

1 AN ACT relating to cessation of participation by Kentucky Employees Retirement  
2 System employers and declaring an emergency.

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

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

6 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
7 contrary:

8 (1) For purposes of this section:

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

10 (b) "Employer" means the governing body of a department, as defined by KRS  
11 61.510, or a county as defined by KRS 78.510;

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

13 1. The last day of the system's plan year in the year in which the employer  
14 has elected to cease participation in the system, provided the employer  
15 has met the requirements of this section and has given the Kentucky  
16 Retirement Systems sufficient notice as provided by administrative  
17 regulations promulgated by the systems; or

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

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

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

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

27 (b) Be required to involuntarily cease participation in the system under the

1 provisions of this section if the board has determined the employer is no  
2 longer qualified to participate in a governmental plan or has failed to comply  
3 with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852; or

4 (c) If the employer is participating in the Kentucky Employees Retirement  
5 System, request an estimate of the cost of voluntarily ceasing participation in  
6 the system prior to officially making a request to cease participation. For those  
7 Kentucky Employees Retirement System nonhazardous employers who are  
8 considering ceasing participating in the system under the provisions of  
9 subsection (8) of this section on June 30, 2021, the request for an estimate to  
10 voluntarily cease participating must be made prior to December 31, 2019, and  
11 the estimate shall be provided to that employer within sixty (60) days of the  
12 request, except that no estimate shall be required to be provided prior to  
13 January 31, 2020;

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

17 1. The employer shall adopt a resolution requesting to cease participation  
18 in the system and shall submit the resolution to the board for its  
19 approval. The board shall not be able to deny a resolution to cease  
20 participation in the Kentucky Employees Retirement System for any  
21 employer who seeks to voluntarily cease participation in the system as  
22 provided by subsection (8) of this section;

23 2. Except as provided by subsection (8)(d) of this section, the cessation of  
24 participation in the system shall apply to all employees of the employer;

25 3. The employer shall pay for all administrative costs of an actuarial study  
26 to be completed by the Kentucky Retirement Systems' consulting actuary  
27 and for any other administrative costs for discontinuing participation in

- 1 the system as determined by the board and as provided by this section;
- 2 4. The employer shall provide an alternative retirement program for  
3 employees who will no longer be covered by the system, which may  
4 include a voluntary defined contribution plan but, for Kentucky  
5 Employees Retirement System employers with effective cessation dates  
6 occurring on or after June 30, 2020, the alternative retirement program  
7 shall not include a defined benefit plan which by its nature can have an  
8 unfunded liability;
- 9 5. If the alternative retirement program established by the employer meets  
10 the qualification requirements under 26 U.S.C. sec. 401(a) or 26 U.S.C.  
11 sec. 403(b) and is capable of accepting trustee-to-trustee transfers of  
12 both pre-tax and post-tax contributions, employees of the employer  
13 ceasing participation may, except for those employees continuing to  
14 participate in the system as provided by subsection (8)(d)2. of this  
15 section, seek to transfer his or her account balance to the employer's  
16 qualified alternate retirement program within sixty (60) days of the  
17 employer's effective cessation date. An employee's election to transfer  
18 his or her account balance within sixty (60) days of the employer's  
19 effective cessation date is an irrevocable waiver of the right to obtain  
20 service credits in the system for the time worked for the employer  
21 ceasing participation;
- 22 6. The employer shall pay to the system by lump sum or in installments as  
23 provided by subsection (8) of this section, if eligible, the full actuarial  
24 cost, except as provided by subsection (8)(g)4. of this section, of the  
25 benefits accrued by its current and former employees in the system as  
26 determined separately for the pension fund and the insurance fund by the  
27 actuarial study required by subparagraph 3. of this paragraph. If the

1 employer makes an election for employees to continue to participate in  
2 the system as provided by subsection (8)(d)2. of this section, the cost  
3 shall also include the present value of future normal costs of those  
4 employees who will continue to participate in the system after the  
5 employer's effective cessation date. The full actuarial cost shall not  
6 include any employee who seeks a transfer of his or her account balance  
7 within sixty (60) days of the employer's effective cessation date as  
8 provided by subparagraph 5. of this paragraph. The actuarial cost shall  
9 be fixed, and the employer shall not be subject to any increases or  
10 subsequent adjustments, once the lump sum is paid or the installment  
11 payments have commenced; and

- 12 7. Kentucky Employees Retirement System employers ceasing  
13 participating under the provisions of subsection (8) of this section who  
14 elect to pay their actuarial costs by a lump sum shall pay~~make~~ the  
15 entire costs~~full lump sum payment~~, in one (1) or more payments, so  
16 that the full actuarial costs are paid by June 30, 2022,~~and shall pay~~  
17 Interest on the unpaid principal amount of the full actuarial costs shall  
18 begin~~beginning~~ on July 1, 2021, and accrue~~equal to a rate of five and~~  
19 ~~one quarter percent (5.25%) per annum for pension costs and at a rate of~~  
20 ~~six and one quarter percent (6.25%) per annum for retiree health costs~~  
21 until the full actuarial costs are paid~~lump sum payment is made~~. If  
22 the ceasing employer makes a payment prior to July 1, 2021, the  
23 ceasing employer shall receive a credit against their full actuarial  
24 costs to be determined as of June 30, 2021, that is equal to the amount  
25 of the prior payment plus interest for the period beginning on the date  
26 of the prior payment and ending on June 30, 2021. If a final payment  
27 is due by June 30, 2022, for an employer who has made a payment or

1                   payments on or before June 30, 2021, it shall be equal to any unpaid  
2                   actuarial costs due plus interest as of the date of final payment. If the  
3                   payment or payments made by the ceasing employer exceed the final  
4                   full actuarial costs of ceasing participation, the employer shall by  
5                   June 30, 2022, be refunded an amount equal to the overpayment plus  
6                   interest for the period beginning on the date of the overpayment and  
7                   ending on the date the refund is paid to the employer. If the ceasing  
8                   employer fails to make the full lump-sum payment by June 30, 2022, the  
9                   ceasing employer shall make installments as provided by subsection  
10                  (8)(g) of this section, and the ceasing employer shall have the costs  
11                  recalculated based upon making installment payments as provided by  
12                  this section and shall be required to make up any missed installment  
13                  payments as determined by the system. For purposes of this  
14                  subparagraph, "interest" shall be equal to a rate of five and one-  
15                  quarter percent (5.25%) per annum for pension costs and at a rate of  
16                  six and one-quarter percent (6.25%) per annum for retiree health  
17                  costs.

- 18                  (b) If the board determines an employer must involuntarily cease participation in  
19                  the system as provided by subsection (2)(b) of this section:
- 20                         1. The cessation of participation in the system shall apply to all employees  
21                                 of the employer;
  - 22                         2. The employer shall pay for all administrative costs of an actuarial study  
23                                 to be completed by the Kentucky Retirement Systems' consulting actuary  
24                                 and for any other administrative costs for discontinuing participation in  
25                                 the system as determined by the board and as provided by this section;  
26                                 and
  - 27                         3. The employer shall pay by lump sum to the system the full actuarial cost

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

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

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

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

1 employed by the employer. The day after the employer's effective cessation  
2 date, each employee described by this paragraph, except as provided by  
3 subsection (8)(d)2. of this section, shall be considered an inactive member  
4 with respect to his or her employment with the employer that ceased  
5 participation and, subject to the provisions and limitations of KRS 61.510 to  
6 61.705 and 78.510 to 78.852, shall:

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

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

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

1 state-supported universities and community colleges, and the Kentucky  
2 Higher Education Student Loan Corporation may voluntarily cease  
3 participation in the Kentucky Employees Retirement System solely  
4 under the provisions and requirements of subsection (8) of this section.

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

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

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

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

26 (c) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
27 System employers who voluntarily cease participation under the provisions of

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

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

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

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

26 (a) The board shall accept any election to cease participation on or before June  
27 30, 2021, and the employer's effective cessation date shall be June 30, 2021.

1 Prior to May 1, 2021, or January 1, 2021, in the case of university or  
2 community college employers, the employer may rescind a previously  
3 submitted election to cease participation;

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

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

25 (d) 1. The employer shall, in the resolution submitted in accordance with  
26 subsection (3)(a)1. of this section, make an election as to whether or not  
27 nonhazardous employees hired prior to the employer's effective

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

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

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

25 (e) The cost of ceasing participating to an individual employer shall be equal to  
26 the cost determined under subsection (7) of this section and shall include the  
27 costs of those employees who continue to participate in the system as

1 provided by paragraph (d)2. of this subsection;

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

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

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

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

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

1                   needed by appropriation in the biennial executive branch budget.

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

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

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

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

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

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

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

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

15 ➔Section 2. KRS 61.522 (Effective April 1, 2021) is amended to read as follows:

16 Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the  
17 contrary:

18 (1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

26           1. The employer shall adopt a resolution requesting to cease participation  
27           in the system and shall submit the resolution to the board for its

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

1 effective cessation date is an irrevocable waiver of the right to obtain  
 2 service credits in the system for the time worked for the employer  
 3 ceasing participation;

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

21 7. Kentucky Employees Retirement System employers ceasing  
 22 participating under the provisions of subsection (8) of this section who  
 23 elect to pay their actuarial costs by a lump sum shall pay~~make~~ the  
 24 entire costs~~[full lump sum payment]~~, in one (1) or more payments, so  
 25 that the full actuarial costs are paid by June 30, 2022.~~[, and shall pay]~~  
 26 Interest on the unpaid principal amount of the full actuarial costs shall  
 27 begin~~[beginning]~~ on July 1, 2021, and accrue~~[equal to a rate of five and~~

1           one-quarter percent (5.25%) per annum for pension costs and at a rate of  
2           six and one-quarter percent (6.25%) per annum for retiree health costs]  
3           until the full actuarial costs are paid[lump-sum payment is made]. If  
4           the ceasing employer makes a payment prior to July 1, 2021, the  
5           ceasing employer shall receive a credit against their full actuarial  
6           costs to be determined as of June 30, 2021, that is equal to the amount  
7           of the prior payment plus interest for the period beginning on the date  
8           of the prior payment and ending on June 30, 2021. If a final payment  
9           is due by June 30, 2022, for an employer who has made a payment or  
10           payments on or before June 30, 2021, it shall be equal to any unpaid  
11           actuarial costs due plus interest as of the date of final payment. If the  
12           payment or payments made by the ceasing employer exceed the final  
13           full actuarial costs of ceasing participation, the employer shall by  
14           June 30, 2022, be refunded an amount equal to the overpayment plus  
15           interest for the period beginning on the date of the overpayment and  
16           ending on the date the refund is paid to the employer. If the ceasing  
17           employer fails to make the full lump-sum payment by June 30, 2022, the  
18           ceasing employer shall make installments as provided by subsection  
19           (8)(g) of this section, and the ceasing employer shall have the costs  
20           recalculated based upon making installment payments as provided by  
21           this section and shall be required to make up any missed installment  
22           payments as determined by the system. For purposes of this  
23           subparagraph, "interest" shall be equal to a rate of five and one-  
24           quarter percent (5.25%) per annum for pension costs and at a rate of  
25           six and one-quarter percent (6.25%) per annum for retiree health  
26           costs.

27           (b) If the board determines an employer must involuntarily cease participation in

1 the system as provided by subsection (2)(b) of this section:

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

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

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

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

27 (a) The rights of recipients and the vested rights of inactive members accrued as

1 of the employer's effective cessation date shall not be impaired or reduced in  
2 any manner as a result of the employer ceasing participation in the system; and  
3 (b) Except as provided by subsection (8)(d)2. of this section, employees of the  
4 employer ceasing participation shall accrue benefits through the employer's  
5 effective cessation date but shall not accrue any additional benefits in the  
6 Kentucky Employees Retirement System, including earning years of service  
7 credit through the ceased employer, after the employer's effective cessation  
8 date for as long as they remain employed by the employer. The day after the  
9 employer's effective cessation date, each employee described by this  
10 paragraph, except as provided by subsection (8)(d)2. of this section, shall be  
11 considered an inactive member with respect to his or her employment with the  
12 employer that ceased participation and, subject to the provisions and  
13 limitations of KRS 61.510 to 61.705, shall:

- 14 1. Retain his or her accounts with the Kentucky Employees Retirement  
15 System and have those accounts credited with interest in accordance  
16 with KRS 61.510 to 61.705;
- 17 2. Retain his or her vested rights in accordance with paragraph (a) of this  
18 subsection; and
- 19 3. Be eligible to take a refund of his or her accumulated account balance in  
20 accordance with KRS 61.625 or any other available distribution if  
21 eligible;

22 (6) Kentucky Employees Retirement System employers who are county attorney  
23 offices, Commonwealth's attorney offices, local and district health departments  
24 governed by KRS Chapter 212, master commissioners, executive branch agencies  
25 whose employees are subject to KRS 18A.005 to 18A.200, state-administered  
26 retirement systems, state-supported universities and community colleges, property  
27 valuation administration offices, or employers in the legislative or judicial branch of

1 Kentucky state government, shall not be eligible to voluntarily discontinue  
2 participation in the Kentucky Employees Retirement System, except that:

3 (a) Any employer who is a nonstock nonprofit corporation organized under KRS  
4 Chapter 273 may voluntarily cease participation; and

5 (b) Local and district health departments governed by KRS Chapter 212, state-  
6 supported universities and community colleges, and the Kentucky Higher  
7 Education Student Loan Corporation may voluntarily cease participation in  
8 the Kentucky Employees Retirement System solely under the provisions and  
9 requirements of subsection (8) of this section;

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

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

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

- 1 (c) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
2 System employers who voluntarily cease participation under the provisions of  
3 subsection (8) of this section who pay the costs of ceasing participation by  
4 lump-sum payment by June 30, 2022, and who do make an election for  
5 employees to continue to participate in the system after the employer's  
6 effective cessation date as provided by subsection (8)(d)2. of this section;
- 7 (d) Three and one-half percent (3.5%) for those Kentucky Employees Retirement  
8 System employers who voluntarily cease participation under the provisions of  
9 subsection (8) of this section who pay the costs of ceasing participation by  
10 installment payments and who do not make an election for employees to  
11 continue to participate in the system after the employer's effective cessation  
12 date as provided by subsection (8)(d)3. of this section; or
- 13 (e) Three percent (3%) for those Kentucky Employees Retirement System  
14 employers who voluntarily cease participation under the provisions of  
15 subsection (8) of this section who pay the costs of ceasing participation by  
16 installment payments and who do make an election for employees to continue  
17 to participate in the system after the employer's effective cessation date as  
18 provided by subsection (8)(d)2. of this section;
- 19 (8) Notwithstanding the provisions of this section, any Kentucky Employees  
20 Retirement System employer who is eligible to voluntarily cease participating as  
21 provided by subsection (6) of this section may, on or after April 1, 2020, but prior to  
22 May 1, 2021, except in the case of university or community college employers it  
23 shall be prior to January 1, 2021, elect to voluntarily cease participating in the  
24 systems for its nonhazardous employees by submitting a resolution in accordance  
25 with subsection (3)(a)1. of this section. If an employer makes an election to  
26 voluntarily cease participation by submitting a resolution as provided by this  
27 subsection:

- 1           (a) The board shall accept any election to cease participation on or before June  
2           30, 2021, and the employer's effective cessation date shall be June 30, 2021.  
3           Prior to May 1, 2021, or January 1, 2021, in the case of university or  
4           community college employers, the employer may rescind a previously  
5           submitted election to cease participation;
- 6           (b) Nonhazardous employees hired on or after the employer's effective cessation  
7           date by an employer who has ceased participation in the system as provided by  
8           this section shall not, regardless of his or her membership date in the systems  
9           administered by Kentucky Retirement Systems, be eligible to participate in the  
10          Kentucky Employees Retirement System through the employer that ceased  
11          participation for the duration of his or her employment with that ceasing  
12          employer;
- 13          (c) Nonhazardous employees hired prior to the employer's effective cessation  
14          date, who began participating in the systems administered by Kentucky  
15          Retirement Systems on or after January 1, 2014, and who are participating in  
16          the hybrid cash balance plan as provided by KRS 61.597, shall continue to  
17          contribute and earn service credit in the systems through the employer's  
18          effective cessation date. After the employer's effective cessation date, the  
19          employee shall participate in the alternative retirement plan established by the  
20          employer as provided by subsection (3)(a)4. of this section. A nonhazardous  
21          employee covered by this paragraph who elects to transfer his or her account  
22          balance within sixty (60) days of the employer's effective cessation date as  
23          provided by subsection (3)(a)5. of this section, shall, notwithstanding KRS  
24          61.597, receive a transfer of the employee's accumulated account balance,  
25          including the entire accumulated employer credit, regardless of the employee's  
26          years of service credit;
- 27          (d) 1. The employer shall, in the resolution submitted in accordance with

1 subsection (3)(a)1. of this section, make an election as to whether or not  
2 nonhazardous employees hired prior to the employer's effective  
3 cessation date, who began participating in the systems administered by  
4 Kentucky Retirement Systems prior to January 1, 2014, who are  
5 participating in the systems administered by Kentucky Retirement  
6 Systems through the employer, will continue to participate in the system  
7 after the employer's effective cessation date.

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

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

27 (e) The cost of ceasing participating to an individual employer shall be equal to

1 the cost determined under subsection (7) of this section and shall include the  
2 costs of those employees who continue to participate in the system as  
3 provided by paragraph (d)2. of this subsection;

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

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

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

26 2. Interest shall be assigned to the principal amount annually beginning on  
27 July 1, 2021, and for each July 1 thereafter, that is equal to a rate of five

- 1 and one-quarter percent (5.25%) per annum for pension costs and at a  
2 rate of six and one-quarter percent (6.25%) per annum for retiree health  
3 costs;
- 4 3. If an employer is not projected by the systems to pay off the full  
5 actuarial costs to cease participation with interest as provided by  
6 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
7 installment period from the employer's effective cessation date, and the  
8 employer makes an election for employees to continue to participate in  
9 the system after the employer's effective cessation date as provided by  
10 paragraph (d)2. of this subsection, then the systems shall adjust the base  
11 value for the first annual payments occurring on or after July 1, 2021, in  
12 order to keep the maximum period of installments to thirty (30) years;  
13 and
- 14 4. If an employer is not projected by the systems to pay off the full  
15 actuarial costs to cease participation with interest as provided by  
16 subparagraph 2. of this paragraph at the conclusion of the thirty (30) year  
17 installment period from the employer's effective cessation date, and the  
18 employer does not make an election for employees to continue to  
19 participate in the system after the employer's effective cessation date as  
20 provided by paragraph (d)3. of this subsection, the employer shall pay  
21 the amount determined by subparagraph 1. of this paragraph for thirty  
22 (30) years from the effective cessation date and no additional costs shall  
23 be billed to a ceasing employer after the conclusion of the thirty (30)  
24 year period nor shall the employer be subject to adjustments under  
25 subparagraph 3. of this paragraph. The system may request in future  
26 biennial executive branch budgets the additional funding needed on an  
27 annual basis to fully pay off the installments at the conclusion of the

1           thirty (30) year period for the employers described by this paragraph,  
2           and it is the intent of the General Assembly to pay the additional funding  
3           needed by appropriation in the biennial executive branch budget.

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

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

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

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

26          (10) (a) Any employer who voluntarily ceases participation, or who is required to  
27          involuntarily cease participation as provided in this section, shall hold the

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

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

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

17 ➔Section 3. Whereas employers ceasing participation in the system desire to  
18 make prompt payments for any actuarial costs, an emergency is declared to exist, and this  
19 Act takes effect upon its passage and approval by the Governor or upon its otherwise  
20 becoming law.