

1 AN ACT relating to the Kentucky Employees Retirement System's employers,  
2 declaring an emergency, and making an appropriation therefor.

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

4 ➔Section 1. KRS 61.565 (Effective April 1, 2021) is amended to read as follows:

5 (1) (a) Each employer participating in the State Police Retirement System as  
6 provided for in KRS 16.505 to 16.652 and the Kentucky Employees  
7 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute  
8 annually to the respective retirement system an amount determined by the  
9 actuarial valuation completed in accordance with KRS 61.670 and as specified  
10 by this section. Employer contributions for each respective retirement system  
11 shall be equal to the sum of the "normal cost contribution" and the "actuarially  
12 accrued liability contribution."

13 (b) For purposes of this section, the normal cost contribution shall be computed as  
14 a percentage of pay and shall be an annual amount that is sufficient when  
15 combined with employee contributions to fund benefits earned during the year  
16 in the respective system. The amount shall be:

- 17 1. Paid as a percentage of creditable compensation reported for each  
18 employee participating in the system and accruing benefits; and
- 19 2. The same percentage of pay for all employees who are participating in  
20 the same retirement system, except that separate percentage rates shall  
21 be developed in each system for those employers whose employees are  
22 participating in hazardous duty retirement coverage as provided by KRS  
23 61.592.

24 (c) For purposes of this section, the actuarially accrued liability contribution ***for***  
25 ***all employers, except for contributions paid by nonhazardous employers in***  
26 ***the Kentucky Employees Retirement System on or after July 1, 2021,*** shall  
27 be:

- 1           1.    Computed by amortizing the total unfunded actuarially accrued liability  
2                   of each system over a closed period of thirty (30) years beginning with  
3                   the 2019 actuarial valuation using the level percentage of payroll  
4                   amortization method, except that any increase or decrease in the  
5                   unfunded actuarially accrued liability occurring after the completion of  
6                   the 2019 actuarial valuation shall be amortized over a closed period of  
7                   twenty (20) years beginning with the actuarial valuation in which the  
8                   increase or decrease in the unfunded actuarially accrued liability is  
9                   recognized. An increase or decrease in the unfunded actuarially accrued  
10                  liability may result from, but not be limited to, legislative changes to  
11                  benefits, changes in actuarial methods or assumptions, or actuarial gains  
12                  or losses;
- 13           2.    Paid as a percentage of payroll on the creditable compensation reported  
14                   for each employee participating in the system and accruing benefits; and
- 15           3.    The same percentage of pay for all employees who are participating in  
16                   the same retirement system, except that separate percentage rates shall  
17                   be developed in each system for those employers whose employees are  
18                   participating in hazardous duty retirement coverage as provided by KRS  
19                   61.592.

20           (d) 1. For purposes of this section, the actuarially accrued liability  
21                   contribution for nonhazardous employers in the Kentucky Employees  
22                   Retirement System on or after July 1, 2021:

- 23                   a. Shall be an annual dollar amount that is sufficient to amortize  
24                   the total unfunded actuarially accrued liability of the system over  
25                   a closed period of thirty (30) years beginning with the 2019  
26                   actuarial valuation using the level percentage of payroll  
27                   amortization method, except that any increase or decrease in the

1 unfunded actuarially accrued liability occurring after the  
2 completion of the 2019 actuarial valuation shall be amortized  
3 over a closed period of twenty (20) years beginning with the  
4 actuarial valuation in which the increase or decrease in the  
5 unfunded actuarially accrued liability is recognized. An increase  
6 or decrease in the unfunded actuarially accrued liability may  
7 result from, but not be limited to, legislative changes to benefits,  
8 changes in actuarial methods or assumptions, or actuarial gains  
9 or losses;

10 b. Shall be prorated to each individual nonhazardous employer in  
11 the Kentucky Employees Retirement System by multiplying the  
12 annual dollar amount of the actuarially accrued liability  
13 contribution for the system as determined by subdivision a. of  
14 this subparagraph by the individual employer's percentage of the  
15 system's total actuarially accrued liability as of the June 30,  
16 2019 actuarial valuation which shall be determined solely by the  
17 system's consulting actuary and assigned to each employer based  
18 upon the last participating employer of the member or retiree as  
19 of June 30, 2019. The individual employer's percentage of the  
20 system's total actuarially accrued liability as of the June 30,  
21 2019, actuarial valuation shall be used to determine the  
22 individual employer's prorated dollar amount of the system's  
23 actuarially accrued liability contribution in all future fiscal years  
24 of the amortization period or periods, except that the employer's  
25 percentage shall be adjusted to reflect any employer who  
26 voluntarily or involuntarily ceases participation as provided by  
27 KRS 61.522 and except as provided by subparagraphs 4. and 5.

1 of this paragraph. For purposes of this subdivision, all executive  
2 branch departments, program cabinets and their respective  
3 departments, and administrative bodies enumerated in KRS  
4 12.020, and any other executive branch agencies  
5 administratively attached to a department, program cabinet, or  
6 administrative body enumerated in KRS 12.020 shall be  
7 considered a single individual employer and only one (1) value  
8 shall be computed for these executive branch employers. For  
9 purposes of this subdivision, all employers of the legislative  
10 branch, including the Legislative Research Commission and the  
11 General Assembly that covers legislators and staff who  
12 participate in the Kentucky Employees Retirement System, shall  
13 be considered a single individual employer and only one (1)  
14 value shall be computed for these employers. For purposes of  
15 this subdivision, all employers of the judicial branch, including  
16 the Administrative Office of the Courts, the Judicial Form  
17 Retirement System, and all master commissioners, shall be  
18 considered a single individual employer and only one (1) value  
19 shall be computed for these employers;

20 c. Shall be payable by an individual employer in equal monthly  
21 dollar installments during the fiscal year in accordance with the  
22 reporting requirements specified by KRS 61.675 so that the  
23 individual employer pays its full prorated dollar amount of the  
24 actuarially accrued liability contribution as determined by  
25 subdivision b. of this subparagraph; and

26 d. Notwithstanding subdivision b. of this subparagraph for those  
27 individual participating employers who are local and district

1 health departments governed by KRS Chapter 212, community  
2 mental health centers, and employers whose employees are not  
3 subject to KRS 18A.005 to 18A.200, who received or were eligible  
4 to receive a distribution of general fund appropriations in the  
5 2018-2020 biennial executive branch budget to assist in paying  
6 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);  
7 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch.  
8 169, Part I, G., 9., (2), shall not, once the initial dollar amounts  
9 are established in accordance with this paragraph, be adjusted in  
10 terms of dollars paid by the individual employer, except that  
11 adjustments shall be made by the system upon completion of an  
12 actuarial investigation as provided by KRS 61.670, so long as at  
13 least four (4) years have passed since the last adjustment to the  
14 actuarially accrued liability contribution for these employers.  
15 The provisions of this subdivision shall not be interpreted to  
16 mean that employers described by this subdivision may continue  
17 paying the dollar value of contributions or employer contribution  
18 rates established or paid by the employer in budget periods  
19 occurring prior to July 1, 2021.

20 2. Individual employers, solely for purposes of collecting employer  
21 contributions from various fund sources during the fiscal year, may  
22 convert the actuarially accrued liability contribution established by  
23 this paragraph to a percentage of pay and may adjust the percent of  
24 pay during the fiscal year in order to pay the required dollar value of  
25 actuarially accrued liability contribution required by this paragraph.  
26 No provision of this subparagraph shall be construed to reduce an  
27 individual employer's actuarially accrued liability contribution as

- 1                    otherwise provided by this paragraph.
- 2                    3. The provisions of this paragraph shall not apply to those employers
- 3                    who cease participation as provided by KRS 61.522.
- 4                    4. In the event an individual Kentucky Employees Retirement System
- 5                    nonhazardous employer who is required to pay an actuarially accrued
- 6                    liability contribution as provided by this paragraph and as calculated
- 7                    from the 2019 actuarial valuation or subsequent valuations, merges
- 8                    with another employer or entity, forms a new or separate employer or
- 9                    entity, or splits or separates operations into multiple employers or
- 10                   entities, the system shall, except for those employers or entities who
- 11                   pay the costs to cease participation as provided by KRS 61.522, have
- 12                   full authority to assign a portion or all of the total actuarially accrued
- 13                   liability contribution to the merged, new, split, or separate employers
- 14                   or entities, regardless of whether or not the merged, new, split, or
- 15                   separate employers or entities participate in the system. In the case of
- 16                   a district health department established pursuant to KRS Chapter 212,
- 17                   which ceases to operate or which has a county or counties that
- 18                   withdraw from the district health department, the systems shall assign
- 19                   the total actuarially accrued liability contribution based upon the
- 20                   proportion of taxable property of each county as certified by the
- 21                   Department for Public Health in the Cabinet for Health and Family
- 22                   Services in accordance with Section 6 of this Act. The system shall
- 23                   establish by administrative regulations the process of assigning
- 24                   actuarially accrued liability contributions as authorized by this
- 25                   subparagraph.
- 26                   5. a. An employer who is not in the executive, legislative, or judicial
- 27                   branch of Kentucky state government as enumerated in

1 subparagraph b. of this paragraph may on or before July 1,  
2 2021, appeal to the board regarding any current or former  
3 employees or retirees the employer believes should not be used to  
4 determine the employer's percentage of the system's total  
5 actuarially accrued liability. The only appeals that shall be  
6 submitted by the employer or considered by the board shall be  
7 potential errors where the last participating employer is in  
8 dispute or situations where employees of university employers  
9 were hired through a contract between the executive branch and  
10 the university for the employee to provide services to the  
11 executive branch. The employer shall submit the information  
12 required by the board to verify potential errors or contract  
13 employees with universities.

14 b. The board shall review and issue a final determination regarding  
15 any appeals by December 31, 2021. In situations where the board  
16 determines the last participating employer was incorrect and  
17 should be assigned to another employer, the system shall assign  
18 the cost to the executive branch until such time ownership of the  
19 liability can be determined. In situations where the board  
20 determines certain employees of university employers were hired  
21 through a contract between the executive branch and the  
22 university for an employee or employees to provide services to the  
23 executive branch, those liabilities shall be assigned to the  
24 executive branch.

25 c. No appeal shall be submitted by the employer or considered by  
26 the board regarding the assumptions or methodology used by the  
27 actuary to determine a particular employer's percentage of the

1 system's total actuarially accrued liability or the use of the last  
2 participating employer to assign liabilities to an employer.

3 (e) The employer contributions computed under this section shall be determined  
4 using:

- 5 1. The entry age normal cost funding method;
- 6 2. An asset smoothing method that smooths investment gains and losses  
7 over a five (5) year period; and
- 8 3. Other funding methods and assumptions established by the board in  
9 accordance with KRS 61.670.

10 (2) (a) Except as limited by subsection (1)(d)1.d. of this section as it relates to the  
11 Kentucky Employees Retirement System, normal cost contribution rates and  
12 the actuarially accrued liability contribution shall be determined by the board  
13 on the basis of the annual actuarial valuation last preceding the July 1 of a new  
14 biennium.

15 (b) The board may amend contribution rates as of July 1 of the second year of a  
16 biennium for the County Employees Retirement System, if it is determined on  
17 the basis of a subsequent actuarial valuation that amended contribution rates  
18 are necessary to satisfy the requirements of this section.

19 (c) The board shall not have the authority to amend contribution rates as of July 1  
20 of the second year of the biennium for the Kentucky Employees Retirement  
21 System and the State Police Retirement System.

22 (3) The system shall advise each employer prior to July 1 of any change in the employer  
23 contribution rate. Based on the employer contribution rate, each employer shall  
24 include in the budget sufficient funds to pay the employer contributions as  
25 determined by the board under this section.

26 (4) All employers, including the General Assembly, shall pay the full actuarially  
27 required contributions, as prescribed by this section, to the Kentucky Employees

1 Retirement System and the State Police Retirement System in fiscal years occurring  
2 on or after July 1, 2020.

3 ➔Section 2. KRS 61.510 (Effective April 1, 2021) is amended to read as follows:

4 As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- 5 (1) "System" means the Kentucky Employees Retirement System created by KRS  
6 61.510 to 61.705;
- 7 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- 8 (3) "Department" means any state department or board or agency participating in the  
9 system in accordance with appropriate executive order, as provided in KRS 61.520.  
10 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
11 General Assembly and any other body, entity, or instrumentality designated by  
12 executive order by the Governor, shall be deemed to be a department,  
13 notwithstanding whether said body, entity, or instrumentality is an integral part of  
14 state government;
- 15 (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- 16 (5) "Employee" means the members, officers, and employees of the General Assembly  
17 and every regular full-time, appointed or elective officer or employee of a  
18 participating department, including the Department of Military Affairs. The term  
19 does not include persons engaged as independent contractors, seasonal, emergency,  
20 temporary, interim, and part-time workers. In case of any doubt, the board shall  
21 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- 22 (6) "Employer" means a department or any authority of a department having the power  
23 to appoint or select an employee in the department, including the Senate and the  
24 House of Representatives, or any other entity, the employees of which are eligible  
25 for membership in the system pursuant to KRS 61.525;
- 26 (7) "State" means the Commonwealth of Kentucky;
- 27 (8) "Member" means any employee who is included in the membership of the system or

1 any former employee whose membership has not been terminated under KRS  
2 61.535;

3 (9) "Service" means the total of current service and prior service as defined in this  
4 section;

5 (10) "Current service" means the number of years and months of employment as an  
6 employee, on and after July 1, 1956, except that for members, officers, and  
7 employees of the General Assembly this date shall be January 1, 1960, for which  
8 creditable compensation is paid and employee contributions deducted, except as  
9 otherwise provided, and each member, officer, and employee of the General  
10 Assembly shall be credited with a month of current service for each month he  
11 serves in the position;

12 (11) "Prior service" means the number of years and completed months, expressed as a  
13 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
14 creditable compensation was paid; except that for members, officers, and employees  
15 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
16 credited with one (1) month of prior service only in those months he received  
17 compensation for at least one hundred (100) hours of work; provided, however, that  
18 each member, officer, and employee of the General Assembly shall be credited with  
19 a month of prior service for each month he served in the position prior to January 1,  
20 1960. Twelve (12) months of current service in the system are required to validate  
21 prior service;

22 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
23 from the compensation of a member and credited to his individual account in the  
24 members' account, including employee contributions picked up after August 1,  
25 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts  
26 and any other amounts the member shall have contributed thereto, including interest  
27 credited thereon. For members who begin participating on or after September 1,

1       2008, "accumulated contributions" shall not include employee contributions that are  
2       deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
3       funds established in KRS 16.510 and 78.520, as prescribed by KRS 61.702(2)(b);

4       (13) "Creditable compensation":

5       (a) Means all salary, wages, tips to the extent the tips are reported for income tax  
6       purposes, and fees, including payments for compensatory time, paid to the  
7       employee as a result of services performed for the employer or for time during  
8       which the member is on paid leave, which are includable on the member's  
9       federal form W-2 wage and tax statement under the heading "wages, tips,  
10       other compensation," including employee contributions picked up after  
11       August 1, 1982, pursuant to KRS 61.560(4). For members of the General  
12       Assembly, it shall mean all amounts which are includable on the member's  
13       federal form W-2 wage and tax statement under the heading "wages, tips,  
14       other compensation," including employee contributions picked up after  
15       August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

16       (b) Includes:

- 17       1. Lump-sum bonuses, severance pay, or employer-provided payments for  
18       purchase of service credit, which shall be averaged over the employee's  
19       total service with the system in which it is recorded if it is equal to or  
20       greater than one thousand dollars (\$1,000);
- 21       2. Cases where compensation includes maintenance and other perquisites,  
22       but the board shall fix the value of that part of the compensation not paid  
23       in money;
- 24       3. Lump-sum payments for creditable compensation paid as a result of an  
25       order of a court of competent jurisdiction, the Personnel Board, or the  
26       Commission on Human Rights, or for any creditable compensation paid  
27       in anticipation of settlement of an action before a court of competent

1 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
2 including notices of violations of state or federal wage and hour statutes  
3 or violations of state or federal discrimination statutes, which shall be  
4 credited to the fiscal year during which the wages were earned or should  
5 have been paid by the employer. This subparagraph shall also include  
6 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
7 which shall be credited to the period during which the wages were  
8 earned or should have been paid by the employer;

- 9 4. Amounts which are not includable in the member's gross income by  
10 virtue of the member having taken a voluntary salary reduction provided  
11 for under applicable provisions of the Internal Revenue Code; and  
12 5. Elective amounts for qualified transportation fringes paid or made  
13 available on or after January 1, 2001, for calendar years on or after  
14 January 1, 2001, that are not includable in the gross income of the  
15 employee by reason of 26 U.S.C. sec. 132(f)(4); and

16 (c) Excludes:

- 17 1. Living allowances, expense reimbursements, lump-sum payments for  
18 accrued vacation leave, and other items determined by the board;  
19 2. For employees who begin participating on or after September 1, 2008,  
20 lump-sum payments for compensatory time;  
21 3. For employees who begin participating on or after August 1, 2016,  
22 nominal fees paid for services as a volunteer; and  
23 4. Any salary or wages paid to an employee for services as a Kentucky  
24 State Police school resource officer as defined by KRS 158.441;

25 (14) "Final compensation" of a member means:

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

1 member during the five (5) fiscal years he or she was paid at the highest  
2 average monthly rate divided by the number of months of service credit during  
3 that five (5) year period multiplied by twelve (12). The five (5) years may be  
4 fractional and need not be consecutive. If the number of months of service  
5 credit during the five (5) year period is less than forty-eight (48), one (1) or  
6 more additional fiscal years shall be used;

7 (b) For a member who is employed in a nonhazardous position, whose effective  
8 retirement date is between August 1, 2001, and January 1, 2009, and whose  
9 total service credit is at least twenty-seven (27) years and whose age and years  
10 of service total at least seventy-five (75), final compensation means the  
11 creditable compensation of the member during the three (3) fiscal years the  
12 member was paid at the highest average monthly rate divided by the number  
13 of months of service credit during that three (3) years period multiplied by  
14 twelve (12). The three (3) years may be fractional and need not be  
15 consecutive. If the number of months of service credit during the three (3)  
16 year period is less than twenty-four (24), one (1) or more additional fiscal  
17 years shall be used. Notwithstanding the provision of KRS 61.565, the  
18 funding for this paragraph shall be provided from existing funds of the  
19 retirement allowance;

20 (c) For a member who begins participating before September 1, 2008, who is  
21 employed in a hazardous position, as provided in KRS 61.592, the creditable  
22 compensation of the member during the three (3) fiscal years he or she was  
23 paid at the highest average monthly rate divided by the number of months of  
24 service credit during that three (3) year period multiplied by twelve (12). The  
25 three (3) years may be fractional and need not be consecutive. If the number of  
26 months of service credit during the three (3) year period is less than twenty-  
27 four (24), one (1) or more additional fiscal years shall be used;

1 (d) For a member who begins participating on or after September 1, 2008, but  
2 prior to January 1, 2014, who is employed in a nonhazardous position, the  
3 creditable compensation of the member during the five (5) complete fiscal  
4 years immediately preceding retirement divided by five (5). Each fiscal year  
5 used to determine final compensation must contain twelve (12) months of  
6 service credit. If the member does not have five (5) complete fiscal years that  
7 each contain twelve (12) months of service credit, then one (1) or more  
8 additional fiscal years, which may contain less than twelve (12) months of  
9 service credit, shall be added until the number of months in the final  
10 compensation calculation is at least sixty (60) months; or

11 (e) For a member who begins participating on or after September 1, 2008, but  
12 prior to January 1, 2014, who is employed in a hazardous position as provided  
13 in KRS 61.592, the creditable compensation of the member during the three  
14 (3) complete fiscal years he or she was paid at the highest average monthly  
15 rate divided by three (3). Each fiscal year used to determine final  
16 compensation must contain twelve (12) months of service credit. If the  
17 member does not have three (3) complete fiscal years that each contain twelve  
18 (12) months of service credit, then one (1) or more additional fiscal years,  
19 which may contain less than twelve (12) months of service credit, shall be  
20 added until the number of months in the final compensation calculation is at  
21 least thirty-six (36) months;

22 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
23 calculated during the twelve (12) month period immediately preceding the  
24 member's effective retirement date, including employee contributions picked up  
25 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the  
26 system by the employer and the following equivalents shall be used to convert the  
27 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour

- 1 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour  
2 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,  
3 one (1) year;
- 4 (16) "Retirement allowance" means the retirement payments to which a member is  
5 entitled;
- 6 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
7 basis of the actuarial tables that are adopted by the board. In cases of disability  
8 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
9 (10) years to the age of the member, unless the member has chosen the Social  
10 Security adjustment option as provided for in KRS 61.635(8), in which case the  
11 member's actual age shall be used. For members who began participating in the  
12 system prior to January 1, 2014, no disability retirement option shall be less than the  
13 same option computed under early retirement;
- 14 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
15 otherwise provided in KRS 61.510 to 61.705;
- 16 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
17 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
18 limitation year used to determine contribution and benefit limits as established by  
19 26 U.S.C. sec. 415;
- 20 (20) "Officers and employees of the General Assembly" means the occupants of those  
21 positions enumerated in KRS 6.150. The term shall also apply to assistants who  
22 were employed by the General Assembly for at least one (1) regular legislative  
23 session prior to July 13, 2004, who elect to participate in the retirement system, and  
24 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
25 13, 2004, shall be designated as interim employees;
- 26 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
27 all positions that average one hundred (100) or more hours per month determined by

1 using the number of months actually worked within a calendar or fiscal year,  
2 including all positions except:

3 (a) Seasonal positions, which although temporary in duration, are positions which  
4 coincide in duration with a particular season or seasons of the year and which  
5 may recur regularly from year to year, the period of time shall not exceed nine  
6 (9) months;

7 (b) Emergency positions which are positions which do not exceed thirty (30)  
8 working days and are nonrenewable;

9 (c) Temporary positions which are positions of employment with a participating  
10 department for a period of time not to exceed nine (9) months and are  
11 nonrenewable;

12 (d) Part-time positions which are positions which may be permanent in duration,  
13 but which require less than a calendar or fiscal year average of one hundred  
14 (100) hours of work per month, determined by using the number of months  
15 actually worked within a calendar or fiscal year, in the performance of duty;  
16 and

17 (e) Interim positions which are positions established for a one-time or recurring  
18 need not to exceed nine (9) months;

19 (22) "Delayed contribution payment" means an amount paid by an employee for  
20 purchase of current service. The amount shall be determined using the same formula  
21 in KRS 61.5525, and the payment shall not be picked up by the employer. A  
22 delayed contribution payment shall be deposited to the member's account and  
23 considered as accumulated contributions of the individual member. In determining  
24 payments under this subsection, the formula found in this subsection shall prevail  
25 over the one found in KRS 212.434;

26 (23) "Parted employer" means a department, portion of a department, board, or agency,  
27 such as Outwood Hospital and School, which previously participated in the system,

- 1 but due to lease or other contractual arrangement is now operated by a publicly held  
2 corporation or other similar organization, and therefore is no longer participating in  
3 the system. The term "parted employer" shall not include a department, board, or  
4 agency that ceased participation in the system pursuant to KRS 61.522;
- 5 (24) "Retired member" means any former member receiving a retirement allowance or  
6 any former member who has filed the necessary documents for retirement benefits  
7 and is no longer contributing to the retirement system;
- 8 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
9 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
10 pay. The rate shall be certified by the employer;
- 11 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
12 the member in accordance with KRS 61.542 or 61.705 to receive any available  
13 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
14 does not mean an estate, trust, or trustee;
- 15 (27) "Recipient" means the retired member or the person or persons designated as  
16 beneficiary by the member and drawing a retirement allowance as a result of the  
17 member's death or a dependent child drawing a retirement allowance. An alternate  
18 payee of a qualified domestic relations order shall not be considered a recipient,  
19 except for purposes of KRS 61.623;
- 20 (28) "Level percentage of payroll amortization method" means a method of determining  
21 the annual amortization payment on the unfunded actuarial accrued liability as  
22 expressed as a percentage of payroll over a set period of years ***but that may be***  
23 ***converted to a dollar value for purposes of subsection (1)(d) of Section 1 of this***  
24 ***Act.*** Under this method, the percentage of payroll shall be projected to remain  
25 constant for all years remaining in the set period of time and the unfunded  
26 actuarially accrued liability shall be projected to be fully amortized at the  
27 conclusion of the set period of years;

- 1 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
2 twelve (12) months need not be consecutive. The final increment may be less than  
3 twelve (12) months;
- 4 (30) "Person" means a natural person;
- 5 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building  
6 in Frankfort;
- 7 (32) "Last day of paid employment" means the last date employer and employee  
8 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
9 78.615 to the retirement office in order for the employee to receive current service  
10 credit for the month. Last day of paid employment does not mean a date the  
11 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
12 that date occurs twenty-four (24) or more months after previous contributions;
- 13 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
14 signs which are anatomical, physiological, or psychological abnormalities that can  
15 be observed; psychiatric signs which are medically demonstrable phenomena  
16 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
17 or contact with reality; or laboratory findings which are anatomical, physiological,  
18 or psychological phenomena that can be shown by medically acceptable laboratory  
19 diagnostic techniques, including but not limited to chemical tests,  
20 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 21 (34) "Participating" means an employee is currently earning service credit in the system  
22 as provided in KRS 61.543;
- 23 (35) "Month" means a calendar month;
- 24 (36) "Membership date" means:
- 25 (a) The date upon which the member began participating in the system as  
26 provided in KRS 61.543; or
- 27 (b) For a member electing to participate in the system pursuant to KRS

1           196.167(4) who has not previously participated in the system or the Kentucky  
2           Teachers' Retirement System, the date the member began participating in a  
3           defined contribution plan that meets the requirements of 26 U.S.C. sec.  
4           403(b);

5 (37) "Participant" means a member, as defined by subsection (8) of this section, or a  
6           retired member, as defined by subsection (24) of this section;

7 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
8           including approval of a property settlement agreement, that:

9           (a) Is issued by a court or administrative agency; and

10           (b) Relates to the provision of child support, alimony payments, or marital  
11           property rights to an alternate payee;

12 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
13           participant, who is designated to be paid retirement benefits in a qualified domestic  
14           relations order;

15 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
16           member's account and interest credited on such amounts as provided by KRS  
17           16.583 and 61.597;

18 (41) "Accumulated account balance" means:

19           (a) For members who began participating in the system prior to January 1, 2014,  
20           the member's accumulated contributions; or

21           (b) For members who began participating in the system on or after January 1,  
22           2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
23           the combined sum of the member's accumulated contributions and the  
24           member's accumulated employer credit;

25 (42) "Volunteer" means an individual who:

26           (a) Freely and without pressure or coercion performs hours of service for an  
27           employer participating in one (1) of the systems administered by Kentucky

1 Retirement Systems without receipt of compensation for services rendered,  
2 except for reimbursement of actual expenses, payment of a nominal fee to  
3 offset the costs of performing the voluntary services, or both; and

4 (b) If a retired member, does not become an employee, leased employee, or  
5 independent contractor of the employer for which he or she is performing  
6 volunteer services for a period of at least twelve (12) months following the  
7 retired member's most recent retirement date;

8 (43) "Nominal fee" means compensation earned for services as a volunteer that does not  
9 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
10 a volunteer from more than one (1) participating employer during a month shall be  
11 aggregated to determine whether the compensation exceeds the five hundred dollars  
12 (\$500) per month maximum provided by this subsection;

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

15 (45) "Monthly average pay" means the higher of the member's monthly final rate of pay  
16 or the average monthly creditable compensation earned by the deceased member  
17 during his or her last twelve (12) months of employment;

18 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
19 61.505; and

20 (47) "Executive director" means the executive director of the Kentucky Public Pensions  
21 Authority.

22 ➔Section 3. KRS 61.522 (Effective until April 1, 2021) is amended to read as  
23 follows:

24 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
25 contrary:

26 (1) For purposes of this section:

27 (a) "Active member" means a member who is participating in the system;

- 1 (b) "Employer" means the governing body of a department, as defined by KRS  
2 61.510, or a county as defined by KRS 78.510;
- 3 (c) "Employer's effective cessation date" means:
- 4 1. The last day of the system's plan year in the year in which the employer  
5 has elected to cease participation in the system, provided the employer  
6 has met the requirements of this section and has given the Kentucky  
7 Retirement Systems sufficient notice as provided by administrative  
8 regulations promulgated by the systems; or
- 9 2. For Kentucky Employees Retirement System employers making an  
10 election to cease participating under the provisions of subsection (8) of  
11 this section, it shall be June 30, 2021; and
- 12 (d) "Inactive member" means a member who is not participating with the system;
- 13 (2) Any employer participating in the Kentucky Employees Retirement System or the  
14 County Employees Retirement System on July 1, 2015, except as limited by  
15 subsection (6) of this section, may:
- 16 (a) Voluntarily cease participation in its respective retirement system subject to  
17 the requirements and restrictions of this section;
- 18 (b) Be required to involuntarily cease participation in the system under the  
19 provisions of this section if the board has determined the employer is no  
20 longer qualified to participate in a governmental plan or has failed to comply  
21 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or
- 22 (c) If the employer is participating in the Kentucky Employees Retirement  
23 System, request an estimate of the cost of voluntarily ceasing participation in  
24 the system prior to officially making a request to cease participation. For those  
25 Kentucky Employees Retirement System nonhazardous employers who are  
26 considering ceasing participating in the system under the provisions of  
27 subsection (8) of this section on June 30, 2021, the request for an estimate to

1 voluntarily cease participating must be made prior to December 31, 2019, and  
2 the estimate shall be provided to that employer within sixty (60) days of the  
3 request, except that no estimate shall be required to be provided prior to  
4 January 31, 2020;

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

- 8 1. The employer shall adopt a resolution requesting to cease participation  
9 in the system and shall submit the resolution to the board for its  
10 approval. The board shall not be able to deny a resolution to cease  
11 participation in the Kentucky Employees Retirement System for any  
12 employer who seeks to voluntarily cease participation in the system as  
13 provided by subsection (8) of this section;
- 14 2. Except as provided by subsection (8)(d) of this section, the cessation of  
15 participation in the system shall apply to all employees of the employer;
- 16 3. The employer shall pay for all administrative costs of an actuarial study  
17 to be completed by the Kentucky Retirement Systems' consulting actuary  
18 and for any other administrative costs for discontinuing participation in  
19 the system as determined by the board and as provided by this section;
- 20 4. The employer shall provide an alternative retirement program for  
21 employees who will no longer be covered by the system, which may  
22 include a voluntary defined contribution plan but, for Kentucky  
23 Employees Retirement System employers with effective cessation dates  
24 occurring on or after June 30, 2020, the alternative retirement program  
25 shall not include a defined benefit plan which by its nature can have an  
26 unfunded liability;
- 27 5. If the alternative retirement program established by the employer meets

1 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.  
2 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of  
3 both pre-tax and post-tax contributions, employees of the employer  
4 ceasing participation may, except for those employees continuing to  
5 participate in the system as provided by subsection (8)(d)2. of this  
6 section, seek to transfer his or her account balance to the employer's  
7 qualified alternate retirement program within sixty (60) days of the  
8 employer's effective cessation date. An employee's election to transfer  
9 his or her account balance within sixty (60) days of the employer's  
10 effective cessation date is an irrevocable waiver of the right to obtain  
11 service credits in the system for the time worked for the employer  
12 ceasing participation;

- 13 6. The employer shall pay to the system by lump sum or in installments as  
14 provided by subsection (8) of this section, if eligible, the full actuarial  
15 cost, except as provided by subsection (8)(g)4. of this section, of the  
16 benefits accrued by its current and former employees in the system as  
17 determined separately for the pension fund and the insurance fund by the  
18 actuarial study required by subparagraph 3. of this paragraph. If the  
19 employer makes an election for employees to continue to participate in  
20 the system as provided by subsection (8)(d)2. of this section, the cost  
21 shall also include the present value of future normal costs of those  
22 employees who will continue to participate in the system after the  
23 employer's effective cessation date. The full actuarial cost shall not  
24 include any employee who seeks a transfer of his or her account balance  
25 within sixty (60) days of the employer's effective cessation date as  
26 provided by subparagraph 5. of this paragraph. The actuarial cost shall  
27 be fixed, and the employer shall not be subject to any increases or

1 subsequent adjustments, once the lump sum is paid or the installment  
2 payments have commenced; and

3 7. Kentucky Employees Retirement System employers ceasing  
4 participating under the provisions of subsection (8) of this section who  
5 elect to pay their actuarial costs by a lump sum shall make the full lump-  
6 sum payment by June 30, 2022, and shall pay interest on the principal  
7 amount beginning on July 1, 2021, equal to a rate of five and one-quarter  
8 percent (5.25%) per annum for pension costs and at a rate of six and  
9 one-quarter percent (6.25%) per annum for retiree health costs until the  
10 lump-sum payment is made. If the ceasing employer fails to make the  
11 full lump-sum payment by June 30, 2022, the ceasing employer shall  
12 make installments as provided by subsection (8)(g) of this section, and  
13 the ceasing employer shall have the costs recalculated based upon  
14 making installment payments as provided by this section and shall be  
15 required to make up any missed installment payments as determined by  
16 the system.

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

19 1. The cessation of participation in the system shall apply to all employees  
20 of the employer;

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

26 3. The employer shall pay by lump sum to the system the full actuarial cost  
27 of the benefits accrued by its current and former employees in the

1 system as determined separately for the pension fund and the insurance  
2 fund by the actuarial study required by subparagraph 2. of this  
3 paragraph. The actuarial cost shall be fixed, and the employer shall not  
4 be subject to any increases or subsequent adjustments, once the lump  
5 sum is paid.

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

10 (4) Any employee hired on or after the employer's effective cessation date by an  
11 employer who has ceased participation in the system as provided by this section  
12 shall not, regardless of his or her membership date in the systems administered by  
13 Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees  
14 Retirement System or the County Employees Retirement System through the  
15 employer that ceased participation for the duration of his or her employment with  
16 that employer;

17 (5) If an employer has ceased participation in the system as provided by this section:  
18 (a) The rights of recipients and the vested rights of inactive members accrued as  
19 of the employer's effective cessation date shall not be impaired or reduced in  
20 any manner as a result of the employer ceasing participation in the system; and  
21 (b) Except as provided by subsection (8)(d)2. of this section, employees of the  
22 employer ceasing participation shall accrue benefits through the employer's  
23 effective cessation date but shall not accrue any additional benefits in the  
24 Kentucky Employees Retirement System or the County Employees Retirement  
25 System, including earning years of service credit through the ceased employer,  
26 after the employer's effective cessation date for as long as they remain  
27 employed by the employer. The day after the employer's effective cessation

1 date, each employee described by this paragraph, except as provided by  
2 subsection (8)(d)2. of this section, shall be considered an inactive member  
3 with respect to his or her employment with the employer that ceased  
4 participation and, subject to the provisions and limitations of KRS 61.510 to  
5 61.705 and 78.510 to 78.852, shall:

- 6 1. Retain his or her accounts with the Kentucky Employees Retirement  
7 System or the County Employees Retirement System and have those  
8 accounts credited with interest in accordance with KRS 61.510 to  
9 61.705 and 78.510 to 78.852;
- 10 2. Retain his or her vested rights in accordance with paragraph (a) of this  
11 subsection; and
- 12 3. Be eligible to take a refund of his or her accumulated account balance in  
13 accordance with KRS 61.625 or any other available distribution if  
14 eligible;

15 (6) (a) Kentucky Employees Retirement System employers who are county attorney  
16 offices, Commonwealth's attorney offices, local and district health  
17 departments governed by KRS Chapter 212, master commissioners, executive  
18 branch agencies whose employees are subject to KRS 18A.005 to 18A.200,  
19 state-administered retirement systems, state-supported universities and  
20 community colleges, property valuation administration offices, or employers  
21 in the legislative or judicial branch of Kentucky state government, shall not be  
22 eligible to voluntarily discontinue participation in the Kentucky Employees  
23 Retirement System, except that:

- 24 1. Any employer who is a nonstock nonprofit corporation organized under  
25 KRS Chapter 273 may voluntarily cease participation; and
- 26 2. Local and district health departments governed by KRS Chapter 212,  
27 state-supported universities and community colleges, and the Kentucky

1 Higher Education Student Loan Corporation may voluntarily cease  
2 participation in the Kentucky Employees Retirement System solely  
3 under the provisions and requirements of subsection (8) of this section.

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

7 (7) For purposes of this section, the full actuarial cost shall be determined by the  
8 Kentucky Retirement Systems' consulting actuary separately for the pension fund  
9 and the insurance fund using the assumptions and methodology established by the  
10 system specifically for determining the full actuarial cost of ceasing participation as  
11 of the employer's effective cessation date. For purposes of determining the full  
12 actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser  
13 of the assumed rate of return utilized in the system's most recent actuarial valuation  
14 or the yield on a thirty (30) year United States treasury bond as of the employer's  
15 effective cessation date, but shall in no case be lower than:

16 (a) Except as provided by paragraphs (b) to (e) of this subsection, the assumed  
17 rate of return utilized in the system's most recent actuarial valuation minus  
18 three and one-half percent (3.5%);

19 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement  
20 System employers who voluntarily cease participation under the provisions of  
21 subsection (8) of this section who pay the costs of ceasing participation by  
22 lump-sum payment by June 30, 2022, and who do not make an election for  
23 their employees to continue to participate in the system after the employer's  
24 effective cessation date as provided by subsection (8)(d)3. of this section;

25 (c) **Five and-one quarter percent (5.25%) for university and community college**  
26 **employers or** three and one-half percent (3.5%) for **all other**~~[those]~~ Kentucky  
27 Employees Retirement System employers, who voluntarily cease participation

1 under the provisions of subsection (8) of this section who pay the costs of  
2 ceasing participation by lump-sum payment by June 30, 2022, and who do  
3 make an election for employees to continue to participate in the system after  
4 the employer's effective cessation date as provided by subsection (8)(d)2. of  
5 this section;

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

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

18 (8) Notwithstanding the provisions of this section, any Kentucky Employees  
19 Retirement System employer who is eligible to voluntarily cease participating as  
20 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to  
21 May 1, 2021, except that in the case of university or community college employers  
22 it shall be prior to January 1, 2021, elect to voluntarily cease participating in the  
23 systems for its nonhazardous employees by submitting a resolution in accordance  
24 with subsection (3)(a)1. of this section. If an employer makes an election to  
25 voluntarily cease participation by submitting a resolution as provided by this  
26 subsection:

27 (a) The board shall accept any election to cease participation on or before June

1           30, 2021, and the employer's effective cessation date shall be June 30, 2021.  
2           Prior to May 1, 2021, or January 1, 2021, in the case of university or  
3           community college employers, the employer may rescind a previously  
4           submitted election to cease participation;

5           (b) Nonhazardous employees hired on or after the employer's effective cessation  
6           date by an employer who has ceased participation in the system as provided by  
7           this section shall not, regardless of his or her membership date in the systems  
8           administered by Kentucky Retirement Systems, be eligible to participate in the  
9           Kentucky Employees Retirement System through the employer that ceased  
10          participation for the duration of his or her employment with that ceasing  
11          employer;

12          (c) Nonhazardous employees hired prior to the employer's effective cessation  
13          date, who began participating in the systems administered by Kentucky  
14          Retirement Systems on or after January 1, 2014, and who are participating in  
15          the hybrid cash balance plan as provided by KRS 61.597, shall continue to  
16          contribute and earn service credit in the systems through the employer's  
17          effective cessation date. After the employer's effective cessation date, the  
18          employee shall participate in the alternative retirement plan established by the  
19          employer as provided by subsection (3)(a)4. of this section. A nonhazardous  
20          employee covered by this paragraph who elects to transfer his or her account  
21          balance within sixty (60) days of the employer's effective cessation date as  
22          provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS  
23          61.597, receive a transfer of the employee's accumulated account balance,  
24          including the entire accumulated employer credit, regardless of the employee's  
25          years of service credit;

26          (d) 1. The employer shall, in the resolution submitted in accordance with  
27          subsection (3)(a)1. of this section, make an election as to whether or not

1 nonhazardous employees hired prior to the employer's effective  
2 cessation date, who began participating in the systems administered by  
3 Kentucky Retirement Systems prior to January 1, 2014, who are  
4 participating in the systems administered by Kentucky Retirement  
5 Systems through the employer, will continue to participate in the system  
6 after the employer's effective cessation date.

7 2. If the employer makes an election for the employees described by this  
8 paragraph to continue participating in the system after the employer's  
9 effective cessation date, these employees will continue to contribute and  
10 earn service credit in the systems for as long as they remain employed by  
11 the employer in a regular full-time position that is eligible to participate  
12 in the systems, except in the event the employer fails to make  
13 installment payments as provided by KRS 61.675(4). Any costs for the  
14 present value of future normal costs of the employees covered by this  
15 subparagraph who will contribute and earn service in the system after  
16 the employer's effective cessation date shall be included in the cost  
17 calculation established by subsection (7) of this section.

18 3. If the employer does not make an election for the employees described  
19 by this paragraph to continue participating in the system after the  
20 employer's effective cessation date, these employees shall continue to  
21 contribute and earn service credit in the systems through the employer's  
22 effective cessation date. After the employer's effective cessation date,  
23 these employees shall participate in the alternative retirement plan  
24 established by the employer as provided by subsection (3)(a)4. of this  
25 section;

26 (e) The cost of ceasing participating to an individual employer shall be equal to  
27 the cost determined under subsection (7) of this section and shall include the

1 costs of those employees who continue to participate in the system as  
2 provided by paragraph (d)2. of this subsection;

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

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

9 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar  
10 value and shall be paid in monthly installments. In fiscal year 2021-  
11 2022, the set dollar value shall be equal to the higher of the actual  
12 contributions paid by the employer in fiscal year 2020-2021 or the  
13 annualized average of the creditable compensation reported to the  
14 systems by the ceasing employer over the last sixty (60) months  
15 occurring prior to July 1, 2019, for which contributions were paid by the  
16 ceasing employer, and multiplied by an employer rate of forty-nine and  
17 forty-seven one-hundredths percent (49.47%). Annual payments, for  
18 fiscal years occurring on or after July 1, 2022, which shall be paid  
19 monthly, shall be increased by one and one-half percent (1.5%) annually  
20 and shall be paid until the cost as provided by subsection (7) of this  
21 section and as adjusted annually by subparagraphs 2. and 3. of this  
22 paragraph are paid in full or until an employer as described by  
23 subparagraph 4. of this paragraph has paid for thirty (30) years from the  
24 effective cessation date;

25 2. Interest shall be assigned to the principal amount annually beginning on  
26 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five  
27 and one-quarter percent (5.25%) per annum for pension costs and at a

- 1 rate of six and one-quarter percent (6.25%) per annum for retiree health  
2 costs;
- 3 3. If an employer is not projected by the systems to pay off the full  
4 actuarial costs to cease participation with interest as provided by  
5 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
6 installment period from the employer's effective cessation date, and the  
7 employer makes an election for employees to continue to participate in  
8 the system after the employer's effective cessation date as provided by  
9 paragraph (d)2. of this subsection, then the systems shall adjust the base  
10 value for the first annual payments occurring on or after July 1, 2021, in  
11 order to keep the maximum period of installments to thirty (30) years;  
12 and
- 13 4. If an employer is not projected by the systems to pay off the full  
14 actuarial costs to cease participation with interest as provided by  
15 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
16 installment period from the employer's effective cessation date, and the  
17 employer does not make an election for employees to continue to  
18 participate in the system after the employer's effective cessation date as  
19 provided by paragraph (d)3. of this subsection, the employer shall pay  
20 the amount determined by subparagraph 1. of this paragraph for thirty  
21 (30) years from the effective cessation date and no additional costs shall  
22 be billed to a ceasing employer after the conclusion of the thirty (30)  
23 year period nor shall the employer be subject to adjustments under  
24 subparagraph 3. of this paragraph. The system may request in future  
25 biennial executive branch budgets the additional funding needed on an  
26 annual basis to fully pay off the installments at the conclusion of the  
27 thirty (30) year period for the employers described by this paragraph,

1                   and it is the intent of the General Assembly to pay the additional funding  
2                   needed by appropriation in the biennial executive branch budget.

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

7           (h) Kentucky Employees Retirement System employers eligible to cease  
8           participation under the provisions of this subsection who do not make an  
9           election to cease participation in the system prior to May 1, 2021, or prior to  
10           January 1, 2021, in the case of university and community college employers,  
11           shall be required to pay the full actuarially determined contributions  
12           established by KRS 61.565 and 61.702 for fiscal years occurring on or after  
13           July 1, 2021; and

14           (i) Kentucky Employees Retirement System employers who elect to cease  
15           participation in the system as provided by this subsection who are currently  
16           receiving a distribution of general fund appropriations in the biennial  
17           executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,  
18           G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,  
19           Part I, G., 9., (2) to help pay employer contributions to the system shall  
20           continue to receive the same level of distribution of general fund  
21           appropriations to help pay the costs of ceasing participation until such time  
22           that the employer's full actuarial costs of ceasing participation are paid off;

23           (9) The Kentucky Retirement Systems shall promulgate administrative regulations  
24           pursuant to KRS Chapter 13A to administer this section;

25           (10) (a) Any employer who voluntarily ceases participation, or who is required to  
26           involuntarily cease participation as provided in this section, shall hold the  
27           Commonwealth and the Kentucky Retirement Systems, including board

1 members and employees of the Kentucky Retirement Systems, harmless from  
2 damages, attorney's fees and costs from legal claims for any cause of action  
3 brought by any member or retired member of the departing employer related  
4 to the employer's cessation of participation as set forth in this section.

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

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

16 ➔Section 4. KRS 61.522 (Effective April 1, 2021) is amended to read as follows:  
17 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
18 contrary:

19 (1) For purposes of this section:

20 (a) "Active member" means a member who is participating in the system;

21 (b) "Employer" means the governing body of a department, as defined by KRS  
22 61.510;

23 (c) "Employer's effective cessation date" means:

24 1. The last day of the system's plan year in the year in which the employer  
25 has elected to cease participation in the system, provided the employer  
26 has met the requirements of this section and has given the Kentucky  
27 Retirement Systems sufficient notice as provided by administrative

1 regulations promulgated by the systems; or

2 2. For Kentucky Employees Retirement System employers making an  
3 election to cease participating under the provisions of subsection (8) of  
4 this section, it shall be June 30, 2021; and

5 (d) "Inactive member" means a member who is not participating with the system;

6 (2) Any employer participating in the Kentucky Employees Retirement System on July  
7 1, 2015, except as limited by subsection (6) of this section, may:

8 (a) Voluntarily cease participation in its respective retirement system subject to  
9 the requirements and restrictions of this section;

10 (b) Be required to involuntarily cease participation in the system under the  
11 provisions of this section if the board has determined the employer is no  
12 longer qualified to participate in a governmental plan or has failed to comply  
13 with the provisions of KRS 61.510 to 61.705; or

14 (c) If the employer is participating in the Kentucky Employees Retirement  
15 System, request an estimate of the cost of voluntarily ceasing participation in  
16 the system prior to officially making a request to cease participation. For those  
17 Kentucky Employees Retirement System nonhazardous employers who are  
18 considering ceasing participating in the system under the provisions of  
19 subsection (8) of this section on June 30, 2021, the request for an estimate to  
20 voluntarily cease participating must be made prior to December 31, 2019, and  
21 the estimate shall be provided to that employer within sixty (60) days of the  
22 request, except that no estimate shall be required to be provided prior to  
23 January 31, 2020;

24 (3) (a) If an employer desires to voluntarily cease participation in the Kentucky  
25 Employees Retirement System as provided by subsection (2)(a) of this  
26 section:

27 1. The employer shall adopt a resolution requesting to cease participation

- 1 in the system and shall submit the resolution to the board for its  
2 approval. The board shall not be able to deny a resolution to cease  
3 participation in the Kentucky Employees Retirement System for any  
4 employer who seeks to voluntarily cease participation in the system as  
5 provided by subsection (8) of this section;
- 6 2. Except as provided by subsection (8)(d) of this section, the cessation of  
7 participation in the system shall apply to all employees of the employer;
- 8 3. The employer shall pay for all administrative costs of an actuarial study  
9 to be completed by the Kentucky Retirement Systems' consulting actuary  
10 and for any other administrative costs for discontinuing participation in  
11 the system as determined by the board and as provided by this section;
- 12 4. The employer shall provide an alternative retirement program for  
13 employees who will no longer be covered by the system, which may  
14 include a voluntary defined contribution plan but, for Kentucky  
15 Employees Retirement System employers with effective cessation dates  
16 occurring on or after June 30, 2020, the alternative retirement program  
17 shall not include a defined benefit plan which by its nature can have an  
18 unfunded liability;
- 19 5. If the alternative retirement program established by the employer meets  
20 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.  
21 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of  
22 both pre-tax and post-tax contributions, employees of the employer  
23 ceasing participation may, except for those employees continuing to  
24 participate in the system as provided by subsection (8)(d)2. of this  
25 section, seek to transfer his or her account balance to the employer's  
26 qualified alternate retirement program within sixty (60) days of the  
27 employer's effective cessation date. An employee's election to transfer

1 his or her account balance within sixty (60) days of the employer's  
2 effective cessation date is an irrevocable waiver of the right to obtain  
3 service credits in the system for the time worked for the employer  
4 ceasing participation;

5 6. The employer shall pay to the system by lump sum or in installments as  
6 provided by subsection (8) of this section, if eligible, the full actuarial  
7 cost, except as provided by subsection (8)(g)4. of this section, of the  
8 benefits accrued by its current and former employees in the system as  
9 determined separately for the pension fund and the insurance fund by the  
10 actuarial study required by subparagraph 3. of this paragraph. If the  
11 employer makes an election for employees to continue to participate in  
12 the system as provided by subsection (8)(d)2. of this section, the cost  
13 shall also include the present value of future normal costs of those  
14 employees who will continue to participate in the system after the  
15 employer's effective cessation date. The full actuarial cost shall not  
16 include any employee who seeks a transfer of his or her account balance  
17 within sixty (60) days of the employer's effective cessation date as  
18 provided by subparagraph 5. of this paragraph. The actuarial cost shall  
19 be fixed, and the employer shall not be subject to any increases or  
20 subsequent adjustments, once the lump sum is paid or the installment  
21 payments have commenced; and

22 7. Kentucky Employees Retirement System employers ceasing  
23 participating under the provisions of subsection (8) of this section who  
24 elect to pay their actuarial costs by a lump sum shall make the full lump-  
25 sum payment by June 30, 2022, and shall pay interest on the principal  
26 amount beginning on July 1, 2021, equal to a rate of five and one-quarter  
27 percent (5.25%) per annum for pension costs and at a rate of six and

1 one-quarter percent (6.25%) per annum for retiree health costs until the  
2 lump-sum payment is made. If the ceasing employer fails to make the  
3 full lump-sum payment by June 30, 2022, the ceasing employer shall  
4 make installments as provided by subsection (8)(g) of this section, and  
5 the ceasing employer shall have the costs recalculated based upon  
6 making installment payments as provided by this section and shall be  
7 required to make up any missed installment payments as determined by  
8 the system.

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

- 11 1. The cessation of participation in the system shall apply to all employees  
12 of the employer;
- 13 2. The employer shall pay for all administrative costs of an actuarial study  
14 to be completed by the Kentucky Retirement Systems' consulting actuary  
15 and for any other administrative costs for discontinuing participation in  
16 the system as determined by the board and as provided by this section;  
17 and
- 18 3. The employer shall pay by lump sum to the system the full actuarial cost  
19 of the benefits accrued by its current and former employees in the  
20 system as determined separately for the pension fund and the insurance  
21 fund by the actuarial study required by subparagraph 2. of this  
22 paragraph. The actuarial cost shall be fixed, and the employer shall not  
23 be subject to any increases or subsequent adjustments, once the lump  
24 sum is paid.

25 A Kentucky Employees Retirement System employer who ceases participation  
26 in the systems under this paragraph shall not establish or contribute to on  
27 behalf of its employees a defined benefit plan which by its nature can have an

1 unfunded liability;

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

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

9 (a) The rights of recipients and the vested rights of inactive members accrued as  
10 of the employer's effective cessation date shall not be impaired or reduced in  
11 any manner as a result of the employer ceasing participation in the system; and

12 (b) Except as provided by subsection (8)(d)2. of this section, employees of the  
13 employer ceasing participation shall accrue benefits through the employer's  
14 effective cessation date but shall not accrue any additional benefits in the  
15 Kentucky Employees Retirement System, including earning years of service  
16 credit through the ceased employer, after the employer's effective cessation  
17 date for as long as they remain employed by the employer. The day after the  
18 employer's effective cessation date, each employee described by this  
19 paragraph, except as provided by subsection (8)(d)2. of this section, shall be  
20 considered an inactive member with respect to his or her employment with the  
21 employer that ceased participation and, subject to the provisions and  
22 limitations of KRS 61.510 to 61.705, shall:

23 1. Retain his or her accounts with the Kentucky Employees Retirement  
24 System and have those accounts credited with interest in accordance  
25 with KRS 61.510 to 61.705;

26 2. Retain his or her vested rights in accordance with paragraph (a) of this  
27 subsection; and

- 1           3. Be eligible to take a refund of his or her accumulated account balance in  
2           accordance with KRS 61.625 or any other available distribution if  
3           eligible;
- 4 (6) Kentucky Employees Retirement System employers who are county attorney  
5           offices, Commonwealth's attorney offices, local and district health departments  
6           governed by KRS Chapter 212, master commissioners, executive branch agencies  
7           whose employees are subject to KRS 18A.005 to 18A.200, state-administered  
8           retirement systems, state-supported universities and community colleges, property  
9           valuation administration offices, or employers in the legislative or judicial branch of  
10          Kentucky state government, shall not be eligible to voluntarily discontinue  
11          participation in the Kentucky Employees Retirement System, except that:
- 12          (a) Any employer who is a nonstock nonprofit corporation organized under KRS  
13              Chapter 273 may voluntarily cease participation; and
- 14          (b) Local and district health departments governed by KRS Chapter 212, state-  
15              supported universities and community colleges, and the Kentucky Higher  
16              Education Student Loan Corporation may voluntarily cease participation in  
17              the Kentucky Employees Retirement System solely under the provisions and  
18              requirements of subsection (8) of this section;
- 19 (7) For purposes of this section, the full actuarial cost shall be determined by the  
20          Kentucky Retirement Systems' consulting actuary separately for the pension fund  
21          and the insurance fund using the assumptions and methodology established by the  
22          system specifically for determining the full actuarial cost of ceasing participation as  
23          of the employer's effective cessation date. For purposes of determining the full  
24          actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser  
25          of the assumed rate of return utilized in the system's most recent actuarial valuation  
26          or the yield on a thirty (30) year United States treasury bond as of the employer's  
27          effective cessation date, but shall in no case be lower than:

- 1 (a) Except as provided by paragraphs (b) to (e) of this subsection, the assumed  
2 rate of return utilized in the system's most recent actuarial valuation minus  
3 three and one-half percent (3.5%);
- 4 (b) Four and one-half percent (4.5%) for those Kentucky Employees Retirement  
5 System employers who voluntarily cease participation under the provisions of  
6 subsection (8) of this section who pay the costs of ceasing participation by  
7 lump-sum payment by June 30, 2022, and who do not make an election for  
8 their employees to continue to participate in the system after the employer's  
9 effective cessation date as provided by subsection (8)(d)3. of this section;
- 10 (c) **Five and one-quarter percent (5.25%) for university and community college**  
11 **employers or** three and one-half percent (3.5%) for **all other**~~those~~ Kentucky  
12 Employees Retirement System employers who voluntarily cease participation  
13 under the provisions of subsection (8) of this section who pay the costs of  
14 ceasing participation by lump-sum payment by June 30, 2022, and who do  
15 make an election for employees to continue to participate in the system after  
16 the employer's effective cessation date as provided by subsection (8)(d)2. of  
17 this section;
- 18 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
19 System employers who voluntarily cease participation under the provisions of  
20 subsection (8) of this section who pay the costs of ceasing participation by  
21 installment payments and who do not make an election for employees to  
22 continue to participate in the system after the employer's effective cessation  
23 date as provided by subsection (8)(d)3. of this section; or
- 24 (e) Three percent (3%) for those Kentucky Employees Retirement System  
25 employers who voluntarily cease participation under the provisions of  
26 subsection (8) of this section who pay the costs of ceasing participation by  
27 installment payments and who do make an election for employees to continue

1 to participate in the system after the employer's effective cessation date as  
2 provided by subsection (8)(d)2. of this section;

3 (8) Notwithstanding the provisions of this section, any Kentucky Employees  
4 Retirement System employer who is eligible to voluntarily cease participating as  
5 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to  
6 May 1, 2021, except in the case of university or community college employers it  
7 shall be prior to January 1, 2021, elect to voluntarily cease participating in the  
8 systems for its nonhazardous employees by submitting a resolution in accordance  
9 with subsection (3)(a)1. of this section. If an employer makes an election to  
10 voluntarily cease participation by submitting a resolution as provided by this  
11 subsection:

12 (a) The board shall accept any election to cease participation on or before June  
13 30, 2021, and the employer's effective cessation date shall be June 30, 2021.  
14 Prior to May 1, 2021, or January 1, 2021, in the case of university or  
15 community college employers, the employer may rescind a previously  
16 submitted election to cease participation;

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

24 (c) Nonhazardous employees hired prior to the employer's effective cessation  
25 date, who began participating in the systems administered by Kentucky  
26 Retirement Systems on or after January 1, 2014, and who are participating in  
27 the hybrid cash balance plan as provided by KRS 61.597, shall continue to

1 contribute and earn service credit in the systems through the employer's  
2 effective cessation date. After the employer's effective cessation date, the  
3 employee shall participate in the alternative retirement plan established by the  
4 employer as provided by subsection (3)(a)4. of this section. A nonhazardous  
5 employee covered by this paragraph who elects to transfer his or her account  
6 balance within sixty (60) days of the employer's effective cessation date as  
7 provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS  
8 61.597, receive a transfer of the employee's accumulated account balance,  
9 including the entire accumulated employer credit, regardless of the employee's  
10 years of service credit;

- 11 (d) 1. The employer shall, in the resolution submitted in accordance with  
12 subsection (3)(a)1. of this section, make an election as to whether or not  
13 nonhazardous employees hired prior to the employer's effective  
14 cessation date, who began participating in the systems administered by  
15 Kentucky Retirement Systems prior to January 1, 2014, who are  
16 participating in the systems administered by Kentucky Retirement  
17 Systems through the employer, will continue to participate in the system  
18 after the employer's effective cessation date.
- 19 2. If the employer makes an election for the employees described by this  
20 paragraph to continue participating in the system after the employer's  
21 effective cessation date, these employees will continue to contribute and  
22 earn service credit in the systems for as long as they remain employed by  
23 the employer in a regular full-time position that is eligible to participate  
24 in the systems, except in the event the employer fails to make  
25 installment payments as provided by KRS 61.675(4). Any costs for the  
26 present value of future normal costs of the employees covered by this  
27 subparagraph who will contribute and earn service in the system after

1 the employer's effective cessation date shall be included in the cost  
2 calculation established by subsection (7) of this section.

3 3. If the employer does not make an election for the employees described  
4 by this paragraph to continue participating in the system after the  
5 employer's effective cessation date, these employees shall continue to  
6 contribute and earn service credit in the systems through the employer's  
7 effective cessation date. After the employer's effective cessation date,  
8 these employees shall participate in the alternative retirement plan  
9 established by the employer as provided by subsection (3)(a)4. of this  
10 section;

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

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

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

21 1. Annual payments occurring on or after July 1, 2021, shall be a set dollar  
22 value and shall be paid in monthly installments. In fiscal year 2021-  
23 2022, the set dollar value shall be equal to the higher of the actual  
24 contributions paid by the employer in fiscal year 2020-2021 or the  
25 annualized average of the creditable compensation reported to the  
26 systems by the ceasing employer over the last sixty (60) months  
27 occurring prior to July 1, 2019, for which contributions were paid by the

1           ceasing employer, and multiplied by an employer rate of forty-nine and  
2           forty-seven one-hundredths percent (49.47%). Annual payments, for  
3           fiscal years occurring on or after July 1, 2022, which shall be paid  
4           monthly, shall be increased by one and one-half percent (1.5%) annually  
5           and shall be paid until the cost as provided by subsection (7) of this  
6           section and as adjusted annually by subparagraphs 2. and 3. of this  
7           paragraph are paid in full or until an employer as described by  
8           subparagraph 4. of this paragraph has paid for thirty (30) years from the  
9           effective cessation date;

10           2. Interest shall be assigned to the principal amount annually beginning on  
11           July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five  
12           and one-quarter percent (5.25%) per annum for pension costs and at a  
13           rate of six and one-quarter percent (6.25%) per annum for retiree health  
14           costs;

15           3. If an employer is not projected by the systems to pay off the full  
16           actuarial costs to cease participation with interest as provided by  
17           subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
18           installment period from the employer's effective cessation date, and the  
19           employer makes an election for employees to continue to participate in  
20           the system after the employer's effective cessation date as provided by  
21           paragraph (d)2. of this subsection, then the systems shall adjust the base  
22           value for the first annual payments occurring on or after July 1, 2021, in  
23           order to keep the maximum period of installments to thirty (30) years;  
24           and

25           4. If an employer is not projected by the systems to pay off the full  
26           actuarial costs to cease participation with interest as provided by  
27           subparagraph 2. of this paragraph at the conclusion of the thirty (30) year

1 installment period from the employer's effective cessation date, and the  
2 employer does not make an election for employees to continue to  
3 participate in the system after the employer's effective cessation date as  
4 provided by paragraph (d)3. of this subsection, the employer shall pay  
5 the amount determined by subparagraph 1. of this paragraph for thirty  
6 (30) years from the effective cessation date and no additional costs shall  
7 be billed to a ceasing employer after the conclusion of the thirty (30)  
8 year period nor shall the employer be subject to adjustments under  
9 subparagraph 3. of this paragraph. The system may request in future  
10 biennial executive branch budgets the additional funding needed on an  
11 annual basis to fully pay off the installments at the conclusion of the  
12 thirty (30) year period for the employers described by this paragraph,  
13 and it is the intent of the General Assembly to pay the additional funding  
14 needed by appropriation in the biennial executive branch budget.

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

19 (h) Kentucky Employees Retirement System employers eligible to cease  
20 participation under the provisions of this subsection who do not make an  
21 election to cease participation in the system prior to May 1, 2021, or prior to  
22 January 1, 2021, in the case of university and community college employers,  
23 shall be required to pay the full actuarially determined contributions  
24 established by KRS 61.565 and 61.702 for fiscal years occurring on or after  
25 July 1, 2021; and

26 (i) Kentucky Employees Retirement System employers who elect to cease  
27 participation in the system as provided by this subsection who are currently

- 1 receiving a distribution of general fund appropriations in the biennial  
2 executive branch budget under the provisions of 2018 Ky. Acts ch. 169, Part I,  
3 G., 4., (5), 2018 Ky. Acts ch. 169, Part I, G., 5., (2), or 2018 Ky. Acts ch. 169,  
4 Part I, G., 9., (2) to help pay employer contributions to the system shall  
5 continue to receive the same level of distribution of general fund  
6 appropriations to help pay the costs of ceasing participation until such time  
7 that the employer's full actuarial costs of ceasing participation are paid off;
- 8 (9) The Kentucky Retirement Systems shall promulgate administrative regulations  
9 pursuant to KRS Chapter 13A to administer this section;
- 10 (10) (a) Any employer who voluntarily ceases participation, or who is required to  
11 involuntarily cease participation as provided in this section, shall hold the  
12 Commonwealth and the Kentucky Retirement Systems, including board  
13 members and employees of the Kentucky Retirement Systems, harmless from  
14 damages, attorney's fees and costs from legal claims for any cause of action  
15 brought by any member or retired member of the departing employer related  
16 to the employer's cessation of participation as set forth in this section.
- 17 (b) Any employer who is voluntarily ceasing participation under the provisions of  
18 subsection (8) of this section shall be required to pledge any security in any  
19 relevant real estate, chattel paper, deposit accounts, documents, goods covered  
20 by documents, instruments, investment property, letters of credit rights, and  
21 money to the costs of ceasing participation until all costs of ceasing  
22 participation are paid in full; and
- 23 (11) Notwithstanding any other provision of statute to the contrary, the provisions of  
24 KRS 61.510 to 61.705, and the administrative regulations promulgated thereunder,  
25 shall prevail regarding any question of participation in the systems of any employer  
26 or any employee of an employer who ceases participation in the Kentucky  
27 Employees Retirement System.

1       ➔Section 5. KRS 61.675 is amended to read as follows:

- 2       (1) The employer shall prepare the records and, from time to time, shall furnish the  
3       information the system may require in the discharge of its duties. Upon employment  
4       of an employee, the employer shall inform him of his duties and obligations in  
5       connection with the system as a condition of employment.
- 6       (2) The system may at any time conduct an audit of the employer in order to determine  
7       if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610  
8       to 61.705, or 78.510 to 78.852. The system shall have access to and may examine  
9       all books, accounts, reports, correspondence files, and records of any employer.  
10      Every employer, employee, or agency reporting official of a department or county,  
11      as defined in KRS 78.510(3), having records in his possession or under his control,  
12      shall permit access to and examination of the records upon the request of the  
13      system.
- 14      (3) (a) Any agency participating in the Kentucky Employees Retirement System  
15      which is not an integral part of the executive branch of state government shall  
16      file the following at the retirement office on or before the tenth day of the  
17      month following the period being reported:
- 18          1. The employer and employee contributions required under KRS 61.560,  
19          61.565, and 61.702;
  - 20          2. The employer contributions and reimbursements for retiree health  
21          insurance premiums required under KRS 61.637; and
  - 22          3. A record of all contributions to the system on the forms prescribed by  
23          the board.
- 24      (b) If the agency fails to file all contributions and reports on or before the tenth  
25      day of the month following the period being reported, interest on the  
26      delinquent contributions at the actuarial rate adopted by the board  
27      compounded annually, but not less than one thousand dollars (\$1,000), may be

1 added to the amount due the system.

- 2 (4) If *a nonhazardous employer in the Kentucky Employees Retirement System is*  
3 *delinquent in paying the employer contributions required by Section 1 of this Act*  
4 *for a period of ninety (90) days or more for those contributions payable on or*  
5 *after July 1, 2021, or if* an employer who voluntarily ceases participation in the  
6 Kentucky Employees Retirement System as provided by KRS 61.522(8) elects to  
7 pay off the costs of ceasing participation by installment payments as provided by  
8 KRS 61.522(8)(g) and subsequently is delinquent in making installment payments  
9 for *a period of* ninety (90) days or more:
- 10 (a) Employees of the employer *who are participating in the system or* who are  
11 continuing to participate in the system after the employer's effective cessation  
12 date as provided by KRS 61.522(8)(d)2. shall not accrue any additional  
13 service credit or benefits in the system through the *employer or* ceasing  
14 employer until such time as the employer has satisfied the required *employer*  
15 *contributions or* installment payments to the system;
- 16 (b) The board may file an action in the Franklin Circuit Court to collect any  
17 delinquent *employer contributions or* installment payments owed by the  
18 employer and to attach so much of the general fund appropriations of the  
19 delinquent employer as is necessary to achieve full compliance with the  
20 provisions of *Section 1 of this Act or* KRS 61.522(8); and
- 21 (c) The systems shall notify the Finance and Administration Cabinet, and the  
22 Finance and Administration Cabinet may withhold or intercept from the  
23 *employer or* ceasing employer a sufficient portion of any appropriated state  
24 funds not yet disbursed to the *employer or* ceasing employer to satisfy the  
25 required *employer contributions or* installment payments to the system.

26 ➔SECTION 6. A NEW SECTION OF KRS 212.010 TO 212.275 IS CREATED  
27 TO READ AS FOLLOWS:

1 (1) If a district health department established pursuant to this chapter ceases to  
 2 operate or has a county or counties withdraw from the district health department,  
 3 the Department for Public Health in the Cabinet for Health and Family Services  
 4 shall, if the district health department participated in the Kentucky Employees  
 5 Retirement System, certify the following to the Kentucky Retirement Systems:

6 (a) 1. In the case of a district health department that ceases to operate, the  
 7 proportion of taxable property of each county of the ceasing district  
 8 health department as determined by respective county assessments and  
 9 in accordance with revenues generated pursuant to authority under  
 10 this chapter; or

11 2. In the case of a county or counties that withdraw from a district health  
 12 department, the proportion of taxable property of the withdrawing  
 13 county as determined by respective county's assessment and in  
 14 accordance with revenues generated pursuant to authority under this  
 15 chapter; and

16 (b) The local board of health, local government agency, or entity responsible  
 17 for paying retirement costs of the county that is no longer participating with  
 18 the current or ceased district health department.

19 (2) The Cabinet for Health and Family Services may promulgate administrative  
 20 regulations to carry out this section.

21 ➔SECTION 7. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO  
 22 READ AS FOLLOWS:

23 Except as otherwise provided by this section, the following shall apply to nonhazardous  
 24 employers in the Kentucky Employees Retirement System who contributed to the  
 25 system in fiscal year 2019-2020, who are local and district health departments  
 26 governed by KRS Chapter 212, state supported universities and community colleges,  
 27 county attorneys, mental health/mental retardation boards, domestic violence shelters,

1 rape crisis centers, child advocacy centers, or any other agency that is eligible to  
2 voluntarily cease participation in the Kentucky Employees Retirement System as  
3 provided by KRS 61.522:

4 (1) (a) Each employer, except for county attorneys, shall report to the Authority for  
5 each fiscal year occurring on or after July 1, 2021, the following persons  
6 for which no employer contributions were paid by the employer to the  
7 system during the fiscal year for services provided to the employer:

8 1. Persons employed as an independent contractor, a leased employee, or  
9 via any other employment arrangement as determined by the  
10 Authority, who if employed directly by the employer would qualify as a  
11 regular full-time employee in accordance with KRS 61.510(21); and

12 2. Persons employed directly by the employer who meet the definition of  
13 a regular full-time employee in accordance with KRS 61.510(21), who  
14 are not being reported to the system in accordance with KRS 61.675;

15 (b) The reporting required by this paragraph shall:

16 1. Be reported in a format, detail, and frequency as determined solely by  
17 the Authority;

18 2. Include persons provided services to the employer as an independent  
19 contractor, a leased employee, or via any other employment  
20 arrangement as determined by the Authority, and those services have  
21 historically been provided or are currently being provided by  
22 employees eligible to participate in the system through the employer;

23 3. Exclude:

24 a. Contracts for professional services that have not historically  
25 been provided by employees of the employer; and

26 b. Any contracts entered into prior to January 1, 2021, with a  
27 person or company to provide services as an independent

1 contractor, a leased employee, or other employment arrangement  
2 as determined by the Authority, but only for the duration of the  
3 original contract, excluding any renewal periods, and only for  
4 those services and persons included in the original contract;

5 (c) In any case of doubt, the Authority shall determine whether data should be  
6 reported on a specific person providing services to the employer and the  
7 Authority may by promulgation of administrative regulation provide  
8 guidance on which persons should be included for reporting purposes; and

9 (d) If KRS determines a person who was not reported to the system under this  
10 subsection should be reported to the system as a regular full-time employee,  
11 the system shall require the employer covered by this section to report the  
12 employee on or after July 1, 2021, and pay employer contributions  
13 prospectively but shall not, notwithstanding any other statute to the  
14 contrary, bill the employer for any contributions or penalties for any service  
15 occurring prior to July 1, 2021 for that specific employee;

16 (2) (a) Notwithstanding any other provision of statute to the contrary, the  
17 Authority shall have full power, including any authority under KRS 61.685,  
18 to audit an employer who is subject to the provisions of this section to  
19 ensure compliance and accuracy of the data required to be reported by the  
20 employer in accordance with this section.

21 (b) If the Authority determines an employer has knowingly falsified data  
22 required to be reported under this section:

23 1. The Authority shall indicate in the annual report submitted in  
24 accordance with subsection (3) of this section that the employer has  
25 knowingly falsified data and shall include a brief summary of the  
26 reasons for the Authority's determination;

27 2. The employer shall no longer be eligible to receive any future

1                   appropriations or subsidies from the state to assist in paying employer  
2                   contributions to the system; and

3                   3. The employer shall be required to pay back to the state any  
4                   appropriations or subsidies provided in the biennial executive branch  
5                   budget that were used to directly assist the employer in paying  
6                   employer contributions to the system on or after July 1, 2021.

7                   (c) If an employer fails to submit the information required by this section or  
8                   does not comply with requests from the Authority regarding subsections (1)  
9                   and (2) of this section to verify or audit the employer's information:

10                   1. The Authority shall indicate in the annual report submitted in  
11                   accordance with subsection (3) of this section that the employer is  
12                   noncompliant with the Authority's requests and shall include a brief  
13                   summary of the reasons for the Authority's determination; and

14                   2. The employer may lose eligibility to receive any future appropriations  
15                   or subsidies from the state to assist in paying employer contributions  
16                   to the system;

17                   (3) The Authority shall within sixty (60) days following the close of each fiscal year  
18                   occurring on or after July 1, 2021, determine and report the following to the state  
19                   budget director's office and the Legislative Research Commission for each  
20                   employer subject to this section, except for county attorneys:

21                   (a) The number of regular full-time employees of the employer who were  
22                   reported to the system during the prior fiscal year for which contributions  
23                   were reported in accordance with KRS 61.675;

24                   (b) The number of persons providing services to the employer under subsection  
25                   (1) of this section during the prior fiscal year who were not reported to the  
26                   system and for which no contributions were reported;

27                   (c) A percentage computed by dividing the number of employees reported in

1 paragraph (a) of this subsection by the combined sum of the number of  
2 employees and persons reported in paragraph (a) and (b) of this subsection  
3 and multiplying by one hundred; and

4 (d) The information required by subsection (2) of this section for any employer  
5 who has been determined by the Authority to have knowingly falsified data  
6 or is noncompliant in submitting the data required by this section to the  
7 Authority;

8 (4) It is the intent of the General Assembly in fiscal years occurring on or after July  
9 1, 2021, to provide appropriations for county attorneys for retirement costs in the  
10 Kentucky Employees Retirement System that is equal to the difference between  
11 the dollar value of actual contributions paid by the employer in fiscal year 2019-  
12 2020 to the system and the dollar value of contributions projected to be paid by  
13 the employer to the system in fiscal year 2021-2022;

14 (5) For fiscal year 2021-2022, it is the intent of the General Assembly to provide a  
15 subsidy towards the retirement costs of employers covered by this section, except  
16 for county attorneys who are provided a subsidy by subsection (4) of this section,  
17 that is equal to the difference between the dollar value of actual contributions  
18 paid by the employer in fiscal year 2019-2020 and the dollar value of  
19 contributions projected to be paid by the employer in fiscal year 2021-2022;

20 (6) It is the intent of the General Assembly that for fiscal years occurring on or after  
21 July 1, 2022, to:

22 (a) Provide a subsidy towards the retirement costs of each employer subject to  
23 this section, except for county attorneys who are provided a subsidy by  
24 subsection (4) of this section, who has made efforts to increase or maintain  
25 the number of employees reported to the system. Specifically, it is the intent  
26 of the General Assembly to provide subsidies only to those employers who  
27 have a percentage of employees reported to the system as specified by

1 subsection (3)(c) of this section, equal to or greater than:

2 1. Sixty percent (60%) for any subsidies provided in fiscal years  
3 occurring on or after July 1, 2022, to June 30, 2024; and

4 2. Eighty percent (80%) for any subsidies provided in fiscal years  
5 occurring on or after July 1, 2024.

6 Eligibility for a subsidy provided in each fiscal year of the budget shall be  
7 based upon the most recent percentage of employees reported by the  
8 Authority;

9 (b) For those employers eligible for a subsidy under paragraph (a) of this  
10 subsection, provide a subsidy that is equal to the dollar value of subsidy  
11 provided to the employer in fiscal year 2021-2022 multiplied by the  
12 following percentage:

13 1. For local and district health departments governed by KRS Chapter  
14 212, state supported universities and community colleges, and any  
15 other employer subject to this section that has taxing or fee authority:

16 a. Ninety percent (90%) in fiscal year 2022-2023;

17 b. Eighty percent (80%) in fiscal year 2023-2024;

18 c. Seventy percent (70%) in fiscal year 2024-2025;

19 d. Sixty percent (60%) in fiscal year 2025-2026; and

20 e. Fifty percent (50%) in fiscal years occurring on or after July 1,  
21 2026; and

22 2. For any other employer who does not have taxing or fee authority:

23 a. Ninety percent (90%) in fiscal years 2022-2024; and

24 b. Seventy-five percent (75%) in fiscal years occurring on or after  
25 July 1, 2024;

26 (7) The Council on State Governments (CSG), the Kentucky Educational Television  
27 (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky

1       High School Athletic Association (KHSAA), the Municipal Power Association of  
2       Kentucky, the Franklin County Council on Aging, the Kentucky Office of Bar  
3       Admissions, the Nursing Home Ombudsman, the Kentucky Association of  
4       Regional Programs (KARP), and the Kentucky Association of Sexual Assault  
5       Programs, are, notwithstanding the provisions of subsections (1) to (6) of this  
6       section, exempt from the reporting requirements and from receiving a subsidy to  
7       assist in paying employer contribution rates; and  
8       (8) The provisions of this section shall not obligate the General Assembly to provide  
9       any specific level of subsidy to assist in paying employer contributions of any  
10       employer covered by this section, and employers shall be responsible for any and  
11       all future retirement contributions payable by the employer regardless of the  
12       actual amount of subsidy included in future executive branch budgets.

13       ➔Section 8. The Kentucky Retirement Systems board of trustees shall amend the  
14       actuarial valuation for the Kentucky Employees Retirement System in accordance with  
15       the provisions of Section 1 of this Act so that employer costs can be determined for fiscal  
16       year 2021-2022 and shall provide the information to the Governor and General Assembly  
17       for purposes of the fiscal year 2021-2022 budgeting process.

18       ➔Section 9. For any district health department that has ceased to exist prior to the  
19       effective date of this Act, Kentucky Retirement Systems shall have the authority to assign  
20       liabilities and employer costs to the county health departments which comprised that  
21       ceasing district health department in order to carry out the provisions of Section 1 of this  
22       Act.

23       ➔Section 10. Whereas ensuring the financial health of the Kentucky Employees  
24       Retirement System is critical to the Commonwealth of Kentucky and to members,  
25       retirees, and employers of the system, an emergency is declared to exist, and this Act  
26       takes effect upon its passage and approval by the Governor or upon its otherwise  
27       becoming law.