

1 AN ACT relating to the Kentucky Public Employees Deferred Compensation  
2 Authority plans.

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

4 ➔Section 1. KRS 18A.230 is amended to read as follows:

5 As used in KRS 18A.230 to 18A.275, unless the context requires otherwise:

- 6 (1) "Employee" means a person holding an office, position or employment in state  
7 government and agencies thereof and also includes persons in the public school  
8 system;
- 9 (2) "Income" means earnings of a person while an employee of the state and agencies  
10 thereof or public school system;
- 11 (3) "Asset" means any owned physical object or right having a monetary value;
- 12 (4) "Trust fund" means a fund consisting of assets received and held by a government  
13 unit or its designated custodian to be expended or invested in accordance with  
14 conditions of the trust;
- 15 (5) "Deferred compensation" means a method which allows employees to authorize  
16 income to be deducted from their current earning and set aside to be paid at a later  
17 date;
- 18 (6) "Board" means the board of trustees as established by KRS 18A.245;~~and~~
- 19 (7) "Authority" means the Kentucky Public Employees' Deferred Compensation  
20 Authority~~[-];~~ **and**
- 21 **(8) "Financial planning" means the process of determining whether and how a**  
22 **participant can meet retirement goals through the proper management of**  
23 **financial resources.**

24 ➔Section 2. KRS 18A.245 is repealed, reenacted, and amended to read as  
25 follows:

- 26 (1) The authority shall be administered by a board of trustees composed of seven (7)  
27 members, who shall be as follows:

- 1 (a) Secretary, Finance and Administration Cabinet, ex officio;
- 2 (b) Secretary of personnel, ex officio;
- 3 (c) The state controller, ex officio;
- 4 (d) The State Treasurer, ex officio; and
- 5 (e) Three (3) at-large members appointed by the Governor, who do not have a
- 6 conflict of interest as provided by KRS 18A.262, one (1) of whom shall have
- 7 at least five (5) years of investment or banking experience and one (1) of
- 8 whom shall be a representative of a nonstate government employer.
- 9 (2) The members of the board appointed by the Governor shall serve for a period of
- 10 four (4) years and the ex officio members of the board shall serve only for the
- 11 period of their term of office. Each ex officio member may designate a proxy by
- 12 written notice to the authority prior to call of order of each meeting, and the proxy
- 13 shall be entitled to participate as a full voting member.
- 14 (3) Any vacancy which may occur shall be filled in the same manner provided for the
- 15 selection of the particular member for a full term. Vacancies shall be filled for the
- 16 unexpired term only.
- 17 (4) Membership on the board of trustees shall not be incompatible with any other office
- 18 unless a constitutional incompatibility exists, and no member shall be subject to
- 19 removal from office, except upon conviction of a felony, or of a misdemeanor
- 20 involving moral turpitude.
- 21 (5) Board members who do not otherwise receive a salary or compensation from the
- 22 State Treasury shall receive a per diem of one hundred dollars (\$100) for each day
- 23 they are in session or on official duty, and they shall be reimbursed for their actual
- 24 and necessary expenses in accordance with state administrative regulations and
- 25 standards applicable to state employees.
- 26 (6) The board shall meet at least once in each quarter of the year, and may meet in
- 27 special session upon the call of the chairman. It shall elect a chairman and a vice

1 chairman. A majority of the members shall constitute a quorum, and all actions  
2 taken by the board shall be by affirmative vote of a majority of the members  
3 present.

4 (7) The authority shall be attached to the Personnel Cabinet for administrative purposes  
5 only. The board may take but is not limited to the following actions:

- 6 (a) Appoint such employees as it deems necessary and fix the compensation for  
7 all employees of the board, subject to the approval of the secretary. The  
8 authority shall be headed by an executive director who shall be appointed by  
9 the board of directors of the authority without the limitations imposed by KRS  
10 12.040 and KRS Chapter 18A. The executive director of the authority and  
11 employees appointed by the board shall serve at its will and pleasure. All  
12 other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
- 13 (b) Require such employees as it thinks proper to execute bonds for the faithful  
14 performance of their duties;
- 15 (c) Establish a system of accounting;
- 16 (d) Contract for such services as may be necessary for the operation or  
17 administration of deferred compensation plans authorized in KRS 18A.230 to  
18 18A.275, including annual audits;
- 19 (e) Do all things, take all actions, and adopt plans for participation consistent with  
20 federal law and with the provisions of KRS 18A.230 to 18A.275, including  
21 but not limited to:
- 22 1. Amending the board's plan for the Kentucky Public Employees 401(k)  
23 Deferred Compensation Plan or the Kentucky Employees 457 Deferred  
24 Compensation Plan, or both such plans, to adopt, maintain, and  
25 terminate a deemed IRA program under Internal Revenue Code Section  
26 408;
  - 27 2. Amending the board's plan for the Kentucky Public Employees 401(k)

1           Deferred Compensation Plan to adopt, maintain, and terminate a  
 2           qualified Roth contribution program under Internal Revenue Code  
 3           Section 402A; **and**

4           3. Adopting, maintaining, and terminating an Internal Revenue Code  
 5           Section 403(b) plan for qualified employees; and

6           ~~[4. Upon the request of the Kentucky Retirement Systems board of trustees,  
 7           establishing an investment program for the 401(a) defined contribution  
 8           plan as provided by KRS 61.5956; and]~~

9           (f) Contract with persons or companies duly licensed by the state of Kentucky  
 10           and applicable federal regulatory agencies, at the cost of the trust fund **or**  
 11           **individual participant accounts**, to provide investment advice **and financial**  
 12           **planning** to participants in the plans, with respect to their selection of~~[~~  
 13           ~~permitted]~~ investments~~[ in the plans].~~ **The board may promulgate**  
 14           **administrative regulations for provision of financial planning to**  
 15           **participants in the plans.**

16           (8) The Attorney General, or an assistant designated by him, may act as legal adviser  
 17           and attorney for the board. The board may also appoint legal counsel in accordance  
 18           with KRS Chapter 12.

19           (9) The board shall prepare an annual financial report showing all receipts,  
 20           disbursements, assets, and liabilities and shall submit a copy to the Governor and  
 21           the Legislative Research Commission. All board meetings and records shall be open  
 22           for inspection by the public.

23           ➔Section 3. KRS 18A.250 is amended to read as follows:

24           (1) The authority shall establish and maintain a deferred compensation plan for the  
 25           employees of the State of Kentucky. Participation in such plan shall be by  
 26           agreement between such employees and the authority and shall provide for the  
 27           deferral of such amount of compensation as requested by the employee.

1 Participating employees must authorize that such deductions be made from their  
2 wages for the purpose of participation in such program.

3 (2) The board is directed to develop and obtain, for the benefit of employees, a  
4 qualified employee plan that includes a qualified cash or deferred arrangement as  
5 described in Section 401(k) of the Internal Revenue Code. The board is directed to  
6 develop a program for participants to borrow from their account or accounts in the  
7 plan. The plan shall be in addition to other plans offered by the board, and shall be  
8 offered to employees upon receipt of appropriate approval of the Internal Revenue  
9 Service or on January 1, 1985, whichever occurs later.

10 (3) Notwithstanding the provisions of KRS 337.060, agreements to participate and plan  
11 elections made by employees pursuant to subsections (1) and (2) of this section may  
12 be made in writing or by electronic record, signature, or contract as determined by  
13 the authority and in accordance with the provisions of KRS 369.101 to 369.120.  
14 Agreements and elections, including but not limited to hardship withdrawal  
15 applications, loan applications, beneficiary designations, and withdrawal requests  
16 made by participating employees under the plan, shall not be denied legal effect or  
17 enforceability if made electronically to the extent permitted by the authority.

18 (4) Notwithstanding KRS 337.060 and subsections (1) to (3) of this section:~~;~~

19 (a) Each full-time employee of the executive, judicial, and legislative branches of  
20 Kentucky state government hired on or after July 1, 2019, shall be  
21 automatically enrolled in the 401(k) plan established pursuant to this section,  
22 and the employee's compensation shall be reduced by thirty dollars (\$30) per  
23 month and contributed as a pre-tax deferral to the 401(k) plan unless and until  
24 the employee makes a deferral election under the terms of the 401(k) plan.  
25 Full-time status shall be determined by an employee's employer. The  
26 authority shall not be responsible or liable for any cost or liabilities  
27 resulting from such eligibility determinations made by an employer;

1       **(b) Each member of the General Assembly in office on July 1, 2021, who is not**  
2       **enrolled in the 401(k) plan, and each member thereafter upon taking office,**  
3       **shall be automatically enrolled in the 401(k) plan established pursuant to**  
4       **this section, and the member's compensation shall be reduced by thirty**  
5       **dollars (\$30) per month and contributed as a pre-tax deferral to the 401(k)**  
6       **plan unless and until the member makes a deferral election under the terms**  
7       **of the 401(k) plan;**

8       **(c) Each justice of the Supreme Court and each regular judge of the Court of**  
9       **Appeals, Circuit Court, District Court, and Family Court in office on July**  
10       **1, 2021, who is not enrolled in the 401(k) plan, and each such justice and**  
11       **judge thereafter upon taking office, shall be automatically enrolled in the**  
12       **401(k) plan, and the justice's or judge's compensation, as applicable, shall**  
13       **be reduced by thirty dollars (\$30) per month and contributed as a pre-tax**  
14       **deferral to the 401(k) plan unless and until the justice or judge, as**  
15       **applicable, makes a deferral election under the terms of the 401(k) plan.**  
16       **This section shall not apply to special judges appointed under KRS**  
17       **26A.020; and**

18       **(d)** The automatic enrollment shall begin as of the employee's first paycheck or as  
19       soon as administratively feasible thereafter. The board shall select a default  
20       investment fund or funds, pursuant to applicable federal law, for investment of  
21       an employee's deferrals into the employee's account until the employee makes  
22       an investment election. The board shall amend the 401(k) plan for the  
23       implementation and administration of employee automatic enrollment, and the  
24       board shall have authority to implement automatic enrollment consistent with  
25       applicable requirements of the Internal Revenue Code of 1986, as amended.  
26       **The board may promulgate administrative regulations for implementation**  
27       **of automatic enrollment.**

1       ➔Section 4. KRS 18A.255 is amended to read as follows:

2       (1) Notwithstanding any other provision of KRS 18A.230 to 18A.275, funds held for  
3       the State of Kentucky public employees deferred compensation trust fund pursuant  
4       to agreement between the state and participating employees may be invested in such  
5       investments as are deemed appropriate by the trustees, including but not limited to  
6       annuity contracts. Agreements may be made in writing or by electronic record,  
7       signature, or contract as determined by the authority in accordance with the  
8       provisions of KRS 369.101 to 369.120 and shall not be denied legal effect or  
9       enforceability if made electronically to the extent permitted by the authority.

10       (2) Funds deposited to the credit of the trust fund from payroll deductions made  
11       pursuant to KRS 18A.250 shall be temporarily invested as provided in KRS 42.500  
12       until such funds are invested pursuant to the deferred compensation agreements  
13       between the state and participating employees and actually credited to accounts for  
14       plan participants. Notwithstanding KRS 42.500, interest earned from such  
15       temporary investments shall be used to defray the expenses of administering the  
16       deferred compensation system.

17       (3) Neither the authority nor the board shall be liable for any losses or claims due to a  
18       participant's actions in connection with the investment advice *or financial planning*  
19       provided to the participant by operation of KRS 18A.245(7)(f) or otherwise. The  
20       authority and board shall have no duty or obligation to monitor, review, or assess  
21       the specific investment advice *or financial planning* provided to a participant.

22       ➔Section 5. KRS 18A.262 is repealed and reenacted to read as follows:

23       (1) No trustee or employee of the board or authority shall:

24       (a) Have any interest, direct or indirect, in the gains or profits of any investment  
25       or any other legal, business, or financial transaction made by the board or  
26       authority, except that any such trustee or employee may be a member,  
27       employee, or beneficiary of the plans administered by the board or authority;

- 1 (b) Directly or indirectly, for himself or herself or as an agent, use the assets of  
2 the plans administered by the board or authority, except to make current and  
3 necessary payments authorized by the board or authority;
- 4 (c) Become an endorser or surety or in any manner an obligor for moneys loaned  
5 by or borrowed from the board or authority;
- 6 (d) Have a contract or agreement with the board or authority, individually or  
7 through a business owned by the trustee or the employee;
- 8 (e) Use his or her official position with the board or authority to obtain a financial  
9 gain or benefit or advantage for himself or herself or a family member;
- 10 (f) Use confidential information acquired during his or her tenure with the board  
11 or authority to further his or her own economic interests or that of another  
12 person; or
- 13 (g) Hold outside employment with, or accept compensation from, any person or  
14 business with which he or she has involvement as part of his or her official  
15 position with the board or authority. The provisions of this paragraph shall not  
16 prohibit a trustee from serving as an employee of an agency participating in  
17 the plans.
- 18 (2) No trustee or employee of the board or authority, who has served as a trustee or  
19 employee of the board or authority on or after July 1, 2017, shall have any interest,  
20 direct or indirect, in the gains or profits of any investment or any other legal,  
21 business, or financial transaction made by the board or authority for a period of five  
22 (5) years following termination of his or her position, except that any such trustee or  
23 employee may be a member, employee, or beneficiary of the plans administered by  
24 the board or authority.
- 25 (3) (a) No person who is serving as a member of the General Assembly or is a public  
26 servant as defined by KRS 11A.010(9) shall have any interest, direct or  
27 indirect, in the gains or profits of any investment or any other legal, business,



1 or financial transaction made by the board or authority, except that any such  
2 trustee or public servant may be a member, employee, or beneficiary of the  
3 plans administered by the board or authority.

4 (b) No person who was serving as a member of the General Assembly on or after  
5 July 1, 2017, or was serving as a public servant as defined by KRS  
6 11A.010(9) on or after July 1, 2017, shall have any interest, direct or indirect,  
7 in the gains or profits of any investment or any other legal, business, or  
8 financial transaction made by the board or authority for a period of five (5)  
9 years following termination of his or her position, except that any such  
10 member or public servant may be a member, employee, or beneficiary of the  
11 plans administered by the board or authority.