

1 AN ACT relating to employment of part-time adjunct instructors for the Kentucky
2 Fire Commission.

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

4 ➔Section 1. KRS 61.637 (Effective April 1, 2021) is amended to read as follows:

5 (1) A retired member who is receiving monthly retirement payments under any of the
6 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed
7 as an employee by a participating agency prior to August 1, 1998, shall have his or
8 her retirement payments suspended for the duration of reemployment. Monthly
9 payments shall not be suspended for a retired member who is reemployed if he or
10 she anticipates that he or she will receive less than the maximum permissible
11 earnings as provided by the Federal Social Security Act in compensation as a result
12 of reemployment during the calendar year. The payments shall be suspended at the
13 beginning of the month in which the reemployment occurs.

14 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to
15 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,
16 except where monthly payments were not suspended as provided in subsection (1)
17 of this section or would not increase the retired member's last monthly retirement
18 allowance by at least one dollar (\$1), and the member shall be credited with
19 additional service credit.

20 (3) In the month following the termination of reemployment, retirement allowance
21 payments shall be reinstated under the plan under which the member was receiving
22 payments prior to reemployment.

23 (4) (a) Notwithstanding the provisions of this section, the payments suspended in
24 accordance with subsection (1) of this section shall be paid retroactively to the
25 retired member, or his or her estate, if he or she does not receive more than the
26 maximum permissible earnings as provided by the Federal Social Security Act
27 in compensation from participating agencies during any calendar year of

1 reemployment.

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

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

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

1 result of the recomputation than he or she was receiving prior to
2 reemployment or would receive as determined under KRS 61.691; and

3 5. Any retired member who was reemployed prior to March 26, 1974, shall
4 begin making contributions to the system in accordance with the
5 provisions of this section on the first day of the month following March
6 26, 1974.

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

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

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

25 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this
26 section shall no longer apply to a retired member who is reemployed in a
27 position covered by the same retirement system from which the member

1 retired. Reemployed retired members shall be treated as new members upon
2 reemployment. Any retired member whose reemployment date preceded
3 August 1, 1998, who does not elect, within sixty (60) days of notification by
4 the retirement systems, to remain under the provisions of subsections (1) to
5 (4) of this section shall be deemed to have elected to participate under this
6 subsection.

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

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

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

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

23 (11) (a) If a member of the Kentucky Employees Retirement System retires from a
24 department which participates in more than one (1) retirement system and is
25 reemployed within one (1) month of his or her initial retirement date by the
26 same department in a position participating in another retirement system, the
27 retired member's retirement allowance shall be suspended for the first month

1 of his or her retirement, and the member shall repay to the retirement system
2 all benefits received for the month.

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

6 (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a
7 nonhazardous member who retired prior to age sixty-five (65), is reemployed
8 within six (6) months of the member's termination by the same employer, the
9 member shall obtain from his or her previous and current employers a copy of
10 the job description established by the employers for the position and a
11 statement of the duties performed by the member for the position from which
12 he or she retired and for the position in which he or she has been reemployed.

13 (b) The job descriptions and statements of duties shall be filed with the retirement
14 office.

15 (13) If the retirement system determines that the retired member has been employed in a
16 position with the same principal duties as the position from which the member
17 retired:

18 (a) The member's retirement allowance shall be suspended during the period that
19 begins on the month in which the member is reemployed and ends six (6)
20 months after the member's termination;

21 (b) The retired member shall repay to the retirement system all benefits paid from
22 systems administered by Kentucky Retirement Systems or County Employees
23 Retirement System under reciprocity, including medical insurance benefits,
24 that the member received after reemployment began;

25 (c) Upon termination, or subsequent to expiration of the six (6) month period
26 from the date of termination, the retired member's retirement allowance based
27 on his or her initial retirement account shall no longer be suspended, and the

1 member shall receive the amount to which he or she is entitled, including an
2 increase as provided by KRS 61.691;

3 (d) Except as provided in subsection (7) of this section, if the position in which a
4 retired member is employed after initial retirement is a regular full-time
5 position, the retired member shall contribute to a second member account
6 established for him or her in the retirement system. Service credit gained after
7 the member's date of reemployment shall be credited to the second member
8 account; and

9 (e) Upon termination, the retired member shall be entitled to benefits payable
10 from his or her second retirement account.

11 (14) (a) If the retirement system determines that the retired member has not been
12 reemployed in a position with the same principal duties as the position from
13 which he or she retired, the retired member shall continue to receive his or her
14 retirement allowance.

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

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

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

25 (16) A retired member who is reemployed and contributing to a second member account
26 shall not be eligible to purchase service credit under any of the provisions of KRS
27 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was

1 eligible to purchase prior to his or her initial retirement.

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

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

22 1. The member shall contribute to a member account established for him or
23 her in one (1) of the systems administered by Kentucky Retirement
24 Systems or County Employees Retirement System, and employer
25 contributions shall be paid on behalf of the member by the participating
26 employer; and

27 2. Upon subsequent retirement, the member shall be eligible for a

1 retirement allowance based upon total service and creditable
2 compensation, including any additional service or creditable
3 compensation earned after his or her initial retirement was voided;

4 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is
5 receiving a retirement allowance from one (1) of the systems administered by
6 Kentucky Retirement Systems or County Employees Retirement System and
7 is employed in a regular full-time position required to participate in one (1) of
8 the systems administered by Kentucky Retirement Systems or County
9 Employees Retirement System after a three (3) month period following the
10 member's initial retirement date, the member may continue to receive his or
11 her retirement allowance during the period of reemployment subject to the
12 following provisions:

13 1. If a member is reemployed by a participating agency within twelve (12)
14 months of the member's retirement date, the participating agency shall
15 certify in writing on a form prescribed by the board that no prearranged
16 agreement existed between the employee and agency prior to the
17 employee's retirement for the employee to return to work with the
18 participating agency. If an elected official is reelected to a new term of
19 office in the same position and has retired from the elected office within
20 twelve (12) months prior to taking the new term of office, he or she shall
21 be deemed by the system as having a prearranged agreement under the
22 provisions of this subparagraph and shall have his or her retirement
23 voided. If the participating agency fails to complete the certification, the
24 member's retirement shall be voided and the provisions of paragraph (a)
25 of this subsection shall apply to the member and the employer.
26 Employment that is accepted by the retired member after twelve (12)
27 months following the member's retirement date shall not constitute a

- 1 prearranged agreement under this paragraph;
- 2 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
- 3 the contrary, the member shall not contribute to the systems and shall
- 4 not earn any additional benefits for any work performed during the
- 5 period of reemployment;
- 6 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
- 7 except for any retiree employed as a school resource officer as defined
- 8 by KRS 158.441, the employer shall pay employer contributions as
- 9 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
- 10 creditable compensation earned by the employee during the period of
- 11 reemployment. The additional contributions paid shall be used to reduce
- 12 the unfunded actuarial liability of the systems; and
- 13 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
- 14 except for any retiree employed as a school resource officer as defined
- 15 by KRS 158.441, the employer shall be required to reimburse the
- 16 systems for the cost of the health insurance premium paid by the systems
- 17 to provide coverage for the retiree, not to exceed the cost of the single
- 18 premium. Effective July 1, 2015, local school boards shall not be
- 19 required to pay the reimbursement required by this subparagraph for
- 20 retirees employed by the board for eighty (80) days or less during the
- 21 fiscal year;
- 22 (c) If a member is receiving a retirement allowance from the State Police
- 23 Retirement System or from hazardous duty retirement coverage with the
- 24 Kentucky Employees Retirement System or the County Employees Retirement
- 25 System, or has filed the forms required to receive a retirement allowance from
- 26 the State Police Retirement System or from hazardous duty retirement
- 27 coverage with the Kentucky Employees Retirement System or the County

1 Employees Retirement System, and is employed in a regular full-time position
2 required to participate in the State Police Retirement System or in a hazardous
3 duty position with the Kentucky Employees Retirement System or the County
4 Employees Retirement System within one (1) month following the member's
5 initial retirement date, the member's retirement shall be voided, and the
6 member shall repay to the retirement system all benefits received, including
7 any health insurance benefits. If the member is returning to work in a regular
8 full-time position required to participate in one (1) of the systems
9 administered by Kentucky Retirement Systems or County Employees
10 Retirement System:

- 11 1. The member shall contribute to a member account established for him or
12 her in one (1) of the systems administered by Kentucky Retirement
13 Systems or County Employees Retirement System, and employer
14 contributions shall be paid on behalf of the member by the participating
15 employer; and
 - 16 2. Upon subsequent retirement, the member shall be eligible for a
17 retirement allowance based upon total service and creditable
18 compensation, including any additional service or creditable
19 compensation earned after his or her initial retirement was voided;
- 20 (d) If a member is receiving a retirement allowance from the State Police
21 Retirement System or from hazardous duty retirement coverage with the
22 Kentucky Employees Retirement System or the County Employees Retirement
23 System and is employed in a regular full-time position required to participate
24 in the State Police Retirement System or in a hazardous duty position with the
25 Kentucky Employees Retirement System or the County Employees Retirement
26 System after a one (1) month period following the member's initial retirement
27 date, the member may continue to receive his or her retirement allowance

1 during the period of reemployment subject to the following provisions:

- 2 1. If a member is reemployed by a participating agency within twelve (12)
3 months of the member's retirement date, the participating agency shall
4 certify in writing on a form prescribed by the board that no prearranged
5 agreement existed between the employee and agency prior to the
6 employee's retirement for the employee to return to work with the
7 participating agency. If an elected official is reelected to a new term of
8 office in the same position and has retired from the elected office within
9 twelve (12) months prior to taking the new term of office, he or she shall
10 be deemed by the system as having a prearranged agreement under the
11 provisions of this subparagraph and shall have his or her retirement
12 voided. If the participating agency fails to complete the certification, the
13 member's retirement shall be voided and the provisions of paragraph (c)
14 of this subsection shall apply to the member and the employer.
15 Employment that is accepted by the retired member after twelve (12)
16 months following the member's retirement date shall not constitute a
17 prearranged agreement under this paragraph;
- 18 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to
19 the contrary, the member shall not contribute to the systems and shall
20 not earn any additional benefits for any work performed during the
21 period of reemployment;
- 22 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
23 except for any retiree employed as a school resource officer as defined
24 by KRS 158.441, the employer shall pay employer contributions as
25 specified by KRS 61.565, 61.702, and 78.635, as applicable, on all
26 creditable compensation earned by the employee during the period of
27 reemployment. The additional contributions paid shall be used to reduce

1 the unfunded actuarial liability of the systems;

2 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and
3 except for any retiree employed as a school resource officer as defined
4 by KRS 158.441, the employer shall be required to reimburse the
5 systems for the cost of the health insurance premium paid by the systems
6 to provide coverage for the retiree, not to exceed the cost of the single
7 premium;

8 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member
9 who qualifies as a volunteer for an employer participating in one (1) of the
10 systems administered by Kentucky Retirement Systems or County Employees
11 Retirement System and who is receiving reimbursement of actual expenses, a
12 nominal fee for his or her volunteer services, or both, shall not be considered
13 an employee of the participating employer and shall not be subject to
14 paragraphs (a) to (d) of this subsection if:

15 1. Prior to the retired member's most recent retirement date, he or she did
16 not receive creditable compensation from the participating employer in
17 which the retired member is performing volunteer services;

18 2. Any reimbursement or nominal fee received prior to the retired
19 member's most recent retirement date has not been credited as creditable
20 compensation to the member's account or utilized in the calculation of
21 the retired member's benefits;

22 3. The retired member has not purchased or received service credit under
23 any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for
24 service with the participating employer for which the retired member is
25 performing volunteer services; and

26 4. Other than the status of volunteer, the retired member does not become
27 an employee, leased employee, or independent contractor of the

1 employer for which he or she is performing volunteer services for a
2 period of at least twelve (12) months following the retired member's
3 most recent retirement date.

4 If a retired member, who provided volunteer services with a participating
5 employer under this paragraph violates any provision of this paragraph, then
6 he or she shall be deemed an employee of the participating employer as of the
7 date he or she began providing volunteer services and both the retired member
8 and the participating employer shall be subject to paragraphs (a) to (d) of this
9 subsection for the period of volunteer service;

10 (f) Notwithstanding any provision of this section, any mayor or member of a city
11 legislative body shall not be required to resign from his or her position as
12 mayor or as a member of the city legislative body in order to begin drawing
13 benefits from the systems administered by Kentucky Retirement Systems or
14 subject to any provision of this section as it relates solely to his or her service
15 as a mayor or member of the city legislative body if the mayor or member of a
16 city legislative body:

- 17 1. Has not participated in the County Employees Retirement System prior
18 to retirement, but is otherwise eligible to retire from the Kentucky
19 Employees Retirement System or the State Police Retirement System; or
- 20 2. Has been or is participating in the County Employees Retirement System
21 and is at least sixty-two (62) years of age. If a mayor or member of a city
22 legislative body who is at least sixty-two (62) years of age retires from
23 the systems administered by Kentucky Retirement Systems but remains
24 in office after his or her effective retirement date, the mayor or member
25 of the city legislative body shall not accrue any further service credit or
26 benefits in the systems administered by Kentucky Retirement Systems
27 for any employment occurring on or after the effective retirement date;

1 (g) Notwithstanding any provision of this section, any current or future part-
2 time adjunct instructor for the Kentucky Fire Commission who has not
3 participated in the Kentucky Employees Retirement System prior to
4 retirement, but who is otherwise eligible to retire from the County
5 Employees Retirement System, shall not be:

6 1. Required to resign from his or her position as a part-time adjunct
7 instructor for the Kentucky Fire Commission in order to begin
8 drawing benefits from the County Employees Retirement System; or

9 2. Subject to any provision of this section as it relates solely to his or her
10 service as a part-time adjunct instructor for the Kentucky Fire
11 Commission;

12 (h) If a member is receiving a retirement allowance from any of the retirement
13 systems administered by the Kentucky Retirement Systems or County
14 Employees Retirement System and enters into a contract or becomes a leased
15 employee of an employer under contract with an employer participating in one
16 (1) of the systems administered by the Kentucky Retirement Systems or
17 County Employees Retirement System:

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

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

27 3. After three (3) months but within twelve (12) months following the

1 member's initial retirement, if the system determines the employment
2 arrangement does not qualify as an independent contractor or leased
3 employee and that a prearranged agreement existed between the member
4 and the agency for the member to return to work with the agency, the
5 member's retirement shall be voided in accordance with paragraph (a) of
6 this subsection; and

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

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

16 ~~(i)(h)~~ The Kentucky Retirement Systems or County Employees Retirement
17 System shall issue a final determination regarding a certification of the
18 absence of a prearranged agreement or the retired member's qualification as an
19 independent contractor or leased employee as required under this section no
20 later than thirty (30) days after the retired member and participating employer
21 provide all required forms and additional information required by the
22 Kentucky Retirement Systems or County Employees Retirement System.

23 (18) The Kentucky Retirement Systems and the County Employees Retirement System
24 shall promulgate administrative regulations to implement the requirements of this
25 section, including incorporating by reference board-prescribed forms that a retired
26 member and participating agency shall provide the systems under subsections (8),
27 (9), and (17) of this section.