utilized in the calculation of
9 the retired member's benefits;
- 10 3. The retired member has not purchased or received service credit under
11 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
12 service with the participating employer for which the retired member is
13 performing volunteer services; and
- 14 4. Other than the status of volunteer, the retired member does not become
15 an employee, leased employee, or independent contractor of the
16 employer for which he or she is performing volunteer services for a
17 period of at least twenty-four (24) months following the retired
18 member's most recent retirement date.

19 If a retired member, who provided volunteer services with a participating
20 employer under this paragraph violates any provision of this paragraph, then
21 he or she shall be deemed an employee of the participating employer as of the
22 date he or she began providing volunteer services and both the retired member
23 and the participating employer shall be subject to paragraphs (a) to (d) of this
24 subsection for the period of volunteer service;

- 25 (f) Notwithstanding any provision of this section, any mayor or member of a city
26 legislative body who has not participated in the County Employees Retirement
27 System prior to retirement, but who is otherwise eligible to retire from the

1 Kentucky Employees Retirement System or the State Police Retirement
2 System, shall not be:

3 1. Required to resign from his or her position as mayor or as a member of
4 the city legislative body in order to begin drawing benefits from the
5 Kentucky Employees Retirement System or the State Police Retirement
6 System; or

7 2. Subject to any provision of this section as it relates solely to his or her
8 service as a mayor or member of the city legislative body;

9 (g) If a member is receiving a retirement allowance from any of the retirement
10 systems administered by the Kentucky Retirement Systems and enters into a
11 contract or becomes a leased employee of an employer under contract with an
12 employer participating in one (1) of the systems administered by the Kentucky
13 Retirement Systems:

14 1. At any time following retirement, if the system determines the
15 employment arrangement does qualify as an independent contractor or
16 leased employee, the member may continue to receive his or her
17 retirement allowance during the period of the contract;

18 2. Within three (3) months following the member's initial retirement date,
19 if the system determines the employment arrangement does not qualify
20 as an independent contractor or leased employee, the member's
21 retirement shall be voided in accordance with paragraph (a) of this
22 subsection;

23 3. After three (3) months but within twelve (12) months following the
24 member's initial retirement, if the system determines the employment
25 arrangement does not qualify as an independent contractor or leased
26 employee and that a prearranged agreement existed between the member
27 and the agency for the member to return to work with the agency, the

1 member's retirement shall be voided in accordance with paragraph (a) of
2 this subsection; and

3 4. After a twelve (12) month period following the member's initial
4 retirement, the member may continue to receive his or her retirement
5 allowance during the period of the contract and the member shall not be
6 required to notify the system or submit any documentation for purposes
7 of this section to the system.

8 The initiation of a contract or the initial date of the leased employment of a
9 retired member by a participating agency that occurs after twelve (12) months
10 or more following the retired member's retirement date shall not constitute a
11 prearranged agreement under this subsection; and

12 (h) The Kentucky Retirement Systems shall issue a final determination regarding
13 a certification of the absence of a prearranged agreement or the retired
14 member's qualification as an independent contractor or leased employee as
15 required under this section no later than thirty (30) days after the retired
16 member and participating employer provide all required forms and additional
17 information required by the Kentucky Retirement Systems.

18 (18) The Kentucky Retirement Systems shall promulgate administrative regulations to
19 implement the requirements of this section, including incorporating by reference
20 board-prescribed forms that a retired member and participating agency shall provide
21 the systems under subsections (8), (9), and (17) of this section.