

1 AN ACT relating to the Kentucky Public Pensions Authority.

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

3 ➔Section 1. KRS 16.582 is amended to read as follows:

- 4 (1) (a) Total and permanent disability means a disability which results in the  
5 member's incapacity to engage in any occupation for remuneration or profit.  
6 Loss by severance of both hands at or above the wrists, or both feet at or  
7 above the ankles, or one (1) hand above the wrist and one (1) foot above the  
8 ankle, or the complete, irrevocable loss of the sight of both eyes shall be  
9 considered as total and permanent.
- 10 (b) Hazardous disability means a disability which results in the member's total  
11 incapacity to continue as a regular full-time officer or as an employee in a  
12 hazardous position, as defined in KRS 61.592, but which does not result in the  
13 member's total and permanent incapacity to engage in other occupations for  
14 remuneration or profit.
- 15 (c) In determining whether the disability meets the requirement of this section,  
16 any reasonable accommodation provided by the employer as provided in 42  
17 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
- 18 (d) If the board determines that the total and permanent disability of a member  
19 receiving a retirement allowance under this section has ceased, then the board  
20 shall determine if the member has a hazardous disability.
- 21 (2) Any person may qualify to retire on disability, subject to the following:
- 22 (a) The person shall have sixty (60) months of service, twelve (12) of which shall  
23 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The  
24 service requirement shall be waived if the disability is a total and permanent  
25 disability or a hazardous disability and is a direct result of an act in line of  
26 duty;
- 27 (b) For a person whose membership date is prior to August 1, 2004, the person

- 1           shall not be eligible for an unreduced retirement allowance;
- 2           (c) The person's application shall be on file in the retirement office no later than  
3           twenty-four (24) months after the person's last day of paid employment, as  
4           defined in KRS 16.505, as a regular full-time officer or in a regular full-time  
5           hazardous position under KRS 61.592;
- 6           (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;  
7           and
- 8           (e) A person's disability application based on the same claim of incapacity shall  
9           be accepted and reconsidered for disability if accompanied by new objective  
10          medical evidence. The application shall be on file in the retirement office no  
11          later than twenty-four (24) months after the person's last day of paid  
12          employment as a regular full-time officer or in a regular full-time hazardous  
13          position.
- 14       (3) Upon the examination of the objective medical evidence by licensed physicians  
15          pursuant to KRS 61.665, it shall be determined that:
- 16           (a) The incapacity results from bodily injury, mental illness, or disease. For  
17           purposes of this section, "injury" means any physical harm or damage to the  
18           human organism other than disease or mental illness;
- 19           (b) The incapacity is deemed to be permanent; and
- 20           (c) The incapacity does not result directly or indirectly from:
- 21               1. Injury intentionally self-inflicted while sane or insane; or
- 22               2. Bodily injury, mental illness, disease, or condition which pre-existed  
23               membership in the system or reemployment, whichever is most recent,  
24               unless:
- 25                   a. The disability results from bodily injury, mental illness, disease, or  
26                   a condition which has been substantially aggravated by an injury or  
27                   accident arising out of or in the course of employment; or

1           b. The person has at least sixteen (16) years' current or prior service  
2           for employment with employers participating in the retirement  
3           systems administered by the Kentucky Retirement Systems or the  
4           County Employees Retirement System.

5           For purposes of this subparagraph, "reemployment" shall not mean a  
6           change of employment between employers participating in the  
7           retirement systems administered by the Kentucky Retirement Systems or  
8           the County Employees Retirement System with no loss of service credit.

9       (4) (a) 1. An incapacity shall be deemed to be permanent for the purpose of  
10           hazardous disability if it is expected to result in death or can be  
11           expected to last for a continuous period of not less than twelve (12)  
12           months from the person's last day of paid employment in a position as a  
13           regular full-time officer or a hazardous position.

14           2. The determination of a permanent incapacity for the purpose of  
15           hazardous disability shall be based on the medical evidence contained  
16           in the member's file and the member's residual functional capacity and  
17           physical exertion requirements.

18           3. The determination of a total and permanent incapacity shall be based  
19           on the medical evidence contained in the member's file and the  
20           member's residual functional capacity.

21       (b) The person's residual functional capacity shall be the person's capacity for  
22       work activity on a regular and continuing basis. The person's physical ability  
23       shall be assessed in light of the severity of the person's physical, mental, and  
24       other impairments. The person's ability to walk, stand, carry, push, pull, reach,  
25       handle, and other physical functions shall be considered with regard to  
26       physical impairments. The person's ability to understand, remember, and carry  
27       out instructions and respond appropriately to supervision, coworkers, and

1 work pressures in a work setting shall be considered with regard to mental  
2 impairments. Other impairments, including skin impairments, epilepsy, visual  
3 sensory impairments, postural and manipulative limitations, and  
4 environmental restrictions, shall be considered in conjunction with the  
5 person's physical and mental impairments to determine residual functional  
6 capacity.

7 (c) The person's physical exertion requirements shall be determined based on the  
8 following standards:

- 9 1. Sedentary work shall be work that involves lifting no more than ten (10)  
10 pounds at a time and occasionally lifting or carrying articles such as  
11 large files, ledgers, and small tools. Although a sedentary job primarily  
12 involves sitting, occasional walking and standing may also be required  
13 in the performance of duties.
- 14 2. Light work shall be work that involves lifting no more than twenty (20)  
15 pounds at a time with frequent lifting or carrying of objects weighing up  
16 to ten (10) pounds. A job shall be in this category if lifting is  
17 infrequently required but walking and standing are frequently required,  
18 or if the job primarily requires sitting with pushing and pulling of arm or  
19 leg controls. If the person has the ability to perform substantially all of  
20 these activities, the person shall be deemed capable of light work. A  
21 person deemed capable of light work shall be deemed capable of  
22 sedentary work unless the person has additional limitations such as the  
23 loss of fine dexterity or inability to sit for long periods.
- 24 3. Medium work shall be work that involves lifting no more than fifty (50)  
25 pounds at a time with frequent lifting or carrying of objects weighing up  
26 to twenty-five (25) pounds. If the person is deemed capable of medium  
27 work, the person shall be deemed capable of light and sedentary work.

- 1           4. Heavy work shall be work that involves lifting no more than one  
2           hundred (100) pounds at a time with frequent lifting or carrying of  
3           objects weighing up to fifty (50) pounds. If the person is deemed capable  
4           of heavy work, the person shall also be deemed capable of medium,  
5           light, and sedentary work.
- 6           5. Very heavy work shall be work that involves lifting objects weighing  
7           more than one hundred (100) pounds at a time with frequent lifting or  
8           carrying of objects weighing fifty (50) or more pounds. If the person is  
9           deemed capable of very heavy work, the person shall be deemed capable  
10          of heavy, medium, light, and sedentary work.
- 11       (5) (a) The disability retirement allowance shall be determined as provided in KRS  
12          16.576, except if the member's total service credit on his or her last day of  
13          paid employment in a regular full-time position is less than twenty (20) years,  
14          service shall be added beginning with his or her last date of paid employment  
15          and continuing to his or her fifty-fifth birthday. The maximum service credit  
16          added shall not exceed the total service the member had on his or her last day  
17          of paid employment, and the maximum service credit for calculating his or her  
18          retirement allowance, including his or her total service and service added  
19          under this section, shall not exceed twenty (20) years.
- 20       (b) For a member whose participation begins on or after August 1, 2004, but prior  
21          to January 1, 2014, the disability retirement allowance shall be the higher of  
22          twenty-five percent (25%) of the member's monthly final rate of pay or the  
23          retirement allowance determined in the same manner as for retirement at his  
24          or her normal retirement date with years of service and final compensation  
25          being determined as of the date of his disability.
- 26       (c) For a member who begins participating on or after January 1, 2014, in the  
27          hybrid cash balance plan as provided by KRS 16.583, the disability retirement

1 allowance shall be the higher of twenty-five percent (25%) of the member's  
2 monthly final rate of pay or the retirement allowance determined in the same  
3 manner as for retirement at his or her normal retirement date under KRS  
4 16.583.

5 (6) If the member receives a satisfactory determination of hazardous disability pursuant  
6 to KRS 61.665 and the disability is the direct result of an act in line of duty as  
7 defined in KRS 16.505, the member's retirement allowance shall be calculated as  
8 follows:

9 (a) For the disabled member, benefits as provided in subsection (5) of this section  
10 except that the monthly retirement allowance payable shall not be less than  
11 twenty-five percent (25%) of the member's monthly final rate of pay; and

12 (b) For each dependent child of the member on his or her disability retirement  
13 date, who is alive at the time any particular payment is due, a monthly  
14 payment equal to ten percent (10%) of the disabled member's monthly final  
15 rate of pay; however, total maximum dependent children's benefit shall not  
16 exceed forty percent (40%) of the member's monthly final rate of pay. The  
17 payments shall be payable to each dependent child, or to a legally appointed  
18 guardian or as directed by the system.

19 (7) If the member receives a satisfactory determination of total and permanent disability  
20 pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty  
21 as defined in KRS 16.505, the member's retirement allowance shall be calculated as  
22 follows:

23 (a) For the disabled member, the benefits as provided in subsection (5) of this  
24 section except that the monthly retirement allowance payable shall not be less  
25 than seventy-five percent (75%) of the member's monthly average pay; and

26 (b) For each dependent child of the member on his or her disability retirement  
27 date, who is alive at the time any particular payment is due, a monthly

1 payment equal to ten percent (10%) of the disabled member's monthly average  
2 pay, except that:

- 3 1. Member and dependent children payments under this subsection shall  
4 not exceed one hundred percent (100%) of the member's monthly  
5 average pay; and
- 6 2. Total maximum dependent children's benefits shall not exceed twenty-  
7 five percent (25%) of the member's monthly average pay while the  
8 member is living and forty percent (40%) of the member's monthly  
9 average pay after the member's death. The payments shall be payable to  
10 each dependent child, or to a legally appointed guardian or as directed by  
11 the system, and shall be divided equally among all dependent children.

12 (8) No benefit provided in this section shall be reduced as a result of any change in the  
13 extent of disability of any retired member who is the age of normal retirement age  
14 ~~fifty five (55)~~ or older.

15 (9) If a regular full-time officer or hazardous position member has been approved for  
16 benefits under a hazardous disability, the board shall, upon request of the member,  
17 permit the member to receive the hazardous disability allowance while accruing  
18 benefits in a nonhazardous position, subject to proper medical review of the  
19 nonhazardous position's job description by the system's medical examiner.

20 (10) For a member of the State Police Retirement System, in lieu of the allowance  
21 provided in subsection (5) to (7) of this section, the member may be retained on the  
22 regular payroll and receive the compensation authorized by KRS 16.165, if he or  
23 she is qualified.

24 ➔Section 2. KRS 61.505 is amended to read as follows:

25 (1) There is created an eight (8) member Kentucky Public Pensions Authority whose  
26 purpose shall be to administer and operate:

27 (a) A single personnel system for the staffing needs of the Kentucky Retirement

- 1 Systems and the County Employees Retirement System;
- 2 (b) A system of accounting that is developed by the Authority for the Kentucky  
3 Retirement Systems and the County Employees Retirement System;
- 4 (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the  
5 County Employees Retirement System, including but not limited to:
- 6 1. Benefit counseling and administration;
- 7 2. Information technology and services, including a centralized Web site  
8 for the Authority, the Kentucky Retirement Systems, and the County  
9 Employees Retirement System;
- 10 3. Legal services;
- 11 4. Employer reporting and compliance;
- 12 5. Processing and distribution of benefit payments, and other financial,  
13 investment administration, and accounting duties as directed by the  
14 Kentucky Retirement Systems board of trustees or the County  
15 Employees Retirement System board of trustees;
- 16 6. All administrative actions, orders, decisions, and determinations  
17 necessary to carry out benefit functions required by the Kentucky  
18 Retirement Systems and the County Employment Retirement System  
19 statutes, including but not limited to administration of reduced and  
20 unreduced retirement benefits, disability retirement, reemployment after  
21 retirement, service purchases, computation of sick-leave credit costs,  
22 correction of system records, qualified domestic relations orders, and  
23 pension spiking determinations~~[, and all other administrative decisions~~  
24 ~~and orders]; and~~
- 25 7. Completing and compiling financial data and reports;
- 26 (d) Any jointly held assets used for the administration of the Kentucky Retirement  
27 Systems and the County Employees Retirement System, including but not



1 limited to real estate, office space, equipment, and supplies;

2 (e) Hiring a single actuarial consulting firm who shall serve both the Kentucky  
3 Retirement Systems and the County Employees Retirement System;

4 (f) *Hiring a single external certified public accountant who shall perform*  
5 *audits for both the Kentucky Retirement Systems and the County Employees*  
6 *Retirement System;*

7 (g) The Authority may promulgate administrative regulations as an authority or  
8 on behalf of the Kentucky Retirement Systems and the County Employees  
9 Retirement System, individually or collectively, provided such regulations are  
10 not inconsistent with the provisions of this section and KRS 16.505 to 16.652,  
11 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order  
12 to carry out the provisions of this section and duties authorized by KRS  
13 16.505 to 16.652 and 61.510 to 61.705;

14 (h)~~(g)~~ Contracting management for administrative services; and

15 (i)~~(h)~~ Other tasks or duties as directed solely or jointly by the boards of the  
16 Kentucky Retirement Systems or the County Employees Retirement System.

17 (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of  
18 the following individuals:

19 (a) The chair of the Kentucky Retirement Systems board of trustees;

20 (b) The chair of the County Employees Retirement System board of trustees;

21 (c) The investment committee chair of the Kentucky Retirement Systems board of  
22 trustees, unless the investment committee chair is also the chair of the board  
23 of trustees in which case the chair of the Kentucky Retirement Systems shall  
24 appoint an individual who serves on the investment committee;

25 (d) The investment committee chair of the County Employees Retirement System  
26 board of trustees, unless the investment committee chair is also the chair of  
27 the County Employees Retirement System board of trustees in which case the

1 chair of the County Employees Retirement System shall appoint an individual  
2 who serves on the investment committee;

3 (e) Two additional (2) trustees of the Kentucky Retirement Systems board of  
4 trustees selected by the chair of the Kentucky Retirement Systems board of  
5 trustees of which one (1) shall be a trustee who was elected by the  
6 membership of one (1) of the systems administered by Kentucky Retirement  
7 Systems and one (1) shall be a trustee of Kentucky Retirement Systems who  
8 was appointed by the Governor; and

9 (f) Two additional (2) trustees of the County Employees Retirement System  
10 board of trustees selected by the chair of the County Employees Retirement  
11 System board of trustees of which one (1) shall be a trustee who was elected  
12 by the membership of the County Employees Retirement System and one (1)  
13 shall be a trustee of the County Employees Retirement System who was  
14 appointed by the Governor.

15 (3) The Kentucky Public Pensions Authority is hereby granted the powers and  
16 privileges of a corporation, including but not limited to the following powers:

17 (a) To sue and be sued in its corporate name;

18 (b) To make bylaws not inconsistent with the law and in accordance with its  
19 duties as provided by this section;

20 (c) To conduct the business and promote the purposes for which it was formed;

21 (d) To carry out the obligations of the Authority subject to KRS Chapters 45,  
22 45A, 56, and 57;

23 (e) To purchase fiduciary liability insurance; and

24 (f) The Kentucky Public Pensions Authority shall reimburse any Authority  
25 member, officer, or employee for any legal expense resulting from a civil  
26 action arising out of the performance of his or her official duties. The hourly  
27 rate of reimbursement for any contract for legal services under this paragraph

1 shall not exceed the maximum hourly rate provided in the Legal Services  
2 Duties and Maximum Rate Schedule promulgated by the Government  
3 Contract Review Committee established pursuant to KRS 45A.705, unless a  
4 higher rate is specifically approved by the secretary of the Finance and  
5 Administration Cabinet or his or her designee.

6 (4) Any vacancy which may occur in an appointed position on the Kentucky Public  
7 Pensions Authority shall be filled in the same manner which provides for the  
8 selection of the particular member of the Authority. No person shall serve in more  
9 than one (1) position as a member of the Authority and if a person holds more than  
10 one (1) position as a member of the Authority, he or she shall resign a position.

11 (5) (a) Membership on the Authority shall not be incompatible with any other office  
12 unless a constitutional incompatibility exists. No Authority member shall  
13 serve in more than one (1) position as a member of the Authority.

14 (b) An Authority member shall be removed from office upon conviction of a  
15 felony or for a finding of a violation of any provision of KRS 11A.020 or  
16 11A.040 by a court of competent jurisdiction.

17 (c) A current or former employee of the County Employees Retirement System,  
18 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority  
19 shall not be eligible to serve as a member of the Authority.

20 (6) Kentucky Public Pensions Authority members who do not otherwise receive a  
21 salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for  
22 each day they are in session or on official duty, and they shall be reimbursed for  
23 their actual and necessary expenses in accordance with state administrative  
24 regulations and standards, except that the members shall not receive a per diem or  
25 receive reimbursements on the same day they receive a per diem or reimbursements  
26 for service to the Kentucky Retirement Systems board of trustees or County  
27 Employees Retirement Systems board of trustees.

- 1 (7) (a) The Authority shall meet at least once in each quarter of the year and may  
2 meet in special session upon the call of the chair or the executive director of  
3 the Authority.
- 4 (b) The Authority shall elect a chair and a vice chair. The chair shall not serve  
5 more than four (4) consecutive years as chair or vice chair of the Authority.  
6 The vice chair shall not serve more than four (4) consecutive years as chair or  
7 vice chair of the Authority. A member who has served four (4) consecutive  
8 years as chair or vice chair of the Authority may be elected chair or vice chair  
9 of the Authority after an absence of two (2) years from the positions.
- 10 (c) A majority of the Authority members shall constitute a quorum and all actions  
11 taken by the Authority shall be by affirmative vote of a majority of the  
12 Authority members present.
- 13 (d) The Authority shall post on the Authority's Web site and shall make available  
14 to the public:
- 15 1. All meeting notices and agendas of the Authority. Notices and agendas  
16 shall be posted to the Authority's Web site at least seventy-two (72)  
17 hours in advance of the Authority's meetings, except in the case of  
18 special or emergency meetings as provided by KRS 61.823;
  - 19 2. All Authority minutes or other materials that require adoption or  
20 ratification by the Authority. The items listed in this subparagraph shall  
21 be posted within seventy-two (72) hours of adoption or ratification of  
22 the Authority;
  - 23 3. All bylaws, policies, or procedures adopted or ratified by the Authority;  
24 and
  - 25 4. A listing of the members of the Authority and membership on each  
26 committee established by the Authority.
- 27 (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the

1 services of an executive director and fix the compensation and other terms of  
2 employment for this position without limitation of the provisions of KRS  
3 Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief  
4 administrative officer of the Authority, the Kentucky Retirement Systems  
5 board of trustees, and the County Employees Retirement System board of  
6 trustees. The executive director shall work cooperatively with the chief  
7 executive officers of the Kentucky Retirement Systems and the County  
8 Employees Retirement System.

9 (b) The Kentucky Public Pensions Authority shall authorize the executive director  
10 to appoint the employees deemed necessary to transact the duties of the  
11 Authority for the purposes outlined in subsection (1) of this section.

12 (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume  
13 responsibility of administering the staff of the Kentucky Retirement Systems  
14 in order to provide the services established by this section.

15 (d) All employees of the Kentucky Public Pensions Authority, except for the  
16 executive director and no more than eight (8) unclassified employees of the  
17 Office of Investments employed pursuant to KRS 18A.115(1)(e), (g), (h),  
18 and (i), ~~chief investment officer, and one (1) deputy chief investment~~  
19 ~~officer~~, shall be subject to the state personnel system established pursuant to  
20 KRS 18A.005 to 18A.204 and shall have their salaries determined by the  
21 secretary of the Personnel Cabinet. The employees exempted from the  
22 classified service under this paragraph shall not be subject to the salary  
23 limitations specified in KRS 64.640(2) and (3).

24 (e) The Authority shall annually report to the Public Pension Oversight Board the  
25 number of employees of the Authority, the salary paid to each employee, and  
26 the change in the salaries of each individual employed by the Authority over  
27 the prior year.

- 1 (f) The Authority shall require the executive director and the employees as it  
2 thinks proper to execute bonds for the faithful performance of their duties  
3 notwithstanding the limitations of KRS Chapter 62.
- 4 (g) Notwithstanding any other provision of statute to the contrary, including but  
5 not limited to any provision of KRS Chapter 12, the Governor shall have no  
6 authority to change any provision of this section by executive order or action,  
7 including but not limited to reorganizing, replacing, amending, or abolishing  
8 the membership of the Kentucky Public Pensions Authority.
- 9 (9) All employees of the Authority shall serve during its will and pleasure.  
10 Notwithstanding any statute to the contrary, employees shall not be considered  
11 legislative agents under KRS 6.611.
- 12 (10) The Attorney General, or an assistant designated by him or her, may attend each  
13 meeting of the Authority and may receive the agenda, board minutes, and other  
14 information distributed to Authority members upon request. The Attorney General  
15 may act as legal adviser and attorney for the Authority, and the Authority may  
16 contract for legal services, notwithstanding the limitations of KRS Chapter 12 or  
17 13B.
- 18 (11) (a) All expenses incurred by or on behalf of the Kentucky Public Pensions  
19 Authority shall be paid by the systems administered by the Kentucky  
20 Retirement Systems or the County Employees Retirement System and shall be  
21 prorated, assigned, or allocated to each system as determined by Kentucky  
22 Public Pensions Authority. Any additional initial costs determined by the  
23 Authority to be attributable solely to establishing a separate County  
24 Employees Retirement System board and the Kentucky Public Pensions  
25 Authority as provided by this section and KRS 78.782 shall be paid by the  
26 County Employees Retirement System. Any additional ongoing annual  
27 administrative and investment expenses that occur after the establishment of a

1 separate County Employees Retirement System board and the Kentucky  
2 Public Pensions Authority that are determined by the Authority to be a direct  
3 result of establishing a separate County Employees Retirement System board  
4 and the Kentucky Public Pensions Authority shall be paid by the County  
5 Employees Retirement System.

6 (b) Any other statute to the contrary notwithstanding, authorization for all  
7 expenditures relating to the administrative operations of the Kentucky Public  
8 Pensions Authority, the Kentucky Retirement Systems, and the County  
9 Employees Retirement System shall be contained in the biennial budget unit  
10 request, branch budget recommendation, and the financial plan adopted by the  
11 General Assembly pursuant to KRS Chapter 48. The request from the  
12 Kentucky Public Pensions Authority shall include any specific administrative  
13 expenses requested by the Kentucky Retirement Systems board of trustees or  
14 the County Employees Retirement System board of trustees pursuant to KRS  
15 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses  
16 specified by paragraph (a) of this subsection.

17 (12) (a) An Authority member shall discharge his or her duties as a member of the  
18 Authority, including his or her duties as a member of a committee of the  
19 Authority:

- 20 1. In good faith;
- 21 2. On an informed basis; and
- 22 3. In a manner he or she honestly believes to be in the best interest of the  
23 County Employees Retirement System and the Kentucky Retirement  
24 Systems, as applicable.

25 (b) An Authority member discharges his or her duties on an informed basis if,  
26 when he or she makes an inquiry into the business and affairs of the Authority,  
27 system, or systems or into a particular action to be taken or decision to be

1           made, he or she exercises the care an ordinary prudent person in a like  
2           position would exercise under similar circumstances.

3           (c) In discharging his or her duties, an Authority member may rely on  
4           information, opinions, reports, or statements, including financial statements  
5           and other financial data, if prepared or presented by:

6           1. One (1) or more officers or employees of the Authority whom the  
7           Authority member honestly believes to be reliable and competent in the  
8           matters presented;

9           2. Legal counsel, public accountants, actuaries, or other persons as to  
10          matters the Authority member honestly believes are within the person's  
11          professional or expert competence; or

12          3. A committee of the Authority of which he or she is not a member if the  
13          Authority member honestly believes the committee merits confidence.

14          (d) An Authority member shall not be considered as acting in good faith if he or  
15          she has knowledge concerning the matter in question that makes reliance  
16          otherwise permitted by paragraph (c) of this subsection unwarranted.

17          (e) Any action taken as a member of the Authority, or any failure to take any  
18          action as an Authority member, shall not be the basis for monetary damages or  
19          injunctive relief unless:

20          1. The Authority member has breached or failed to perform the duties of  
21          the member's office in compliance with this section; and

22          2. In the case of an action for monetary damages, the breach or failure to  
23          perform constitutes willful misconduct or wanton or reckless disregard  
24          for human rights, safety, or property.

25          (f) A person bringing an action for monetary damages under this section shall  
26          have the burden of proving by clear and convincing evidence the provisions of  
27          paragraph (e)1. and 2. of this subsection, and the burden of proving that the



1 breach or failure to perform was the legal cause of damages suffered by the  
2 Kentucky Retirement Systems or County Employees Retirement System, as  
3 applicable.

4 (g) In discharging his or her administrative duties under this section, an Authority  
5 member shall strive to administer the systems in an efficient and cost-effective  
6 manner for the taxpayers of the Commonwealth of Kentucky and shall take all  
7 actions available under the law to contain costs for the trusts, including costs  
8 for participating employers, members, and retirees.

9 ➔Section 3. KRS 61.510 is amended to read as follows:

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

11 (1) "System" means the Kentucky Employees Retirement System created by KRS  
12 61.510 to 61.705;

13 (2) "Board" means the board of trustees of the system as provided in KRS 61.645;

14 (3) "Department" means any state department or board or agency participating in the  
15 system in accordance with appropriate executive order, as provided in KRS 61.520.

16 For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the  
17 General Assembly and any other body, entity, or instrumentality designated by  
18 executive order by the Governor, shall be deemed to be a department,  
19 notwithstanding whether said body, entity, or instrumentality is an integral part of  
20 state government;

21 (4) "Examiner" means the medical examiners as provided in KRS 61.665;

22 (5) "Employee" means the members, officers, and employees of the General Assembly  
23 and every regular full-time, appointed or elective officer or employee of a  
24 participating department, including the Department of Military Affairs. The term  
25 does not include persons engaged as independent contractors, seasonal, emergency,  
26 temporary, interim, and part-time workers. In case of any doubt, the board shall  
27 determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

- 1 (6) "Employer" means a department or any authority of a department having the power  
2 to appoint or select an employee in the department, including the Senate and the  
3 House of Representatives, or any other entity, the employees of which are eligible  
4 for membership in the system pursuant to KRS 61.525;
- 5 (7) "State" means the Commonwealth of Kentucky;
- 6 (8) "Member" means any employee who is included in the membership of the system or  
7 any former employee whose membership has not been terminated under KRS  
8 61.535;
- 9 (9) "Service" means the total of current service and prior service as defined in this  
10 section;
- 11 (10) "Current service" means the number of years and months of employment as an  
12 employee, on and after July 1, 1956, except that for members, officers, and  
13 employees of the General Assembly this date shall be January 1, 1960, for which  
14 creditable compensation is paid and employee contributions deducted, except as  
15 otherwise provided, and each member, officer, and employee of the General  
16 Assembly shall be credited with a month of current service for each month he  
17 serves in the position;
- 18 (11) "Prior service" means the number of years and completed months, expressed as a  
19 fraction of a year, of employment as an employee, prior to July 1, 1956, for which  
20 creditable compensation was paid; except that for members, officers, and employees  
21 of the General Assembly, this date shall be January 1, 1960. An employee shall be  
22 credited with one (1) month of prior service only in those months he received  
23 compensation for at least one hundred (100) hours of work; provided, however, that  
24 each member, officer, and employee of the General Assembly shall be credited with  
25 a month of prior service for each month he served in the position prior to January 1,  
26 1960. Twelve (12) months of current service in the system are required to validate  
27 prior service;

1 (12) "Accumulated contributions" at any time means the sum of all amounts deducted  
2 from the compensation of a member and credited to his individual account in the  
3 members' account, including employee contributions picked up after August 1,  
4 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts  
5 and any other amounts the member shall have contributed thereto, including interest  
6 credited thereon. For members who begin participating on or after September 1,  
7 2008, "accumulated contributions" shall not include employee contributions that are  
8 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
9 funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

10 (13) "Creditable compensation":

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

22 (b) Includes:

23 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
24 purchase of service credit, which shall be averaged over the employee's  
25 total service with the system in which it is recorded if it is equal to or  
26 greater than one thousand dollars (\$1,000);

27 2. Cases where compensation includes maintenance and other perquisites,

1 but the board shall fix the value of that part of the compensation not paid  
2 in money;

3 3. Lump-sum payments for creditable compensation paid as a result of an  
4 order of a court of competent jurisdiction, the Personnel Board, or the  
5 Commission on Human Rights, or for any creditable compensation paid  
6 in anticipation of settlement of an action before a court of competent  
7 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
8 including notices of violations of state or federal wage and hour statutes  
9 or violations of state or federal discrimination statutes, which shall be  
10 credited to the fiscal year during which the wages were earned or should  
11 have been paid by the employer. This subparagraph shall also include  
12 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
13 which shall be credited to the period during which the wages were  
14 earned or should have been paid by the employer;

15 4. Amounts which are not includable in the member's gross income by  
16 virtue of the member having taken a voluntary salary reduction provided  
17 for under applicable provisions of the Internal Revenue Code; and

18 5. Elective amounts for qualified transportation fringes paid or made  
19 available on or after January 1, 2001, for calendar years on or after  
20 January 1, 2001, that are not includable in the gross income of the  
21 employee by reason of 26 U.S.C. sec. 132(f)(4); and

22 (c) Excludes:

23 1. Living allowances, expense reimbursements, lump-sum payments for  
24 accrued vacation leave, and other items determined by the board;

25 2. For employees who begin participating on or after September 1, 2008,  
26 lump-sum payments for compensatory time;

27 3. For employees who begin participating on or after August 1, 2016,

1                   nominal fees paid for services as a volunteer; and  
2                   4. Any salary or wages paid to an employee for services as a Kentucky  
3                   State Police school resource officer as defined by KRS 158.441;

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

5           (a) For a member who begins participating before September 1, 2008, who is  
6           employed in a nonhazardous position, the creditable compensation of the  
7           member during the five (5) fiscal years he or she was paid at the highest  
8           average monthly rate divided by the number of months of service credit during  
9           that five (5) year period multiplied by twelve (12). The five (5) years may be  
10          fractional and need not be consecutive. If the number of months of service  
11          credit during the five (5) year period is less than forty-eight (48), one (1) or  
12          more additional fiscal years shall be used;

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

26          (c) For a member who begins participating before September 1, 2008, who is  
27          employed in a hazardous position, as provided in KRS 61.592, the creditable

1 compensation of the member during the three (3) fiscal years he or she was  
2 paid at the highest average monthly rate divided by the number of months of  
3 service credit during that three (3) year period multiplied by twelve (12). The  
4 three (3) years may be fractional and need not be consecutive. If the number of  
5 months of service credit during the three (3) year period is less than twenty-  
6 four (24), one (1) or more additional fiscal years shall be used;

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

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

- 1 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
2 calculated during the twelve (12) month period immediately preceding the  
3 member's effective retirement date, including employee contributions picked up  
4 after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the  
5 system by the employer and the following equivalents shall be used to convert the  
6 rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
7 workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour  
8 workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months,  
9 one (1) year;
- 10 (16) "Retirement allowance" means the retirement payments to which a member is  
11 entitled;
- 12 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
13 basis of the actuarial tables that are adopted by the board. In cases of disability  
14 retirement, the options authorized by KRS 61.635 shall be computed by adding ten  
15 (10) years to the age of the member, unless the member has chosen the Social  
16 Security adjustment option as provided for in KRS 61.635(8), in which case the  
17 member's actual age shall be used. For members who began participating in the  
18 system prior to January 1, 2014, no disability retirement option shall be less than the  
19 same option computed under early retirement;
- 20 (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless  
21 otherwise provided in KRS 61.510 to 61.705;
- 22 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
23 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
24 limitation year used to determine contribution and benefit limits as established by  
25 26 U.S.C. sec. 415;
- 26 (20) "Officers and employees of the General Assembly" means the occupants of those  
27 positions enumerated in KRS 6.150. The term shall also apply to assistants who

1 were employed by the General Assembly for at least one (1) regular legislative  
2 session prior to July 13, 2004, who elect to participate in the retirement system, and  
3 who serve for at least six (6) regular legislative sessions. Assistants hired after July  
4 13, 2004, shall be designated as interim employees;

5 (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean  
6 all positions that average one hundred (100) or more hours per month determined by  
7 using the number of months actually worked within a calendar or fiscal year,  
8 including all positions except:

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

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

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

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

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

25 (22) "Vested" for purposes of determining eligibility for purchasing service credit under  
26 KRS 61.552 means the employee has at least forty-eight (48) months of service if  
27 age sixty-five (65) or older or at least sixty (60) months of service if under the age



- 1 of sixty-five (65). For purposes of this subsection, "service" means service in the  
2 systems administered by the Kentucky Retirement Systems and County Employees  
3 Retirement System;
- 4 (23) "Parted employer" means a department, portion of a department, board, or agency,  
5 such as Outwood Hospital and School, which previously participated in the system,  
6 but due to lease or other contractual arrangement is now operated by a publicly held  
7 corporation or other similar organization, and therefore is no longer participating in  
8 the system. The term "parted employer" shall not include a department, board, or  
9 agency that ceased participation in the system pursuant to KRS 61.522;
- 10 (24) "Retired member" means any former member receiving a retirement allowance or  
11 any former member who has filed the necessary documents for retirement benefits  
12 and is no longer contributing to the retirement system;
- 13 (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
14 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
15 pay. The rate shall be certified by the employer;
- 16 (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by  
17 the member in accordance with KRS 61.542 or 61.705 to receive any available  
18 benefits in the event of the member's death. As used in KRS 61.702, "beneficiary"  
19 does not mean an estate, trust, or trustee;
- 20 (27) "Recipient" means the retired member or the person or persons designated as  
21 beneficiary by the member and drawing a retirement allowance as a result of the  
22 member's death or a dependent child drawing a retirement allowance. An alternate  
23 payee of a qualified domestic relations order shall not be considered a recipient,  
24 except for purposes of KRS 61.623;
- 25 (28) "Level percentage of payroll amortization method" means a method of determining  
26 the annual amortization payment on the unfunded actuarial accrued liability as  
27 expressed as a percentage of payroll over a set period of years but that may be

- 1 converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method,  
2 the percentage of payroll shall be projected to remain constant for all years  
3 remaining in the set period of time and the unfunded actuarially accrued liability  
4 shall be projected to be fully amortized at the conclusion of the set period of years;
- 5 (29) "Increment" means twelve (12) months of service credit which are purchased. The  
6 twelve (12) months need not be consecutive. The final increment may be less than  
7 twelve (12) months;
- 8 (30) "Person" means a natural person;
- 9 (31) "Retirement office" means the Kentucky Public Pensions Authority's office building  
10 in Frankfort, unless otherwise designated by the Kentucky Public Pensions  
11 Authority;
- 12 (32) "Last day of paid employment" means the last date employer and employee  
13 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
14 78.615 to the retirement office in order for the employee to receive current service  
15 credit for the month. Last day of paid employment does not mean a date the  
16 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
17 that date occurs twenty-four (24) or more months after previous contributions;
- 18 (33) "Objective medical evidence" means reports of examinations or treatments; medical  
19 signs which are anatomical, physiological, or psychological abnormalities that can  
20 be observed; psychiatric signs which are medically demonstrable phenomena  
21 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
22 or contact with reality; or laboratory findings which are anatomical, physiological,  
23 or psychological phenomena that can be shown by medically acceptable laboratory  
24 diagnostic techniques, including but not limited to chemical tests,  
25 electrocardiograms, electroencephalograms, X-rays, and psychological tests. *The*  
26 *testimonial evidence of the person applying for disability retirement shall not*  
27 *constitute nor be deemed the equivalent of objective medical evidence;*

- 1 (34) "Participating" means an employee is currently earning service credit in the system  
2 as provided in KRS 61.543;
- 3 (35) "Month" means a calendar month;
- 4 (36) "Membership date" means:
- 5 (a) The date upon which the member began participating in the system as  
6 provided in KRS 61.543; or
- 7 (b) For a member electing to participate in the system pursuant to KRS  
8 196.167(4) who has not previously participated in the system or the Kentucky  
9 Teachers' Retirement System, the date the member began participating in a  
10 defined contribution plan that meets the requirements of 26 U.S.C. sec.  
11 403(b);
- 12 (37) "Participant" means a member, as defined by subsection (8) of this section, or a  
13 retired member, as defined by subsection (24) of this section;
- 14 (38) "Qualified domestic relations order" means any judgment, decree, or order,  
15 including approval of a property settlement agreement, that:
- 16 (a) Is issued by a court or administrative agency; and
- 17 (b) Relates to the provision of child support, alimony payments, or marital  
18 property rights to an alternate payee;
- 19 (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
20 participant, who is designated to be paid retirement benefits in a qualified domestic  
21 relations order;
- 22 (40) "Accumulated employer credit" mean the employer pay credit deposited to the  
23 member's account and interest credited on such amounts as provided by KRS  
24 16.583 and 61.597;
- 25 (41) "Accumulated account balance" means:
- 26 (a) For members who began participating in the system prior to January 1, 2014,  
27 the member's accumulated contributions; or

1 (b) For members who began participating in the system on or after January 1,  
2 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
3 the combined sum of the member's accumulated contributions and the  
4 member's accumulated employer credit;

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

6 (a) Freely and without pressure or coercion performs hours of service for an  
7 employer participating in one (1) of the systems administered by Kentucky  
8 Retirement Systems without receipt of compensation for services rendered,  
9 except for reimbursement of actual expenses, payment of a nominal fee to  
10 offset the costs of performing the voluntary services, or both; and

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

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

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

22 (45) "Monthly average pay" means:

23 (a) In the case of a member who dies as a direct result of an act in line of duty as  
24 defined in KRS 16.505 or who dies as a result of a duty-related injury as  
25 defined in KRS 61.621, the higher of the member's monthly final rate of pay  
26 or the average monthly creditable compensation earned by the deceased  
27 member during his or her last twelve (12) months of employment; or

1 (b) In the case where a member becomes totally and permanently disabled as a  
 2 direct result of an act in line of duty as defined in KRS 16.505 or becomes  
 3 disabled as a result of a duty-related injury as defined in KRS 61.621 and is  
 4 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the  
 5 member's monthly final rate of pay or the average monthly creditable  
 6 compensation earned by the disabled member during his or her last twelve  
 7 (12) months of employment prior to the date the act in line of duty or duty-  
 8 related injury occurred;

9 (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
 10 61.505;~~and~~

11 (47) "Executive director" means the executive director of the Kentucky Public Pensions  
 12 Authority; and

13 (48) "Instructional staff" means the employees of a state college or university  
 14 participating under Section 4 of this Act who are:

15 (a) Faculty;

16 (b) Staff responsible for teaching; or

17 (b) Other individuals employed in an administrative position that is eligible for  
 18 participation in the Teachers' Insurance and Annuity Association (TIAA)  
 19 or the Teachers' Retirement System.

20 ➔Section 4. KRS 61.520 is amended to read as follows:

21 (1) Each department determined by the board to be eligible and qualified for  
 22 participation shall participate in the system when the Governor by appropriate  
 23 executive order, the authority to issue such executive order being granted, directs  
 24 such department to participate in the system. The effective date of such participation  
 25 shall be determined by the board and fixed by the Governor in his executive order.

26 (2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor  
 27 is authorized to permit any state college or university, which he directs by

1 appropriate executive order to participate in the system after January 1, 1972,  
 2 to include its noninstructional employees in the membership of the system  
 3 while excluding the instructional employees of the state college or university  
 4 from membership.

5 (b) All employees of an agency participating under authority of subsection (2)(a)  
 6 of this section shall be considered noninstructional employees except the  
 7 members of the instructional staff as defined under Section 3 of this Act ~~of~~  
 8 ~~the state college or university who are responsible for teaching and the~~  
 9 ~~administrative positions which are included in the Teachers' Insurance and~~  
 10 ~~Annuity Association (TIAA) or the Kentucky Teachers' Retirement System].~~

11 (3) All executive orders issued under authority of this section since July 1, 1956, are  
 12 hereby ratified by the General Assembly and each participating and contributing  
 13 department, board, agency, corporation, board for mental health or individuals with  
 14 an intellectual disability, or entity participating since that date under such executive  
 15 order is hereby declared to be a participating department under the Kentucky  
 16 Employees Retirement System.

17 (4) Except as provided by KRS 61.522:

18 (a) Once a department participates it shall continue to participate as long as it  
 19 remains qualified; and

20 (b) Any position initially required to participate in the Kentucky Employees  
 21 Retirement System shall continue to participate as long as the position exists.

22 ➔Section 5. KRS 61.565 is amended to read as follows:

23 (1) (a) Each employer participating in the State Police Retirement System as  
 24 provided for in KRS 16.505 to 16.652 and the Kentucky Employees  
 25 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute  
 26 annually to the respective retirement system an amount determined by the  
 27 actuarial valuation completed in accordance with KRS 61.670 and as specified

1 by this section. Employer contributions for each respective retirement system  
2 shall be equal to the sum of the "normal cost contribution" and the "actuarially  
3 accrued liability contribution."

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

- 8 1. Paid as a percentage of creditable compensation reported for each  
9 employee participating in the system and accruing benefits; and
- 10 2. The same percentage of pay for all employees who are participating in  
11 the same retirement system, except that separate percentage rates shall  
12 be developed in each system for those employers whose employees are  
13 participating in hazardous duty retirement coverage as provided by KRS  
14 61.592.

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

- 18 1. Computed by amortizing the total unfunded actuarially accrued liability  
19 of each system over a closed period of thirty (30) years beginning with  
20 the 2019 actuarial valuation using the level percentage of payroll  
21 amortization method, except that any increase or decrease in the  
22 unfunded actuarially accrued liability occurring after the completion of  
23 the 2019 actuarial valuation shall be amortized over a closed period of  
24 twenty (20) years beginning with the actuarial valuation in which the  
25 increase or decrease in the unfunded actuarially accrued liability is  
26 recognized. An increase or decrease in the unfunded actuarially accrued  
27 liability may result from, but not be limited to, legislative changes to

- 1 benefits, changes in actuarial methods or assumptions, or actuarial gains  
2 or losses;
- 3 2. Paid as a percentage of payroll on the creditable compensation reported  
4 for each employee participating in the system and accruing benefits; and
- 5 3. The same percentage of pay for all employees who are participating in  
6 the same retirement system, except that separate percentage rates shall  
7 be developed in each system for those employers whose employees are  
8 participating in hazardous duty retirement coverage as provided by KRS  
9 61.592.
- 10 (d) 1. For purposes of this section, the actuarially accrued liability contribution  
11 for nonhazardous employers in the Kentucky Employees Retirement  
12 System on or after July 1, 2021:
- 13 a. Shall be an annual dollar amount that is sufficient to amortize the  
14 total unfunded actuarially accrued liability of the system over a  
15 closed period of thirty (30) years beginning with the 2019 actuarial  
16 valuation using the level percentage of payroll amortization  
17 method, except that any increase or decrease in the unfunded  
18 actuarially accrued liability occurring after the completion of the  
19 2019 actuarial valuation shall be amortized over a closed period of  
20 twenty (20) years beginning with the actuarial valuation in which  
21 the increase or decrease in the unfunded actuarially accrued  
22 liability is recognized. An increase or decrease in the unfunded  
23 actuarially accrued liability may result from but not be limited to  
24 legislative changes to benefits, changes in actuarial methods or  
25 assumptions, or actuarial gains or losses;
- 26 b. Shall be prorated to each individual nonhazardous employer in the  
27 Kentucky Employees Retirement System by multiplying the annual



1 dollar amount of the actuarially accrued liability contribution for  
2 the system as determined by subdivision a. of this subparagraph by  
3 the individual employer's percentage of the system's total  
4 actuarially accrued liability as of the June 30, 2019, actuarial  
5 valuation which shall be determined solely by the system's  
6 consulting actuary and assigned to each employer based upon the  
7 last participating employer of the member or retiree as of June 30,  
8 2019. The individual employer's percentage of the system's total  
9 actuarially accrued liability as of the June 30, 2019, actuarial  
10 valuation shall be used to determine the individual employer's  
11 prorated dollar amount of the system's actuarially accrued liability  
12 contribution in all future fiscal years of the amortization period or  
13 periods, except that the employer's percentage shall be adjusted to  
14 reflect any employer who voluntarily or involuntarily ceases  
15 participation as provided by KRS 61.522 and except as provided  
16 by subparagraphs 4. and 5. of this paragraph. For purposes of this  
17 subdivision, all executive branch departments, program cabinets  
18 and their respective departments, and administrative bodies  
19 enumerated in KRS 12.020, and any other executive branch  
20 agencies administratively attached to a department, program  
21 cabinet, or administrative body enumerated in KRS 12.020, shall  
22 be considered a single individual employer and only one (1) value  
23 shall be computed for these executive branch employers. For  
24 purposes of this subdivision, all employers of the legislative  
25 branch, including the Legislative Research Commission and the  
26 General Assembly that covers legislators and staff who participate  
27 in the Kentucky Employees Retirement System, shall be

1 considered a single individual employer and only one (1) value  
2 shall be computed for these employers. For purposes of this  
3 subdivision, all employers of the judicial branch, including the  
4 Administrative Office of the Courts, the Judicial Form Retirement  
5 System, and all master commissioners, shall be considered a single  
6 individual employer and only one (1) value shall be computed for  
7 these employers;

8 c. Shall be payable by an individual employer in equal monthly dollar  
9 installments during the fiscal year in accordance with the reporting  
10 requirements specified by KRS 61.675 so that the individual  
11 employer pays its full prorated dollar amount of the actuarially  
12 accrued liability contribution as determined by subdivision b. of  
13 this subparagraph; and

14 d. Notwithstanding subdivision b. of this subparagraph for those  
15 individual participating employers who are local and district health  
16 departments governed by KRS Chapter 212, community mental  
17 health centers, and employers whose employees are not subject to  
18 KRS 18A.005 to 18A.200, who received or were eligible to  
19 receive a distribution of general fund appropriations in the 2018-  
20 2020 biennial executive branch budget to assist in paying  
21 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);  
22 2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169,  
23 Part I, G., 9., (2), shall not, once the initial dollar amounts are  
24 established in accordance with this paragraph, be adjusted in terms  
25 of dollars paid by the individual employer, except that adjustments  
26 shall be made by the system upon completion of an actuarial  
27 investigation as provided by KRS 61.670, so long as at least four

1 (4) years have passed since the last adjustment to the actuarially  
2 accrued liability contribution for these employers. The provisions  
3 of this subdivision shall not be interpreted to mean that employers  
4 described by this subdivision may continue paying the dollar value  
5 of contributions or employer contribution rates established or paid  
6 by the employer in budget periods occurring prior to July 1, 2021.

- 7 2. Individual employers, solely for purposes of collecting employer  
8 contributions from various fund sources during the fiscal year, may  
9 convert the actuarially accrued liability contribution established by this  
10 paragraph to a percentage of pay and may adjust the percent of pay  
11 during the fiscal year in order to pay the required dollar value of  
12 actuarially accrued liability contribution required by this paragraph. No  
13 provision of this subparagraph shall be construed to reduce an individual  
14 employer's actuarially accrued liability contribution as otherwise  
15 provided by this paragraph.
- 16 3. The provisions of this paragraph shall not apply to those employers who  
17 cease participation as provided by KRS 61.522.
- 18 4. In the event an individual Kentucky Employees Retirement System  
19 nonhazardous employer who is required to pay an actuarially accrued  
20 liability contribution as provided by this paragraph and as calculated  
21 from the 2019 actuarial valuation or subsequent valuations, merges with  
22 another employer or entity, forms a new or separate employer or entity,  
23 or splits or separates operations into multiple employers or entities, the  
24 system shall, except for those employers or entities who pay the costs to  
25 cease participation as provided by KRS 61.522, have full authority to  
26 assign a portion or all of the total actuarially accrued liability  
27 contribution to the merged, new, split, or separate employers or entities,

1           regardless of whether or not the merged, new, split, or separate  
2           employers or entities participate in the system. In the case of a district  
3           health department established pursuant to KRS Chapter 212, which  
4           ceases to operate or which has a county or counties that withdraw from  
5           the district health department, the systems shall assign the total  
6           actuarially accrued liability contribution based upon the proportion of  
7           taxable property of each county as certified by the Department for Public  
8           Health in the Cabinet for Health and Family Services in accordance with  
9           KRS 212.132. The system shall establish by administrative regulations  
10          the process of assigning actuarially accrued liability contributions as  
11          authorized by this subparagraph.

- 12          5.    a.    An employer who is not in the executive, legislative, or judicial  
13                branch of Kentucky state government as enumerated in  
14                subparagraph 1.b. of this paragraph may on or before July 1, 2021,  
15                appeal to the board regarding any current or former employees or  
16                retirees the employer believes should not be used to determine the  
17                employer's percentage of the system's total actuarially accrued  
18                liability. The only appeals that shall be submitted by the employer  
19                or considered by the board shall be potential errors where the last  
20                participating employer is in dispute, situations where employees of  
21                the employer were hired through a contract between the executive  
22                branch and the employer for the employee to provide services to  
23                the executive branch, or situations where a community mental  
24                health center was contracted to provide services at a facility  
25                previously operated by the executive branch. The employer shall  
26                submit the information required by the board to verify potential  
27                errors or contract employees with employers.

- 1                   b.    The board shall review and issue a final determination regarding  
2                                    any appeals by December 31, 2021. In situations where the board  
3                                    determines the last participating employer was incorrect and  
4                                    should be assigned to another employer, the system shall, effective  
5                                    for employer contributions payable on or after July 1, 2022, assign  
6                                    the cost to the executive branch until such time ownership of the  
7                                    liability can be determined and assigned to the correct employer. In  
8                                    situations where the board determines certain employees of  
9                                    employers were hired through a contract between the executive  
10                                   branch and the employer for an employee or employees to provide  
11                                   services to the executive branch, those liabilities shall, effective for  
12                                   employer contributions payable on or after July 1, 2022, be  
13                                   assigned to the executive branch. In situations where the board  
14                                   determines the community mental health center was contracted to  
15                                   provide services at a facility previously operated by the executive  
16                                   branch, the liabilities for employees providing services at that  
17                                   facility shall, *effective for employer contributions payable on or*  
18                                   *after July 1, 2022,* be assigned to the executive branch.
- 19                   c.    No appeal shall be submitted by the employer or considered by the  
20                                   board regarding the assumptions or methodology used by the  
21                                   actuary to determine a particular employer's percentage of the  
22                                   system's total actuarially accrued liability or the use of the last  
23                                   participating employer to assign liabilities to an employer, except  
24                                   as otherwise provided by this subparagraph.
- 25                   d.    The board shall within thirty (30) days following the final  
26                                   determinations submit to the Public Pension Oversight Board the  
27                                   list of appeals that were approved, the number of employees

1                   involved, and any costs that will be transferred to the executive  
2                   branch effective July 1, 2022.

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

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

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

15           (b) The board shall not have the authority to amend contribution rates as of July 1  
16           of the second year of the biennium for the Kentucky Employees Retirement  
17           System and the State Police Retirement System.

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

22   (4) All employers, including the General Assembly, shall pay the full actuarially  
23           required contributions, as prescribed by this section, to the Kentucky Employees  
24           Retirement System and the State Police Retirement System in fiscal years occurring  
25           on or after July 1, 2020.

26           ➔Section 6. KRS 61.590 is amended to read as follows:

27   (1) (a) A member or beneficiary eligible to receive retirement benefits under any of

1 the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to  
2 16.652 shall have on file at the retirement office on the form prescribed by the  
3 board, a correctly completed notification of retirement, giving his or her name,  
4 address, Social Security number or Kentucky Public Pensions  
5 Authority~~[Retirement Systems]~~ member identification number, last day of  
6 employment, and other information the Authority~~[system]~~ may require. The  
7 form entitled "Notification of Retirement" shall not be filed more than six (6)  
8 months before the member's effective retirement date.

9 (b) A member eligible to receive retirement benefits under any of the provisions  
10 of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall certify  
11 in writing on the "Notification of Retirement" form or another form prescribed  
12 by the board that no prearranged agreement existed prior to the member's  
13 retirement between the member and any participating agency in the systems  
14 administered by the Kentucky Retirement Systems or any participating  
15 agency in the County Employees Retirement System for the member to  
16 return to employment with the participating agency. No retirement benefits  
17 shall be paid to the member until the member completes the certification  
18 required by this paragraph.

19 (2) After receipt of the correctly completed form entitled "Notification of Retirement",  
20 the Authority~~[system]~~ shall cause to be prepared an estimate of the amounts the  
21 member or beneficiary may expect to receive under the various plans available to  
22 the member or beneficiary. This information shall be recorded on a form entitled  
23 "Estimated Retirement Allowance" and forwarded to the member or beneficiary.

24 (3) The member or beneficiary shall file at the retirement office the form entitled  
25 "Estimated Retirement Allowance" after he or she has checked one (1) payment  
26 option of his or her choice, signed the document, and had his or her signature  
27 witnessed. A member shall not have the right to select a different payment option on

1 or after the first day of the month in which the member receives his or her first  
2 retirement allowance or after the effective date of a deferred retirement option as  
3 provided by subsection (6) of this section, except as provided by KRS 61.542(5). A  
4 beneficiary shall not have the right to select a different payment option after the  
5 effective date of the beneficiary's retirement allowance as provided in subsection (7)  
6 of this section.

7 (4) A member or beneficiary choosing a monthly payment option shall have on file at  
8 the retirement office his or her birth certificate or other acceptable evidence of date  
9 of birth. If a survivorship option is chosen, proof of dates of birth of the beneficiary  
10 and member shall be on file at the retirement office.

11 (5) (a) The effective date of normal retirement shall be the first month following the  
12 month in which employment from all employers participating in any of the  
13 systems administered by Kentucky Retirement Systems **and all employers**  
14 **participating in the County Employees Retirement System** was terminated.

15 (b) The effective date of disability retirement shall be the first month following  
16 the month in which the member's last day of paid employment in a regular  
17 full-time position occurred, provided the member files the form entitled  
18 "Estimated Retirement Allowance" no later than six (6) months following the  
19 date the notification of approval for disability retirement benefits is **sent by**  
20 **United States first-class mail to the member's last address on file in the**  
21 **retirement office, by electronic mail to the member's last electronic mail**  
22 **address on file in the retirement office, or by other electronic**  
23 **means**~~mailed~~. If the member fails to file the form entitled "Estimated  
24 Retirement Allowance" within six (6) months of the date the notification of  
25 approval for disability retirement benefits is **sent**~~mailed~~, then the member's  
26 form entitled "Notification of Retirement" shall be void. The member shall be  
27 required to submit a new form entitled "Notification of Retirement" to apply



1 for disability retirement and reestablish eligibility for disability retirement  
2 benefits.

3 (c) The effective date of early retirement shall be the first month following the  
4 month a correctly completed form entitled "Notification of Retirement" is  
5 filed at the retirement office or a future month designated by the member, if  
6 employment from all employers participating in any of the systems  
7 administered by Kentucky Retirement Systems and all employers  
8 participating in the County Employees Retirement System has been  
9 terminated and if the member files the form entitled "Estimated Retirement  
10 Allowance" no later than six (6) months following termination. If the member  
11 fails to file the form entitled "Estimated Retirement Allowance" within six (6)  
12 months following the effective retirement date of the member, then the  
13 member's form entitled "Notification of Retirement" shall be void and the  
14 member shall be required to submit a new form entitled "Notification of  
15 Retirement" to apply for early retirement.

16 (6) The effective date of a deferred retirement option as provided under KRS 16.576(5)  
17 shall be the month following age sixty-five (65), or the month following written  
18 notification from the member that he or she wishes to begin receiving retirement  
19 payments. In the event of the death of a member who has deferred his or her  
20 retirement allowance, the effective date of retirement shall be the month following  
21 the member's death.

22 (7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a  
23 beneficiary's retirement allowance under normal, early, or disability retirement shall  
24 be as prescribed in subsection (5) or (6) of this section if the member dies before the  
25 first day of the month in which the member would have received his or her first  
26 retirement allowance and his or her beneficiary becomes eligible for payments  
27 under KRS 16.578 or 61.640.

1        ➔Section 7. KRS 61.610 is amended to read as follows:

- 2        (1) Once each year following the retirement of a person on a disability retirement  
3        allowance, except for persons who become totally and permanently disabled as a  
4        direct result of an act in line of duty as defined in KRS 16.505 or become disabled  
5        as a result of a duty-related injury as defined in KRS 61.621 in which case shall be  
6        once every three (3) years following retirement, or less frequently as determined by  
7        the board's medical examiner but not less than once every five (5) years, the system  
8        may require the person, prior to his or her normal retirement date, to undergo an  
9        employment and medical staff review and, if necessary, be required to file at the  
10       retirement office on the review form prescribed by the board current employment  
11       information and current medical information for the bodily injury, mental illness, or  
12       disease for which he or she receives a disability retirement allowance. The person  
13       shall have one hundred eighty (180) days from the day the system ~~sent~~~~mailed~~ the  
14       review form **by United States first-class mail** to the person's last address on file in  
15       the retirement office, **by electronic mail to the person's last electronic mail address**  
16       **on file in the retirement office, or by other electronic means,** to file at the  
17       retirement office the review form and the current employment and medical  
18       information. The person shall certify to the retirement office that the review form,  
19       including current employment and medical information, is ready to be evaluated by  
20       the medical examiner in accordance with KRS 61.615.
- 21       (2) If, after good faith efforts, the person informs the system that he or she has been  
22       unable to obtain the employment or medical information, the system shall assist the  
23       person in obtaining the records and may use the authority granted pursuant to KRS  
24       61.685(1) to obtain the records.
- 25       (3) If the person fails or refuses to file at the retirement office the review form,  
26       including the current employment and medical information, his or her retirement  
27       allowance shall be discontinued or reduced on the first day of the month following

1 the expiration of the one hundred eighty (180) days from the day the system  
 2 ~~sent~~~~[mailed]~~ the review form by United States first-class mail to the person's last  
 3 address on file in the retirement office, by electronic mail to the person's last  
 4 electronic mail address on file in the retirement office, or by other electronic  
 5 means. The ~~Authority~~~~[system]~~ shall send notice of the discontinuance or reduction  
 6 of the disability retirement allowance by United States first-class mail to the  
 7 person's last address on file in the retirement office, by electronic mail to the  
 8 person's last electronic mail address on file in the retirement office, or by other  
 9 electronic means. If the person's benefits are discontinued or reduced under this  
 10 section, his or her rights to further disability retirement allowances shall cease,  
 11 except as provided by KRS 61.615.

- 12 (4) The Kentucky Public Pensions Authority~~[system]~~ shall hire or contract for the  
 13 services of one (1) or more investigators~~[an investigator]~~ to investigate potential  
 14 fraud involving disability benefits with the system. The investigators~~[investigator]~~  
 15 shall evaluate potential cases of disability fraud and conduct spot audits for  
 16 potential fraud as determined by the system in cases involving members who  
 17 become totally and permanently disabled as a direct result of an act in line of duty  
 18 as defined in KRS 16.505 or become disabled as a result of a duty-related injury as  
 19 defined in KRS 61.621.

20 ➔Section 8. KRS 61.615 is amended to read as follows:

- 21 (1) If the board's medical examiner determines that a recipient of a disability retirement  
 22 allowance is, prior to his or her normal retirement date, employed in a position with  
 23 the same or similar duties, or in a position with duties requiring greater residual  
 24 functional capacity and physical exertion, as the position from which he or she was  
 25 disabled, except where the recipient has returned to work on a trial basis not to  
 26 exceed nine (9) months, the system may reduce or discontinue the retirement  
 27 allowance. Each recipient of a disability retirement allowance who is engaged in

1 gainful employment shall notify the system of any employment; otherwise, the  
2 system shall have the right to recover payments of a disability retirement allowance  
3 made during the employment.

4 (2) If the board's medical examiner determines that a recipient of a disability retirement  
5 allowance is, prior to his or her normal retirement date, no longer incapacitated by  
6 the bodily injury, mental illness, or disease for which he or she receives a disability  
7 retirement allowance, the board may reduce or discontinue the retirement  
8 allowance.

9 (3) The system shall have full power and exclusive authority to reduce or discontinue a  
10 disability retirement allowance and the system shall utilize the services of a medical  
11 examiner as provided in KRS 61.665, in determining whether to continue, reduce,  
12 or discontinue a disability retirement allowance under this section.

13 (a) The system shall select a medical examiner to evaluate the forms and medical  
14 information submitted by the person. If there is objective medical evidence of  
15 a mental impairment, the medical examiner may request the board's licensed  
16 mental health professional to assist in determining the level of the mental  
17 impairment.

18 (b) The medical examiners shall be paid a reasonable amount by the retirement  
19 system for each case evaluated.

20 (c) The medical examiner shall recommend that disability retirement allowance  
21 be continued, reduced, or discontinued.

22 1. If the medical examiner recommends that the disability retirement  
23 allowance be continued, the system shall make retirement payments in  
24 accordance with the retirement plan selected by the person.

25 2. If the medical examiner recommends that the disability retirement  
26 allowance be reduced or discontinued, the system shall send notice of  
27 the recommendation by United States first-class mail to the person's last

1 address on file in the retirement office, by electronic mail to the  
2 person's last electronic mail address on file in the retirement office, or  
3 by other electronic means.

4 a. The person shall have sixty (60) days from the day that the system  
5 ~~sent~~<sup>mailed</sup> the notice to file at the retirement office additional  
6 supporting employment or medical information and certify to the  
7 retirement office that the forms and additional supporting  
8 employment information or medical information are ready to be  
9 evaluated by the medical examiner or to appeal the  
10 recommendation of the medical examiner to reduce or discontinue  
11 the disability retirement allowance by filing at the retirement office  
12 a request for a formal hearing.

13 b. If the person fails or refuses to file at the retirement office the  
14 forms, the additional supporting employment information, and  
15 current medical information or to appeal the recommendation of  
16 the medical examiners to reduce or discontinue the disability  
17 retirement allowance, his or her retirement allowance shall be  
18 discontinued on the first day of the month following the expiration  
19 of the period of the sixty (60) days from the day the system  
20 ~~sent~~<sup>mailed</sup> the notice of the recommendation by United States  
21 first-class mail to the person's last address on file in the retirement  
22 office, by electronic mail to the person's last electronic mail  
23 address on file in the retirement office, or by other electronic  
24 means.

25 (d) The medical examiner shall make a recommendation based upon the  
26 evaluation of additional supporting medical information submitted in  
27 accordance with paragraph (c)2.a. of this subsection.

- 1           1. If the medical examiner recommends that the disability retirement  
2           allowance be continued, the system shall make disability retirement  
3           payments in accordance with the retirement plan selected by the person.
- 4           2. If the medical examiner recommends that the disability retirement  
5           allowance be reduced or discontinued based upon the evaluation of  
6           additional supporting medical information, the system shall send notice  
7           of this recommendation by United States first-class mail to the person's  
8           last address on file in the retirement office, **by electronic mail to the**  
9           **person's last electronic mail address on file in the retirement office, or**  
10          **by other electronic means.**
- 11          a. The person shall have sixty (60) days from the day that the system  
12          ~~sent~~<sup>mailed</sup> the notice of the recommendation to appeal the  
13          recommendation to reduce or discontinue the disability retirement  
14          allowance by filing at the retirement office a request for formal  
15          hearing.
- 16          b. If the person fails or refuses to appeal the recommendation of the  
17          medical examiners to reduce or discontinue the disability  
18          retirement allowance, his or her retirement allowance shall be  
19          discontinued on the first day of the month following the expiration  
20          of the period of the sixty (60) days from the day the system  
21          ~~sent~~<sup>mailed</sup> the notice of the recommendation **by United States**  
22          **first-class mail** to the person's last address on file in the retirement  
23          office, **by electronic mail to the person's last electronic mail**  
24          **address on file in the retirement office, or by other electronic**  
25          **means.**
- 26          (e) Any person whose disability benefits have been reduced or discontinued,  
27          pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the

1 retirement office a request for formal hearing to be conducted in accordance  
2 with KRS Chapter 13B. The right to demand a formal hearing shall be limited  
3 to a period of sixty (60) days after the person had notice, as described in  
4 paragraph (c) or (d) of this subsection. The request for formal hearing shall be  
5 filed with the system, at the retirement office in Frankfort. The request for  
6 formal hearing shall include a short and plain statement of the reasons the  
7 reduction, discontinuance, or denial of disability retirement is being contested.

8 (f) Failure of the person to request a formal hearing within the period of time  
9 specified shall preclude the person from proceeding any further with  
10 contesting the reduction or discontinuation of disability retirement allowance,  
11 except as provided in subsection (6)(d) of this section. This paragraph shall  
12 not limit the person's right to appeal to a court.

13 (g) A final order of the board shall be based on substantial evidence appearing in  
14 the record as a whole and shall set forth the decision of the board and the facts  
15 and law upon which the decision is based. If the board orders that the person's  
16 disability retirement allowance be discontinued or reduced, the order shall  
17 take effect on the first day of the month following the day the system  
18 ~~sent<sup>mailed</sup>~~ the order **by United States first-class mail** to the person's last  
19 address on file in the retirement office, **by electronic mail to the person's last**  
20 **electronic mail address on file in the retirement office, or by other electronic**  
21 **means**. Judicial review of the final board order shall not operate as a stay and  
22 the system shall discontinue or reduce the person's disability retirement  
23 allowance as provided in this section.

24 (h) Notwithstanding any other provisions of this section, the system may require  
25 the person to submit to one (1) or more medical or psychological  
26 examinations at any time. The system shall be responsible for any costs  
27 associated with any examinations of the person requested by the medical

1           examiner or the system for the purpose of providing medical information  
2           deemed necessary by the medical examiner or the system. Notice of the time  
3           and place of the examination shall be provided~~mailed~~ to the person or his or  
4           her legal representative. If the person fails or refuses to submit to one (1) or  
5           more medical examinations, his or her rights to further disability retirement  
6           allowance shall cease.

7           (i) All requests for a hearing pursuant to this section shall be made in writing.

8           (4) The board may establish an appeals committee whose members shall be appointed  
9           by the chair and who shall have the authority to act upon the recommendations and  
10          reports of the hearing officer pursuant to this section on behalf of the board.

11          (5) Any person aggrieved by a final order of the board may seek judicial review after all  
12          administrative appeals have been exhausted by filing a petition for judicial review  
13          in the Franklin Circuit Court in accordance with KRS Chapter 13B.

14          (6) If a disability retirement allowance is reduced or discontinued for a person who  
15          began participating in the system prior to January 1, 2014, the person may apply for  
16          early retirement benefits as provided under KRS 61.559, subject to the following  
17          provisions:

18          (a) The person may not change his or her beneficiary or payment option, except  
19          as provided by KRS 61.542(5);

20          (b) If the person has returned to employment with an employer participating in  
21          one (1) of the systems administered by Kentucky Retirement Systems, the  
22          service and creditable compensation shall be used in recomputing his or her  
23          benefit, except that the person's final compensation shall not be less than the  
24          final compensation last used in determining his or her retirement allowance;

25          (c) The benefit shall be reduced as provided by KRS 61.595(2);

26          (d) The person shall remain eligible for reinstatement of his or her disability  
27          allowance upon reevaluation by the medical review board until his or her



1 normal retirement age. The person shall apply for reinstatement of disability  
2 benefits in accordance with the provisions of this section. An application for  
3 reinstatement of disability benefits shall be administered as an application  
4 under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or  
5 conditions for which the person was originally approved for disability benefits  
6 shall be considered. Bodily injuries, mental illnesses, diseases, or conditions  
7 that came into existence after the person's last day of paid employment shall  
8 not be considered as a basis for reinstatement of disability benefits. Bodily  
9 injuries, mental illnesses, diseases, or conditions alleged by the person as  
10 being incapacitating, but which were not the basis for the award of disability  
11 retirement benefits, shall not be considered. If the person establishes that the  
12 disability benefits should be reinstated, the retirement system shall pay  
13 disability benefits effective from the first day of the month following the  
14 month in which the person applied for reinstatement of the disability benefits;  
15 and

16 (e) Upon attaining normal retirement age, the person shall receive the higher of  
17 either his or her disability retirement allowance or his or her early retirement  
18 allowance.

19 (7) **If a disability retirement allowance is reduced or discontinued for a person who**  
20 **began participating in the system on or after January 1, 2014, the person shall**  
21 **remain eligible for reinstatement of his or her disability allowance as provided**  
22 **under subsection (6)(d) of this section.**

23 **(8)** No disability retirement allowance shall be reduced or discontinued by the system  
24 after the person's normal retirement date except in case of reemployment as  
25 provided for by KRS 61.637. If a disability retirement allowance has been reduced  
26 or discontinued, except if the person is reemployed as provided for by KRS 61.637,  
27 the retirement allowance shall be reinstated upon attainment of the person's normal

1 retirement date to the retirement allowance prior to adjustment. No reinstated  
2 payment shall be less than the person is receiving upon attainment of the person's  
3 normal retirement date.

4 ➔Section 9. KRS 61.635 is amended to read as follows:

- 5 (1) Each member shall have the right to elect to have his or her retirement allowance  
6 payable under any one (1) of the options set forth in this section in lieu of the  
7 retirement allowance otherwise payable to the member~~[him]~~ upon retirement under  
8 any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to  
9 78.852. The amount of any optional retirement allowance shall be actuarially  
10 equivalent to the amount of retirement allowance otherwise payable to the  
11 member~~[him]~~.
- 12 (2) Survivorship one hundred percent (100%). The member may elect to receive a  
13 decreased retirement allowance during his or her lifetime and have the retirement  
14 allowance continued after the member's~~[his]~~ death to his or her beneficiary during  
15 the lifetime of the person.
- 16 (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to  
17 receive a decreased retirement allowance during his or her lifetime and have two-  
18 thirds (2/3) of the retirement allowance continue after the member's~~[his]~~ death to  
19 his or her beneficiary during the lifetime of the person.
- 20 (4) Survivorship fifty percent (50%). The member may elect to receive a decreased  
21 retirement allowance during his or her lifetime and have one-half (1/2) of the  
22 retirement allowance continued after the member's~~[his]~~ death to his or her  
23 beneficiary during the lifetime of the person.
- 24 (5) Life with ten (10) years certain. The member less than age seventy-six (76) may  
25 elect to receive a monthly retirement allowance during his or her lifetime which  
26 shall guarantee payments for one hundred twenty (120) months. If the member dies  
27 before receiving payments for one hundred twenty (120) months, the member's~~[his]~~

1 beneficiary shall receive the remaining payments monthly, for the duration of the  
2 one hundred twenty (120) months' period. However, if the trust is designated as  
3 beneficiary, the trustee of the trust may elect to receive a lump-sum payment which  
4 shall be the actuarial equivalent to the remaining payments, or the trustee may elect  
5 to continue the remaining monthly payments to the trust of the member. If the estate  
6 is designated as beneficiary, the estate shall receive a lump-sum payment which  
7 shall be the actuarial equivalent to the remaining payments.

8 (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may  
9 elect to receive a monthly retirement allowance during his or her lifetime which  
10 shall guarantee payments for one hundred and eighty (180) months. If the member  
11 dies before receiving payments for one hundred and eighty (180) months, the  
12 member's~~his~~ beneficiary shall receive the remaining payments monthly for the  
13 duration of the one hundred and eighty (180) months' period. However, if the trust  
14 is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum  
15 payment which shall be the actuarial equivalent to the remaining payments, or the  
16 trustee may elect to continue the remaining payments to the trust of the member. If  
17 the estate is designated as beneficiary, the estate shall receive a lump-sum payment  
18 which shall be the actuarial equivalent to the remaining payments.

19 (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may  
20 elect to receive a monthly retirement allowance during his or her lifetime which  
21 shall guarantee payments for two hundred and forty (240) months. If the member  
22 dies before receiving payments for two hundred and forty (240) months, the  
23 member's~~his~~ beneficiary shall receive the remaining payments for the duration of  
24 the two hundred and forty (240) months period. However, if the trust is beneficiary,  
25 the trustee of the trust may elect to receive a lump-sum payment which shall be the  
26 actuarial equivalent to the remaining payments, or the trustee may elect to continue  
27 the remaining payments to the trust of the member. If the estate is designated as

1 beneficiary, the estate shall receive a lump-sum payment which shall be the  
2 actuarial equivalent to the remaining payments.

3 (8) Social Security adjustment options. These options shall be available to any member  
4 who has not attained age sixty-two (62) as follows:

5 (a) No survivor rights. The member may elect to receive an increased retirement  
6 allowance from his or her effective retirement date through the month he or  
7 she attains age sixty-two (62) at which time his retirement allowance shall be  
8 decreased for the remainder of his lifetime;

9 (b) Survivor rights. The member may elect to receive an increased retirement  
10 allowance from his or her effective retirement date through the month he  
11 attains age sixty-two (62) based on the option payable under subsection (2) of  
12 this section, if the retirement allowance shall be decreased in the month  
13 following the month he or she attains age sixty-two (62), or the month  
14 following the month he or she would have attained age sixty-two (62), in  
15 event of the member's~~[his]~~ death, and have the retirement allowance continue  
16 after the member's~~[his]~~ death to his or her beneficiary during the lifetime of  
17 the person.

18 (9) Beneficiary Social Security adjustment option. This option is available to the  
19 beneficiary of a deceased member if the beneficiary, who is a person, has not  
20 attained age sixty (60), and is eligible to receive Social Security payments at age  
21 sixty (60). The beneficiary may elect to receive during his or her lifetime an  
22 increased retirement allowance based on his or her annual benefit payable for life.  
23 The payment shall begin on his or her effective retirement date and continue  
24 through the month he or she attains age sixty (60) at which time his or her  
25 retirement allowance shall be decreased for the remainder of his or her lifetime.

26 (10) Pop-up option. The member may elect to receive a decreased retirement allowance  
27 during his or her lifetime and have the retirement allowance continued after the

1        member's~~[his]~~ death to his or her beneficiary during the lifetime of the person. If  
2        the beneficiary dies prior to the member, or if the beneficiary is the member's  
3        spouse and they divorce, the member's retirement allowance shall increase to the  
4        amount that would have been payable as a single life annuity.

5        (11) Actuarial equivalent refund. A member who began participating in the system prior  
6        to January 1, 2014, may elect to receive a one (1) time lump-sum payment which  
7        shall be the actuarial equivalent of the amount payable for a period of sixty (60)  
8        months under KRS 61.595 (1).

9        (12) Partial lump-sum option.

10        (a) No survivor rights. A member retiring on or before January 1, 2009, may elect  
11        to receive a one-time lump-sum payment equal to twelve (12), twenty-four  
12        (24), or thirty-six (36) monthly retirement allowances payable under the  
13        applicable retirement formula for the system and receive a reduced monthly  
14        retirement allowance payable for his or her lifetime. The lump-sum payment  
15        shall be paid in the month the first monthly retirement allowance is payable.

16        (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to  
17        receive a one-time lump-sum payment equal to twelve (12), twenty-four (24),  
18        or thirty-six (36) monthly retirement allowances payable under subsection (2)  
19        of this section and receive a reduced monthly retirement allowance payable for  
20        his or her lifetime. The lump-sum payment shall be paid in the month the first  
21        monthly retirement allowance is payable. The reduced retirement allowance  
22        shall be continued after the member's death to his or her beneficiary during  
23        the lifetime of the person.

24        (13) The other provisions of this section notwithstanding, the beneficiary of a retired  
25        member of the General Assembly shall, after the member's death, receive sixty-six  
26        and two-thirds percent (66-2/3%) of the member's retirement allowance during his  
27        or her lifetime if the member of the General Assembly began participating in the

1 system prior to January 1, 2014, and has elected this option and has made  
 2 contributions in accordance with subsection (14) of this section and of KRS 61.560.  
 3 The retirement allowance of the retired member of the General Assembly shall not  
 4 be actuarially reduced to provide for this survivor benefit.

5 (14) A member of the General Assembly who began participating in the system prior to  
 6 January 1, 2014, who wishes to obtain the survivorship option specified in  
 7 subsection (13) of this section shall so notify the Kentucky **Public Pensions**  
 8 **Authority**~~[retirement systems]:~~

9 (a) Within thirty (30) days after first becoming a member of the General  
 10 Assembly if he **or she** is not a member of the General Assembly on July 15,  
 11 1980; or

12 (b) Within thirty (30) days after July 15, 1980, if he **or she** is a member of the  
 13 General Assembly on July 15, 1980.

14 (15) The system shall forward to members of the General Assembly a form on which a  
 15 member who began participating in the system prior to January 1, 2014, may elect  
 16 the option provided for in subsections (13) and (14) of this section.

17 (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of  
 18 this section shall be extended to the member only if the designated beneficiary is a  
 19 person.

20 ➔Section 10. KRS 61.637 is amended to read as follows:

21 (1) A retired member who is receiving monthly retirement payments under any of the  
 22 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed  
 23 as an employee by a participating agency prior to August 1, 1998, shall have his or  
 24 her retirement payments suspended for the duration of reemployment. Monthly  
 25 payments shall not be suspended for a retired member who is reemployed if he or  
 26 she anticipates that he or she will receive less than the maximum permissible  
 27 earnings as provided by the Federal Social Security Act in compensation as a result

1 of reemployment during the calendar year. The payments shall be suspended at the  
2 beginning of the month in which the reemployment occurs.

3 (2) Employer and employee contributions shall be made as provided in KRS 61.510 to  
4 61.705 and 78.510 to 78.852 on the compensation paid during reemployment,  
5 except where monthly payments were not suspended as provided in subsection (1)  
6 of this section or would not increase the retired member's last monthly retirement  
7 allowance by at least one dollar (\$1), and the member shall be credited with  
8 additional service credit.

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

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

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

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

26 1. The retired member's final compensation shall be recomputed using  
27 creditable compensation for his or her period of reemployment;

- 1           however, the final compensation resulting from the recalculation shall  
2           not be less than that of the member when his or her retirement allowance  
3           was last determined;
- 4           2. If the retired member initially retired on or subsequent to his or her  
5           normal retirement date, his or her retirement allowance shall be  
6           recomputed by using the formula in KRS 61.595(1);
- 7           3. If the retired member initially retired prior to his or her normal  
8           retirement date, his or her retirement allowance shall be recomputed  
9           using the formula in KRS 61.595(2), except that the member's age used  
10          in computing benefits shall be his or her age at the time of his or her  
11          initial retirement increased by the number of months of service credit  
12          earned for service performed during reemployment;
- 13          4. The retirement allowance payments resulting from the recomputation  
14          under this subsection shall be payable in the month following the  
15          termination of reemployment in lieu of payments under subparagraph 3.  
16          of this paragraph. The member shall not receive less in benefits as a  
17          result of the recomputation than he or she was receiving prior to  
18          reemployment or would receive as determined under KRS 61.691; and
- 19          5. Any retired member who was reemployed prior to March 26, 1974, shall  
20          begin making contributions to the system in accordance with the  
21          provisions of this section on the first day of the month following March  
22          26, 1974.
- 23       (5) A retired member, or his or her estate, shall pay to the retirement fund the total  
24       amount of payments which are not suspended in accordance with subsection (1) of  
25       this section if the member received more than the maximum permissible earnings as  
26       provided by the Federal Social Security Act in compensation from participating  
27       agencies during any calendar year of reemployment, except the retired member or



1 his or her estate may repay the lesser of the total amount of payments which were  
2 not suspended or fifty cents (\$0.50) of each dollar earned over the maximum  
3 permissible earnings during reemployment if under age sixty-five (65), or one dollar  
4 (\$1) for every three dollars (\$3) earned if over age sixty-five (65).

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

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

14 (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this  
15 section shall no longer apply to a retired member who is reemployed in a  
16 position covered by the same retirement system from which the member  
17 retired. Reemployed retired members shall be treated as new members upon  
18 reemployment. Any retired member whose reemployment date preceded  
19 August 1, 1998, who does not elect, within sixty (60) days of notification by  
20 the retirement systems, to remain under the provisions of subsections (1) to  
21 (4) of this section shall be deemed to have elected to participate under this  
22 subsection.

23 (b) A retired member whose disability retirement was discontinued pursuant to  
24 KRS 61.615 and who is reemployed in one (1) of the systems administered by  
25 the Kentucky Retirement Systems or County Employees Retirement System  
26 prior to his or her normal retirement date shall have his or her accounts  
27 combined upon termination for determining eligibility for benefits. If the

1 member is eligible for retirement, the member's service and creditable  
2 compensation earned as a result of his or her reemployment shall be used in  
3 the calculation of benefits, except that the member's final compensation shall  
4 not be less than the final compensation last used in determining his or her  
5 retirement allowance. The member shall not change beneficiary or payment  
6 option designations. This provision shall apply to members reemployed on or  
7 after August 1, 1998.

8 (8) If a retired member accepts employment or begins serving as a volunteer with an  
9 employer participating in the systems administered by Kentucky Retirement  
10 Systems or County Employees Retirement System within twelve (12) months of his  
11 or her retirement date, the retired member shall notify the Authority and the  
12 participating employer shall submit the information required or requested by the  
13 Authority to confirm the individual's employment or volunteer status. The retired  
14 member shall not be required to notify the Authority regarding any employment or  
15 volunteer service with a participating agency that is accepted after twelve (12)  
16 months following his or her retirement date.

17 (9) If the retired member is under a contract to provide services as an independent  
18 contractor or leased employee to an employer participating in the systems  
19 administered by Kentucky Retirement Systems or County Employees Retirement  
20 System within twelve (12) months of his or her retirement date, the member shall  
21 submit a copy of that contract to the Authority, and the Authority shall determine if  
22 the member is an independent contractor or leased employee for purposes of  
23 retirement benefits. The retired member and the participating employer shall submit  
24 the information required or requested by the Authority to confirm the individual's  
25 status as an independent contractor or leased employee. The retired member shall  
26 not be required to notify the Authority regarding any services entered into as an  
27 independent contractor or leased employee with a participating agency that the

1 employee enters into after twelve (12) months following his or her retirement date.

2 (10) If a member is receiving a retirement allowance, or has filed the forms required for  
3 a retirement allowance, and is employed within one (1) month of the member's  
4 initial retirement date in a position that is required to participate in the same  
5 retirement system from which the member retired, the member's retirement shall be  
6 voided and the member shall repay to the retirement system all benefits received.  
7 The member shall contribute to the member account established for him or her prior  
8 to his or her voided retirement. The retirement allowance for which the member  
9 shall be eligible upon retirement shall be determined by total service and creditable  
10 compensation.

11 (11) (a) If a member of the Kentucky Employees Retirement System retires from a  
12 department which participates in more than one (1) retirement system and is  
13 reemployed within one (1) month of his or her initial retirement date by the  
14 same department in a position participating in another retirement system, the  
15 retired member's retirement allowance shall be suspended for the first month  
16 of his or her retirement, and the member shall repay to the retirement system  
17 all benefits received for the month.

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

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

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

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

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

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

13 (c) Upon termination, or subsequent to expiration of the six (6) month period  
14 from the date of termination, the retired member's retirement allowance based  
15 on his or her initial retirement account shall no longer be suspended, and the  
16 member shall receive the amount to which he or she is entitled, including an  
17 increase as provided by KRS 61.691;

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

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

26 (14) (a) If the retirement system determines that the retired member has not been  
27 reemployed in a position with the same principal duties as the position from

1           which he or she retired, the retired member shall continue to receive his or her  
2           retirement allowance.

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

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

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

13   (16) A retired member who is reemployed and contributing to a second member account  
14          shall not be eligible to purchase service credit under any of the provisions of KRS  
15          16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was  
16          eligible to purchase prior to his or her initial retirement.

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

21          (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is  
22          receiving a retirement allowance from one (1) of the systems administered by  
23          Kentucky Retirement Systems or County Employees Retirement System, or  
24          has filed the forms required to receive a retirement allowance from one (1) of  
25          the systems administered by Kentucky Retirement Systems or County  
26          Employees Retirement System, and is employed in a regular full-time position  
27          required to participate in one (1) of the systems administered by Kentucky

1 Retirement Systems or County Employees Retirement System or is employed  
2 in a position that is not considered regular full-time with an agency  
3 participating in one (1) of the systems administered by Kentucky Retirement  
4 Systems or County Employees Retirement System within three (3) months  
5 following the member's initial retirement date, the member's retirement shall  
6 be voided, and the member shall repay to the retirement system all benefits  
7 received, including any health insurance benefits. If the member is returning  
8 to work in a regular full-time position required to participate in one (1) of the  
9 systems administered by Kentucky Retirement Systems:

- 10 1. The member shall contribute to a member account established for him or  
11 her in one (1) of the systems administered by Kentucky Retirement  
12 Systems or County Employees Retirement System, and employer  
13 contributions shall be paid on behalf of the member by the participating  
14 employer; and
  - 15 2. Upon subsequent retirement, the member shall be eligible for a  
16 retirement allowance based upon total service and creditable  
17 compensation, including any additional service or creditable  
18 compensation earned after his or her initial retirement was voided;
- 19 (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is  
20 receiving a retirement allowance from one (1) of the systems administered by  
21 Kentucky Retirement Systems or County Employees Retirement System and  
22 is employed in a regular full-time position required to participate in one (1) of  
23 the systems administered by Kentucky Retirement Systems or County  
24 Employees Retirement System after a three (3) month period following the  
25 member's initial retirement date, the member may continue to receive his or  
26 her retirement allowance during the period of reemployment subject to the  
27 following provisions:

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

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



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

1           ~~the new term of office~~], he or she shall be deemed by the Authority as  
2           having a prearranged agreement under the provisions of this  
3           subparagraph and shall have his or her retirement voided. If the  
4           participating agency fails to complete the certification, the member's  
5           retirement shall be voided and the provisions of paragraph (c) of this  
6           subsection shall apply to the member and the employer. Employment  
7           that is accepted by the retired member after twelve (12) months  
8           following the member's retirement date shall not constitute a  
9           prearranged agreement under this paragraph;

10           2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to  
11           the contrary, the member shall not contribute to the systems and shall  
12           not earn any additional benefits for any work performed during the  
13           period of reemployment;

14           3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
15           except for any retiree employed as a school resource officer as defined  
16           by KRS 158.441, the employer shall pay employer contributions as  
17           specified by KRS 61.565, 61.702, and 78.635, as applicable, on all  
18           creditable compensation earned by the employee during the period of  
19           reemployment. The additional contributions paid shall be used to reduce  
20           the unfunded actuarial liability of the systems;

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

27           (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member

1 who qualifies as a volunteer for an employer participating in one (1) of the  
2 systems administered by Kentucky Retirement Systems or County Employees  
3 Retirement System and who is receiving reimbursement of actual expenses, a  
4 nominal fee for his or her volunteer services, or both, shall not be considered  
5 an employee of the participating employer and shall not be subject to  
6 paragraphs (a) to (d) of this subsection if:

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

23 If a retired member, who provided volunteer services with a participating  
24 employer under this paragraph violates any provision of this paragraph, then  
25 he or she shall be deemed an employee of the participating employer as of the  
26 date he or she began providing volunteer services and both the retired member  
27 and the participating employer shall be subject to paragraphs (a) to (d) of this

1 subsection for the period of volunteer service;

2 (f) Notwithstanding any provision of this section, any mayor or member of a city  
3 legislative body shall not be required to resign from his or her position as  
4 mayor or as a member of the city legislative body in order to begin drawing  
5 benefits from the systems administered by Kentucky Retirement Systems or  
6 subject to any provision of this section as it relates solely to his or her service  
7 as a mayor or member of the city legislative body if the mayor or member of a  
8 city legislative body:

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

20 (g) If a member is receiving a retirement allowance from any of the retirement  
21 systems administered by the Kentucky Retirement Systems or County  
22 Employees Retirement System and enters into a contract or becomes a leased  
23 employee of an employer under contract with an employer participating in one  
24 (1) of the systems administered by the Kentucky Retirement Systems or  
25 County Employees Retirement System:

- 26 1. At any time following retirement, if the Authority determines the  
27 employment arrangement does qualify as an independent contractor or

1 leased employee, the member may continue to receive his or her  
2 retirement allowance during the period of the contract;

3 2. Within three (3) months following the member's initial retirement date,  
4 if the Authority determines the employment arrangement does not  
5 qualify as an independent contractor or leased employee, the member's  
6 retirement shall be voided in accordance with paragraph (a) of this  
7 subsection;

8 3. After three (3) months but within twelve (12) months following the  
9 member's initial retirement, if the Authority determines the employment  
10 arrangement does not qualify as an independent contractor or leased  
11 employee and that a prearranged agreement existed between the member  
12 and the agency for the member to return to work with the agency, the  
13 member's retirement shall be voided in accordance with paragraph (a) of  
14 this subsection; and

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

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

24 (h) The Authority shall issue a final determination regarding a certification of the  
25 absence of a prearranged agreement or the retired member's qualification as an  
26 independent contractor or leased employee as required under this section no  
27 later than thirty (30) days after the retired member and participating employer

1 provide all required forms and additional information required by the  
2 Authority.

3 (18) The Authority shall promulgate administrative regulations to implement the  
4 requirements of this section, including incorporating by reference board-prescribed  
5 forms that a retired member and participating agency shall provide the systems  
6 under subsections (8), (9), and (17) of this section.

7 ➔Section 11. KRS 61.645 is amended to read as follows:

8 (1) The Kentucky Employees Retirement System and State Police Retirement System  
9 shall be administered by the board of trustees of the Kentucky Retirement Systems  
10 composed of nine (9) members, who shall be selected as follows:

11 (a) One (1) trustee, who shall be a member or retired from the State Police  
12 Retirement System, elected by the members and retired members of the State  
13 Police Retirement System;

14 (b) Two (2) trustees, who shall be members or retired from the Kentucky  
15 Employees Retirement System, elected by the members and retired members  
16 of the Kentucky Employees Retirement System;

17 (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to  
18 Senate confirmation in accordance with KRS 11.160 for each appointment or  
19 reappointment. Of the six (6) trustees appointed by the Governor, three (3)  
20 trustees shall have investment experience and three (3) trustees shall have  
21 retirement experience;

22 (d) For purposes of paragraph (c) of this subsection, a trustee with "investment  
23 experience" means an individual who does not have a conflict of interest, as  
24 provided by KRS 61.655, and who has at least ten (10) years of experience in  
25 one (1) of the following areas of expertise:

26 1. A portfolio manager acting in a fiduciary capacity;

27 2. A professional securities analyst or investment consultant;

- 1           3. A current or retired employee or principal of a trust institution,  
2           investment or finance organization, or endowment fund acting in an  
3           investment-related capacity;
- 4           4. A chartered financial analyst in good standing as determined by the CFA  
5           Institute; or
- 6           5. A university professor, teaching investment-related studies; and
- 7       (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement  
8           experience" means an individual who does not have a conflict of interest, as  
9           provided by KRS 61.655, and who has at least ten (10) years of experience in  
10          one (1) of the following areas of expertise:
  - 11           1. Experience in retirement or pension plan management;
  - 12           2. A certified public accountant with relevant experience in retirement or  
13           pension plan accounting;
  - 14           3. An actuary with relevant experience in retirement or pension plan  
15           consulting;
  - 16           4. An attorney licensed to practice law in the Commonwealth of Kentucky  
17           with relevant experience in retirement or pension plans; or
  - 18           5. A current or former university professor whose primary area of emphasis  
19           is economics or finance.
- 20       (2) The board is hereby granted the powers and privileges of a corporation, including  
21          but not limited to the following powers:
  - 22           (a) To sue and be sued in its corporate name;
  - 23           (b) To make bylaws not inconsistent with the law;
  - 24           (c) To conduct the business and promote the purposes for which it was formed;
  - 25           (d) Except as provided in KRS 61.650(6), to contract for investment counseling,  
26           auditing, medical, and other professional or technical services as required to  
27           carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,

- 1           and 57. Actuarial consulting services shall be provided by a firm hired by the  
2           Kentucky Public Pensions Authority;
- 3           (e) To purchase fiduciary liability insurance;
- 4           (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of,  
5           pledge, lease, or mortgage, the goods or property necessary to exercise the  
6           board's powers and perform the board's duties subject to KRS Chapters 45,  
7           45A, and 56; and
- 8           (g) The board shall reimburse any trustee, officer, or employee for any legal  
9           expense resulting from a civil action arising out of the performance of his or  
10          her official duties. The hourly rate of reimbursement for any contract for legal  
11          services under this paragraph shall not exceed the maximum hourly rate  
12          provided in the Legal Services Duties and Maximum Rate Schedule  
13          promulgated by the Government Contract Review Committee established  
14          pursuant to KRS 45A.705, unless a higher rate is specifically approved by the  
15          secretary of the Finance and Administration Cabinet or his or her designee.
- 16       (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee  
17          shall serve a term of four (4) years or until his or her successor is duly  
18          qualified except as otherwise provided in this section. An elected trustee or a  
19          trustee appointed by the Governor under subsection (1)(c) of this section, shall  
20          not serve more than three (3) consecutive four (4) year terms. An elected  
21          trustee or a trustee appointed by the Governor under subsection (1)(c) of this  
22          section, who has served three (3) consecutive terms may be elected or  
23          appointed again after an absence of four (4) years from the board.
- 24          (b) The term limits established by paragraph (a) of this subsection shall apply to  
25          trustees serving on or after July 1, 2012, and all terms of office served prior to  
26          July 1, 2012, shall be used to determine if the trustee has exceeded the term  
27          limits provided by paragraph (a) of this subsection.



- 1 (4) (a) The trustees selected by the membership of each of the various retirement  
2 systems shall be elected by ballot. For each trustee to be elected, the board  
3 may nominate, not less than six (6) months before a term of office of a trustee  
4 is due to expire, three (3) constitutionally eligible individuals.
- 5 (b) Individuals may be nominated by the retirement system members which are to  
6 elect the trustee by presenting to the executive director, not less than four (4)  
7 months before a term of office of a trustee is due to expire, a petition, bearing  
8 the name, last four (4) digits of the Social Security number, and signature of  
9 no less than one-tenth (1/10) of the number voting in the last election by the  
10 retirement system members.
- 11 (c) Within four (4) months of the nominations made in accordance with  
12 paragraphs (a) and (b) of this subsection, the executive director shall cause to  
13 be prepared an official ballot. The ballot shall include the name, address, and  
14 position title of each individual nominated by the board and by petition.  
15 Provisions shall also be made for write-in votes.
- 16 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be  
17 distributed to the eligible voters by mail to their last known residence address  
18 **on file with the Kentucky Public Pensions Authority. Ballots shall not be**  
19 **distributed by mail to member addresses reported as invalid to the Kentucky**  
20 **Public Pensions Authority.**
- 21 (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of  
22 a predetermined box number at a United States Post Office or submitted  
23 electronically as provided by paragraph (j) of this subsection. Access to this  
24 post office box shall be limited to the board's contracted firm. The individual  
25 receiving a plurality of votes shall be declared elected.
- 26 (f) The eligible voter shall cast his or her ballot by selecting the candidate of his  
27 or her choice. He or she shall sign and mail the ballot or submit the electronic

- 1 ballot at least thirty (30) days prior to the date the term to be filled is due to  
2 expire. The latest mailing date, or date of submission in the case of electronic  
3 ballots, shall be provided on the ballot.
- 4 (g) The board's contracted firm shall report in writing the outcome to the chair of  
5 the board of trustees. Cost of an election shall be payable from the funds of  
6 the system for which the trustee is elected.
- 7 (h) For purposes of this subsection, an eligible voter shall be a person who was a  
8 member of the retirement system on December 31 of the year preceding the  
9 election year.
- 10 (i) Each individual who submits a request to be nominated by the board under  
11 paragraph (a) of this subsection and each individual who is nominated by the  
12 membership under paragraph (b) of this subsection shall:
- 13 1. Complete an application developed by the retirement systems which  
14 shall include but not be limited to a disclosure of any prior felonies and  
15 any conflicts of interest that would hinder the individual's ability to  
16 serve on the board;
  - 17 2. Submit a resume detailing the individual's education and employment  
18 history and a cover letter detailing the member's qualifications for  
19 serving as trustee to the board; and
  - 20 3. Authorize the systems to have a criminal background check performed.  
21 The criminal background check shall be performed by the Department of  
22 Kentucky State Police.
- 23 (j) In lieu of the ballots mailed to members and retired members as provided by  
24 this subsection, the systems may by promulgation of administrative regulation  
25 pursuant to KRS Chapter 13A conduct trustee elections using electronic  
26 ballots, except that the systems shall mail a paper ballot upon request of any  
27 eligible voter.

- 1 (5) (a) Any vacancy which may occur in an appointed position during a term of office  
2 shall be filled in the same manner which provides for the selection of the  
3 particular trustee, and any vacancy which may occur in an elected position  
4 during a term of office shall be filled by appointment by a majority vote of the  
5 remaining elected trustees with a person selected from the system in which the  
6 vacancy occurs; however, any vacancy shall be filled only for the duration of  
7 the unexpired term. In the event of a vacancy of an elected trustee during a  
8 term of office, Kentucky Retirement Systems shall notify members of the  
9 system in which the vacancy occurs of the vacancy and the opportunity to be  
10 considered for the vacant position. Any vacancy during a term of office shall  
11 be filled within ninety (90) days of the position becoming vacant.
- 12 (b) Any appointments or reappointments to an appointed position on the board  
13 shall be made no later than thirty (30) days prior to an appointed member's  
14 term of office ending.
- 15 (6) (a) Membership on the board of trustees shall not be incompatible with any other  
16 office unless a constitutional incompatibility exists. No trustee shall serve in  
17 more than one (1) position as trustee on the board; and if a trustee holds more  
18 than one (1) position as trustee on the board, he or she shall resign a position.
- 19 (b) A trustee shall be removed from office upon conviction of a felony or for a  
20 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court  
21 of competent jurisdiction.
- 22 (c) A current or former employee of Kentucky Retirement Systems, County  
23 Employees Retirement System, or the Kentucky Public Pensions Authority  
24 shall not be eligible to serve as a member of the board.
- 25 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive  
26 a per diem of eighty dollars (\$80) for each day they are in session or on official  
27 duty, and they shall be reimbursed for their actual and necessary expenses in

- 1 accordance with state administrative regulations and standards.
- 2 (8) (a) The board shall meet at least once in each quarter of the year and may meet in  
3 special session upon the call of the chair or the chief executive officer.
- 4 (b) The board shall elect a chair and a vice chair. The chair shall not serve more  
5 than four (4) consecutive years as chair or vice-chair of the board. The vice-  
6 chair shall not serve more than four (4) consecutive years as chair or vice-  
7 chair of the board. A trustee who has served four (4) consecutive years as  
8 chair or vice-chair of the board may be elected chair or vice-chair of the board  
9 after an absence of two (2) years from the positions.
- 10 (c) A majority of the trustees shall constitute a quorum and all actions taken by  
11 the board shall be by affirmative vote of a majority of the trustees present.
- 12 (9) (a) The board of trustees shall appoint or contract for the services of a chief  
13 executive officer and general counsel and fix the compensation and other  
14 terms of employment for these positions without limitation of the provisions  
15 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer  
16 shall serve as the legislative and executive adviser to the board. The general  
17 counsel shall serve as legal adviser to the board. The chief executive officer  
18 and general counsel shall work with the executive director of the Kentucky  
19 Public Pensions Authority to carry out the provisions of KRS 16.505 to  
20 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public  
21 Pensions Authority shall be the chief administrative officer of the board.
- 22 (b) Prior to April 1, 2021, the board of trustees shall authorize the executive  
23 director to appoint the employees deemed necessary to transact the business of  
24 the system. Effective April 1, 2021, the responsibility of appointing  
25 employees and managing personnel needs shall be transferred to the Kentucky  
26 Public Pensions Authority established by KRS 61.505.
- 27 (c) The board shall require the chief executive officer and may require the general

1           counsel to execute bonds for the faithful performance of his or her duties  
2           notwithstanding the limitations of KRS Chapter 62.

3           (d) The board shall have a system of accounting established by the Kentucky  
4           Public Pensions Authority.

5           (e) The board shall do all things, take all actions, and promulgate all  
6           administrative regulations, not inconsistent with the provisions of KRS 16.505  
7           to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the  
8           provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding  
9           any other evidence of legislative intent, it is hereby declared to be the  
10          controlling legislative intent that the provisions of KRS 16.505 to 16.652 and  
11          61.510 to 61.705 conform with federal statute or regulation and meet the  
12          qualification requirements under 26 U.S.C. sec. 401(a), applicable federal  
13          regulations, and other published guidance. Provisions of KRS 16.505 to  
14          16.652 and 61.510 to 61.705 which conflict with federal statute or regulation  
15          or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations,  
16          and other published guidance shall not be available. The board shall have the  
17          authority to promulgate administrative regulations to conform with federal  
18          statute and regulation and to meet the qualification requirements under 26  
19          U.S.C. sec. 401(a), including an administrative regulation to comply with 26  
20          U.S.C. sec. 401(a)(9).

21          (f) Notwithstanding any other provision of statute to the contrary, including but  
22          not limited to any provision of KRS Chapter 12, the Governor shall have no  
23          authority to change any provision of KRS 16.505 to 16.652 and 61.510 to  
24          61.705 by executive order or action, including but not limited to reorganizing,  
25          replacing, amending, or abolishing the membership of the Kentucky  
26          Retirement Systems board of trustees.

27          (10) Notwithstanding any statute to the contrary, employees shall not be considered

1 legislative agents under KRS 6.611.

2 (11) The Attorney General, or an assistant designated by him or her, may attend each  
3 meeting of the board and may receive the agenda, board minutes, and other  
4 information distributed to trustees of the board upon request. The Attorney General  
5 may act as legal adviser and attorney for the board, and the board may contract for  
6 legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

7 (12) (a) The **Kentucky Public Pensions Authority**~~[system]~~ shall publish an annual  
8 financial report showing all receipts, disbursements, assets, and liabilities **for**  
9 **the systems**. The annual report shall include a copy of an audit conducted in  
10 accordance with generally accepted auditing standards. Except as provided by  
11 paragraph (b) of this subsection, the board may select **the**~~[an]~~ independent  
12 certified public accountant **hired by the Kentucky Public Pensions Authority**  
13 or the Auditor of Public Accounts to perform the audit. If the audit is  
14 performed by an independent certified public accountant, the Auditor of  
15 Public Accounts shall not be required to perform an audit pursuant to KRS  
16 43.050(2)(a), but may perform an audit at his or her discretion. All  
17 proceedings and records of the board shall be open for inspection by the  
18 public. The **Kentucky Public Pensions Authority**~~[system]~~ shall make copies  
19 of the audit required by this subsection available for examination by any  
20 member, retiree, or beneficiary in the offices of the Kentucky Public Pensions  
21 Authority and in other places as necessary to make the audit available to all  
22 members, retirees, and beneficiaries. A copy of the annual audit shall be sent  
23 to the Legislative Research Commission no later than ten (10) days after  
24 receipt by the board.

25 (b) At least once every five (5) years, the Auditor of Public Accounts shall  
26 perform the audit described by this subsection, and the system shall reimburse  
27 the Auditor of Public Accounts for all costs of the audit. The Auditor of

1           Public Accounts shall determine which fiscal year during the five (5) year  
2           period the audit prescribed by this paragraph will be completed.

3 (13) All expenses incurred by or on behalf of the system and the board in the  
4           administration of the system during a fiscal year shall be paid from the retirement  
5           allowance account, including any administrative expenses for the Kentucky Public  
6           Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS  
7           61.505. The board shall submit any administrative expenses that are specific to the  
8           Kentucky Retirement Systems that are not otherwise covered by KRS  
9           61.505(11)(a).

10 (14) Any person adversely affected by a decision of the board, except as provided under  
11           subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and  
12           61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court  
13           within sixty (60) days of the board action.

14 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her  
15           duties as a member of a committee:

- 16           1. In good faith;
- 17           2. On an informed basis; and
- 18           3. In a manner he or she honestly believes to be in the best interest of the  
19           Kentucky Retirement Systems.

20 (b) A trustee discharges his or her duties on an informed basis if, when he or she  
21           makes an inquiry into the business and affairs of the Kentucky Retirement  
22           Systems or into a particular action to be taken or decision to be made, he or  
23           she exercises the care an ordinary prudent person in a like position would  
24           exercise under similar circumstances.

25 (c) In discharging his or her duties, a trustee may rely on information, opinions,  
26           reports, or statements, including financial statements and other financial data,  
27           if prepared or presented by:

- 1           1. One (1) or more officers or employees of the Kentucky Retirement  
2           Systems whom the trustee honestly believes to be reliable and competent  
3           in the matters presented;
  - 4           2. Legal counsel, public accountants, actuaries, or other persons as to  
5           matters the trustee honestly believes are within the person's professional  
6           or expert competence; or
  - 7           3. A committee of the board of trustees of which he or she is not a member  
8           if the trustee honestly believes the committee merits confidence.
- 9           (d) A trustee shall not be considered as acting in good faith if he or she has  
10          knowledge concerning the matter in question that makes reliance otherwise  
11          permitted by paragraph (c) of this subsection unwarranted.
- 12          (e) Any action taken as a trustee, or any failure to take any action as a trustee,  
13          shall not be the basis for monetary damages or injunctive relief unless:
- 14           1. The trustee has breached or failed to perform the duties of the trustee's  
15           office in compliance with this section; and
  - 16           2. In the case of an action for monetary damages, the breach or failure to  
17           perform constitutes willful misconduct or wanton or reckless disregard  
18           for human rights, safety, or property.
- 19          (f) A person bringing an action for monetary damages under this section shall  
20          have the burden of proving by clear and convincing evidence the provisions of  
21          paragraph (e)1. and 2. of this subsection, and the burden of proving that the  
22          breach or failure to perform was the legal cause of damages suffered by the  
23          Kentucky Retirement Systems.
- 24          (g) Nothing in this section shall eliminate or limit the liability of any trustee for  
25          any act or omission occurring prior to July 15, 1988.
- 26          (h) In discharging his or her administrative duties under this section, a trustee  
27          shall strive to administer the retirement system in an efficient and cost-



1           effective manner for the taxpayers of the Commonwealth of Kentucky and  
2           shall take all actions available under the law to contain costs for the trusts,  
3           including costs for participating employers, members, and retirees.

4 (16) When an order by the system substantially impairs the benefits or rights of a  
5       member, retired member, or recipient, except action which relates to entitlement to  
6       disability benefits, or when an employer disagrees with an order of the system as  
7       provided by KRS 61.598, the affected member, retired member, recipient, or  
8       employer may request a hearing to be held in accordance with KRS Chapter 13B.  
9       The board may establish an appeals committee whose members shall be appointed  
10      by the chair and who shall have authority to act upon the recommendations and  
11      reports of the hearing officer on behalf of the board. The member, retired member,  
12      recipient, or employer aggrieved by a final order of the board following the hearing  
13      may appeal the decision to the Franklin Circuit Court, in accordance with KRS  
14      Chapter 13B. The board may establish a joint administrative appeals committee  
15      with the County Employees Retirement System and may also establish a joint  
16      disability appeals committee with the County Employees Retirement System.

17 (17) The board shall give the Kentucky Education Support Personnel Association  
18      twenty-four (24) hours notice of the board meetings, to the extent possible.

19 (18) The board shall establish a formal trustee education program for all trustees of the  
20      board. The program shall include but not be limited to the following:

21      (a) A required orientation program for all new trustees elected or appointed to the  
22      board. The orientation program shall include training on:

- 23           1. Benefits and benefits administration;
- 24           2. Investment concepts, policies, and current composition and  
25           administration of retirement systems investments;
- 26           3. Laws, bylaws, and administrative regulations pertaining to the  
27           retirement systems and to fiduciaries; and

1           4. Actuarial and financial concepts pertaining to the retirement systems.

2           If a trustee fails to complete the orientation program within one (1) year from  
3           the beginning of his or her first term on the board, the retirement systems shall  
4           withhold payment of the per diem and travel expenses due to the board  
5           member under this section and KRS 16.640 until the trustee has completed the  
6           orientation program;

7           (b) Annual required training for board members on the administration, benefits,  
8           financing, and investing of the retirement systems. If a trustee fails to  
9           complete the annual required training during the calendar or fiscal year, the  
10          retirement systems shall withhold payment of the per diem and travel  
11          expenses due to the board member under this section and KRS 16.640 until  
12          the board member has met the annual training requirements; and

13          (c) The retirement systems shall incorporate by reference in an administrative  
14          regulation, pursuant to KRS 13A.2251, the trustee education program.

15       (19) In order to improve public transparency regarding the administration of the systems,  
16          the board of trustees shall adopt a best practices model by posting the following  
17          information to the Kentucky Public Pensions Authority's Web site and shall make  
18          available to the public:

19          (a) Meeting notices and agendas for all meetings of the board. Notices and  
20          agendas shall be posted to the Kentucky Public Pensions Authority's Web site  
21          at least seventy-two (72) hours in advance of the board or committee  
22          meetings, except in the case of special or emergency meetings as provided by  
23          KRS 61.823;

24          (b) The Comprehensive Annual Financial Report with the information as follows:  
25               1. A general overview and update on the retirement systems by the  
26                executive director;  
27               2. A listing of the board of trustees;

- 1           3.    A listing of key staff;
- 2           4.    An organizational chart;
- 3           5.    Financial information, including a statement of plan net assets, a
- 4                 statement of changes in plan net assets, an actuarial value of assets, a
- 5                 schedule of investments, a statement of funded status and funding
- 6                 progress, and other supporting data;
- 7           6.    Investment information, including a general overview, a list of the
- 8                 retirement system's professional consultants, a total net of fees return on
- 9                 retirement systems investments over a historical period, an investment
- 10                summary, contracted investment management expenses, transaction
- 11                commissions, and a schedule of investments;
- 12           7.    The annual actuarial valuation report on the pension benefit and the
- 13                medical insurance benefit; and
- 14           8.    A general statistical section, including information on contributions,
- 15                benefit payouts, and retirement systems' demographic data;
- 16       (c)   All external audits;
- 17       (d)   All board minutes or other materials that require adoption or ratification by
- 18               the board of trustees. The items listed in this paragraph shall be posted within
- 19               seventy-two (72) hours of adoption or ratification of the board;
- 20       (e)   All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 21       (f)   The retirement systems' summary plan description;
- 22       (g)   A document containing an unofficial copy of the statutes governing the
- 23               systems administered by Kentucky Retirement Systems;
- 24       (h)   A listing of the members of the board of trustees and membership on each
- 25               committee established by the board, including any investment committees;
- 26       (i)   All investment holdings in aggregate, fees, and commissions for each fund
- 27               administered by the board, which shall be updated on a quarterly basis for

1 fiscal years beginning on or after July 1, 2017. The systems shall request from  
2 all managers, partnerships, and any other available sources all information  
3 regarding fees and commissions and shall, based on the requested information  
4 received:

- 5 1. Disclose the dollar value of fees and commissions paid to each  
6 individual manager or partnership;
- 7 2. Disclose the dollar value of any profit sharing, carried interest, or any  
8 other partnership incentive arrangements, partnership agreements, or any  
9 other partnership expenses received by or paid to each manager or  
10 partnership; and
- 11 3. As applicable, report each fee or commission by manager or partnership  
12 consistent with standards established by the Institutional Limited  
13 Partners Association (ILPA).

14 In addition to the requirements of this paragraph, the systems shall also  
15 disclose the name and address of all individual underlying managers or  
16 partners in any fund of funds in which system assets are invested;

- 17 (j) An update of net of fees investment returns, asset allocations, and the  
18 performance of the funds against benchmarks adopted by the board for each  
19 fund, for each asset class administered by the board, and for each manager.  
20 The update shall be posted on a quarterly basis for fiscal years beginning on or  
21 after July 1, 2017;

- 22 (k) A searchable database of the systems' expenditures and a listing of each  
23 individual employed by the systems along with the employee's salary or  
24 wages. In lieu of posting the information required by this paragraph to the  
25 Kentucky Public Pensions Authority's Web site, the systems may provide the  
26 information through a Web site established by the executive branch to inform  
27 the public about executive branch agency expenditures and public employee

1 salaries and wages;

2 (l) All contracts or offering documents for services, goods, or property purchased  
3 or utilized by the systems; and

4 (m) Information regarding the systems' financial and actuarial condition that is  
5 easily understood by the members, retired members, and the public.

6 (20) Notwithstanding the requirements of subsection (19) of this section, the retirement  
7 systems shall not be required to furnish information that is protected under KRS  
8 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the  
9 retirement systems' ability to competitively invest in real estate or other asset  
10 classes, except that no provision of this section or KRS 61.878 shall exclude  
11 disclosure and review of all contracts, including investment contracts, by the board,  
12 the Auditor of Public Accounts, and the Government Contract Review Committee  
13 established pursuant to KRS 45A.705 or the disclosure of investment fees and  
14 commissions as provided by this section. If any public record contains material  
15 which is not excepted under this section, the systems shall separate the excepted  
16 material by removal, segregation, or redaction, and make the nonexcepted material  
17 available for examination.

18 (21) Notwithstanding any other provision of KRS 16.505 to 16.652 and 61.510 to 61.705  
19 to the contrary, no funds of the systems administered by Kentucky Retirement  
20 Systems, including fees and commissions paid to an investment manager, private  
21 fund, or company issuing securities, who manages systems assets, shall be used to  
22 pay fees and commissions to placement agents. For purposes of this subsection,  
23 "placement agent" means a third-party individual, who is not an employee, or firm,  
24 wholly or partially owned by the entity being hired, who solicits investments on  
25 behalf of an investment manager, private fund, or company issuing securities.

26 ➔Section 12. KRS 61.661 is amended to read as follows:

27 (1) (a) Each current, former, or retired member's account shall be administered in a

1 confidential manner, and specific data regarding a current, former, or retired  
2 member shall not be released for publication, except that:

3 1. The member or recipient may authorize the release of his or her account  
4 information;

5 2. *The Kentucky Public Pensions Authority*~~[Kentucky Retirement~~  
6 ~~Systems]~~ may release account information to the employer or to other  
7 state and federal agencies as it deems necessary or in response to a  
8 lawful subpoena or order issued by a court of law; or

9 3. a. Upon request by any person, the systems shall release the  
10 following information from the accounts of any member or retired  
11 member of the Kentucky Employees Retirement System, the  
12 County Employees Retirement System, or the State Police  
13 Retirement System, if the member or retired member is a current  
14 or former officeholder in the Kentucky General Assembly:

15 i. The first and last name of the member or retired member;

16 ii. The system or systems in which the member has an account  
17 or from which the retired member is receiving a monthly  
18 retirement allowance;

19 iii. The status of the member or retired member, including but  
20 not limited to whether he or she is a contributing member, a  
21 member who is not currently contributing to the systems but  
22 has not retired, a retired member, or a retired member who  
23 has returned to work following retirement with an agency  
24 participating in the systems;

25 iv. If the individual is a retired member, the monthly retirement  
26 allowance that he or she was receiving at the end of the most  
27 recently completed fiscal year;

- 1 v. If the individual is a member who has not yet retired, the  
2 estimated monthly retirement allowance that he or she is  
3 eligible to receive at his or her normal retirement date based  
4 upon his or her service credit, final compensation, and  
5 accumulated account balance at the end of the most recently  
6 completed fiscal year; and
- 7 vi. The current employer or last participating employer of the  
8 member or retired member, if applicable.
- 9 b. No information shall be disclosed under this subparagraph from an  
10 account that is paying benefits to a beneficiary due to the death of  
11 a member or retired member.
- 12 (b) A current, former, or retired member's account shall be exempt from the  
13 provisions of KRS 171.410 to 171.990.
- 14 (c) The release of information under paragraph (a)3. of this subsection shall not  
15 constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- 16 (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement  
17 Systems, *the County Employees Retirement System, or the Kentucky Public*  
18 *Pensions Authority*, requiring production of any specific data regarding a  
19 current, former, or retired member, it is sufficient if the employee of the  
20 Kentucky *Public Pensions Authority*~~Retirement Systems~~ charged with the  
21 responsibility of being custodian of the original delivers within five (5)  
22 working days, by certified mail or by personal delivery, legible and durable  
23 copies of records, certified by the employee, or an affidavit stating the  
24 information required by the subpoena to the person specified in the subpoena.  
25 The production of documents or an affidavit shall be in lieu of any personal  
26 testimony of any employee of the Kentucky Retirement Systems, *the County*  
27 *Employees Retirement System, or the Kentucky Public Pensions Authority*,

1 unless, after the production of documents or affidavit, a separate subpoena is  
2 served upon the systems or the Authority~~[systems]~~ specifically directing the  
3 testimony of an employee of the systems or of the Authority. When a  
4 subpoena is served on any employee of the systems or of the Authority  
5 requiring the employee to give deposition for any purpose, in the absence of a  
6 court order requiring the deposition of a specific employee, the systems or the  
7 Authority~~[systems]~~ may designate an employee to be deposed upon the matter  
8 referred to in the subpoena.

9 (b) The certification required by this subsection shall be signed before a notary  
10 public by the employee and shall include the full name of the member or  
11 recipient, the member's or recipient's Social Security number, and a legend  
12 substantially to the following effect: "The records are true and complete  
13 reproductions of the original or microfiched records which are housed in the  
14 retirement systems office. This certification is given in lieu of his or her  
15 personal appearance."

16 (c) When an affidavit or copies of records are personally delivered, a receipt shall  
17 be presented to the person receiving the records for his or her signature and  
18 shall be immediately signed and returned to the person delivering the records.  
19 When an affidavit or copies of records are sent via certified mail, the receipt  
20 used by the postal authorities shall be sufficient to prove delivery and receipt  
21 of the affidavit or copies of records.

22 (d) When the affidavit or copies of records are delivered to a party for use in  
23 deposition, they shall, after termination of the deposition, be delivered  
24 personally or by certified mail to the clerk of the court or other body before  
25 which the action or proceeding is pending. It shall be the responsibility of the  
26 party or attorney to transmit the receipt obtained to the employee of the  
27 Kentucky Public Pensions Authority~~[Retirement Systems]~~ charged with



1 responsibility of being custodian of the original. Upon issuance of a final  
2 order terminating the case and after the normal retention period for court  
3 records expires, the affidavit or copies of records shall be permanently  
4 disposed of by the clerk in a manner that protects the confidentiality of the  
5 information contained therein.

6 (e) Records of the Kentucky Public Pensions Authority~~[Retirement Systems]~~  
7 that are susceptible to photostatic reproduction may be proved as to  
8 foundation, identity, and authenticity without any preliminary testimony, by  
9 use of legible and durable copies, certified in accordance with the provisions  
10 of this subsection.

11 ➔Section 13. KRS 61.665 is amended to read as follows:

12 (1) The Authority shall employ or contract for the services of at least three (3)  
13 physicians, licensed in the state and not members of the system, upon terms and  
14 conditions it prescribes to serve as medical examiners, whose duty it shall be to pass  
15 upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to  
16 16.652, and 78.510 to 78.852, to investigate all health or medical statements and  
17 certificates made by or in behalf of any person in connection with the payment of  
18 money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to  
19 78.852, and who shall report in writing to the system the conclusions and  
20 recommendations upon all matters referred to them. The Authority may employ or  
21 contract for the services of one (1) or more licensed mental health professionals in  
22 making recommendations regarding mental impairments.

23 (2) (a) Each person requesting disability retirement shall file at the retirement office  
24 an application for disability retirement and supporting medical information to  
25 report the person's physical and mental condition. The person shall also file at  
26 the retirement office a complete description of the job and duties from which  
27 he or she received his or her last pay as well as information regarding

1 whether~~[evidence that]~~ the person has made a request for reasonable  
2 accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part  
3 1630 or reasonable accommodation as provided for in 42 U.S.C. sec.  
4 12111(9) and 29 C.F.R. Part 1630 has been offered to the person. The  
5 person shall certify to the retirement office that the application for disability  
6 retirement and supporting medical information are ready to be evaluated by  
7 the medical examiners in accordance with paragraph (d) of this subsection. If,  
8 after good faith efforts, the person informs the Authority that he or she has  
9 been unable to obtain the employment or medical information, the Authority  
10 shall assist the person in obtaining the records and may use the authority  
11 granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to  
12 file, at the retirement office within one hundred eighty (180) days of the date  
13 the person filed his or her notification of retirement, any of the forms,  
14 certifications, or information required by this subsection, the person's  
15 application for disability retirement shall be void. Any subsequent filing of an  
16 application for disability retirement or supporting medical information shall  
17 not be evaluated, except as provided in paragraph (f) of this subsection or  
18 KRS 61.600(2), 78.5522, or 78.5524.

- 19 (b) The employer shall file at the retirement office a complete description of the  
20 job and duties for which the person was last paid and shall submit a detailed  
21 description of any reasonable accommodations attempted.
- 22 (c) The cost of medical examinations and the filing of the medical information,  
23 reports, or data with the retirement office shall be paid by the person applying  
24 for disability retirement.
- 25 (d) The Authority shall select three (3) medical examiners to evaluate the medical  
26 evidence submitted by the person. The medical examiners shall recommend  
27 that disability retirement be approved, or that disability retirement be denied.

1 If there is evidence of a mental impairment, the medical examiners may  
2 request the Authority's licensed mental health professional to assist in  
3 determining the level of the mental impairment.

4 (e) If two (2) or more of the three (3) medical examiners recommend that the  
5 person be approved for disability retirement, the system shall make retirement  
6 payments in accordance with the retirement plan selected by the person.

7 (f) If two (2) or more of the three (3) medical examiners recommend that the  
8 person be denied disability retirement, the Authority shall send notice of this  
9 recommendation by United States first-class mail to the person's last address  
10 on file in the retirement office, by electronic mail to the person's last  
11 electronic mail address on file in the retirement office, or by other electronic  
12 means. The person shall have one hundred eighty (180) days from the day that  
13 the Authority ~~sent~~<sup>mailed</sup> the notice to file at the retirement office additional  
14 supporting medical information and certify to the retirement office that the  
15 application for disability retirement and supporting medical information are  
16 ready to be evaluated by the medical examiners or to appeal his or her denial  
17 of disability retirement by filing at the retirement office a request for a formal  
18 hearing. Any subsequent filing of an application for disability retirement or  
19 supporting medical information shall not be evaluated, except as provided in  
20 KRS 61.600(2), 78.5522, or 78.5524.

21 (g) If two (2) or more of the three (3) medical examiners recommend that the  
22 person be approved for disability retirement based upon the evaluation of  
23 additional supporting medical information in accordance with paragraph (f) of  
24 this subsection, the system shall make retirement payments in accordance with  
25 the retirement plan selected by the person.

26 (h) If two (2) or more of the three (3) medical examiners recommend that the  
27 person be denied disability retirement based upon the evaluation of additional

1 supporting medical information in accordance with paragraph (f) of this  
2 subsection, the Authority shall send notice of this recommendation by United  
3 States first-class mail to the person's last address on file in the retirement  
4 office, by electronic mail to the person's last electronic mail address on file  
5 in the retirement office, or by other electronic means. The person shall have  
6 one hundred eighty (180) days from the day that the Authority ~~sent~~<sup>mailed</sup>  
7 the notice to appeal his or her denial of disability retirement by filing at the  
8 retirement office a request for a formal hearing.

9 (i) The medical examiners shall be paid a reasonable amount by the retirement  
10 system for each case evaluated.

11 (j) Notwithstanding the foregoing provisions of this section, the Authority may  
12 pay for one (1) or more medical examinations of the person requested by the  
13 medical examiners for the purpose of providing medical information deemed  
14 necessary by the medical examiners. The system may require the person to  
15 submit to one (1) or more medical examinations.

16 (3) (a) Any person whose disability benefits have been reduced, discontinued, or  
17 denied pursuant to subsection (2)(f) or (2)(h) of this section may file at the  
18 retirement office a request for a formal hearing to be conducted in accordance  
19 with KRS Chapter 13B. The right to demand a formal hearing shall be limited  
20 to a period of one hundred eighty (180) days after the person had notice of the  
21 system's determination, as described in subsection (2)(f) or (2)(h) of this  
22 section. The request for a formal hearing shall be filed with the executive  
23 director, at the retirement office in Frankfort. The request for a formal hearing  
24 shall include a short and plain statement of the reasons the denial of disability  
25 retirement is being contested.

26 (b) Failure of the person to request a formal hearing within the period of time  
27 specified shall preclude the person from proceeding any further with the

1 application for disability retirement, except as provided in KRS 61.600(2),  
 2 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal  
 3 to a court.

4 (c) The system may require the person requesting the formal hearing to submit to  
 5 one (1) or more medical or psychological examinations. Notice of the time  
 6 and place of the examination shall be **provided**~~mailed~~ to the person or his or  
 7 her legal representative. The system shall be responsible for the cost of the  
 8 examination.

9 (d) A final order of the board shall be based on substantial evidence appearing in  
 10 the record as a whole and shall set forth the decision of the board and the facts  
 11 and law upon which the decision is based.

12 (e) All requests for a hearing pursuant to this section shall be made in writing.

13 (4) ~~The [board]~~ **boards of the Kentucky Retirement Systems and the County**  
 14 **Employees Retirement Systems** may **each** establish an appeals committee whose  
 15 members shall be appointed by the chair and **that**~~who~~ shall have the authority to  
 16 act upon the recommendations and reports of the hearing officer pursuant to this  
 17 section on behalf of **each respective**~~the~~ board. The **boards**~~Authority may, upon~~  
 18 ~~the joint approval of the board~~ of the Kentucky Retirement Systems and the County  
 19 Employees Retirement System **may**~~,~~ establish **a joint**~~an~~ appeals committee **that**  
 20 **shall be authorized to select a chair from among its committee members**  
 21 **and**~~whose members shall be appointed by the chair of the Authority and who have~~  
 22 ~~the authorization~~ to act upon the recommendations and reports of the hearing  
 23 officer pursuant to this section on behalf of both boards.

24 (5) Any person aggrieved by a final order of the board may seek judicial review after all  
 25 administrative appeals have been exhausted by filing a petition for judicial review  
 26 in the Franklin Circuit Court in accordance with KRS Chapter 13B.

27 ~~[(6) The system, pursuant to regulations, may refer an employee determined by it to be~~

1       ~~disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if~~  
 2       ~~appropriate, retraining.~~

3       ~~(a) The cost of the evaluation and retraining shall be paid by the system in~~  
 4       ~~accordance with the regulations established by the board.~~

5       ~~(b) The member shall perform all acts that are necessary to enroll in and satisfy~~  
 6       ~~the requirements of Vocational Rehabilitation as prescribed by the board. This~~  
 7       ~~shall include the exchange of confidential information between Kentucky~~  
 8       ~~Retirement Systems and the Kentucky Office of Vocational Rehabilitation as~~  
 9       ~~necessary to conduct the rehabilitation process. Failure of the member to~~  
 10       ~~cooperate with the system or Vocational Rehabilitation may result in his or~~  
 11       ~~her disability allowance being discontinued, reduced, or denied until the~~  
 12       ~~member complies with the agency requests. If the refusal continues for one (1)~~  
 13       ~~year, all his or her rights to any further disability allowance shall cease.]~~

14       ➔Section 14. KRS 61.702 is amended to read as follows:

15       (1) For purposes of this section:

16       (a) "Hospital and medical insurance plan" may include, at the board's discretion,  
 17       any one (1) or more of the following:

- 18           1. Any hospital and medical expense policy or certificate, provider-  
 19           sponsored integrated health delivery network, self-insured medical plan,  
 20           health maintenance organization contract, or other health benefit plan;
- 21           2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health  
 22           reimbursement arrangement or a similar account as may be permitted by  
 23           26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's  
 24           discretion, may reimburse any medical expense permissible under 26  
 25           U.S.C. sec. 213; or
- 26           3. A medical insurance reimbursement program established by the board  
 27           through the promulgation of administrative regulation under which

1 members purchase individual health insurance coverage through a health  
2 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

3 (b) "Monthly contribution rate" is the amount determined by the board based  
4 upon the requirements of subsection (4)(a) to (c) of this section, except that  
5 for members who began participating in the system on or after July 1, 2003,  
6 the term shall mean the amount determined in subsection (4)(d) of this  
7 section; and

8 (c) "Months of service" means the total months of combined service used to  
9 determine benefits under the system, except service added to determine  
10 disability benefits or service otherwise prohibited from being used to  
11 determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to  
12 61.705 shall not be counted as "months of service." For current and former  
13 employees of the Council on Postsecondary Education who were employed  
14 prior to January 1, 1993, and who earn at least fifteen (15) years of service  
15 credit in the Kentucky Employees Retirement System, "months of service"  
16 shall also include vested service in another retirement system other than the  
17 Kentucky Teachers' Retirement System sponsored by the Council on  
18 Postsecondary Education.

19 (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract  
20 or on a self-insured basis to provide a group hospital and medical  
21 insurance plan coverage for:

22 a. Present and future recipients of a retirement allowance from the  
23 Kentucky Employees Retirement System and the State Police  
24 Retirement System; and

25 b. The spouse and each qualified dependent of a recipient who is a  
26 former member or the beneficiary, provided the spouse and  
27 dependent meet the requirements to participate in the hospital and

1                   medical insurance plans established, contracted, or authorized by  
2                   the system.

3           2. Any recipient who chooses coverage under a hospital and medical  
4           insurance plan shall pay, by payroll deduction from the retirement  
5           allowance, electronic funds transfer, or by another method, the  
6           difference between the premium cost of the hospital and medical  
7           insurance plan coverage selected and the monthly contribution rate to  
8           which he or she would be entitled under this section.

9           (b) 1. For present and future recipients of a retirement allowance from the  
10           system who are not eligible for Medicare, the board may authorize these  
11           participants to be included in the Kentucky Employees Health Plan as  
12           provided by KRS 18A.225 to 18A.2287 and shall provide benefits for  
13           recipients in the plan equal to those provided to state employees having  
14           the same Medicare hospital and medical insurance eligibility status.  
15           Notwithstanding the provisions of any other statute, system recipients  
16           shall be included in the same class as current state employees for  
17           purposes of determining medical insurance policies and premiums in the  
18           Kentucky Employees Health Plan as provided by KRS 18A.225 to  
19           18A.2287.

20           2. Regardless of age, if a recipient or the spouse or dependent child of a  
21           recipient who elects coverage becomes eligible for Medicare, he or she  
22           shall participate in the plans offered by the systems for Medicare eligible  
23           recipients. Individuals participating in the Medicare eligible plans may  
24           be required to obtain and pay for Medicare Part A and Part B coverage,  
25           in order to participate in the Medicare eligible plans offered by the  
26           system.

27           3. The system shall continue to provide the same hospital and medical



1 insurance plan coverage for recipients and qualifying dependents after  
2 the age of sixty-five (65) as before the age of sixty-five (65), if:

3 a. The recipient is not eligible for Medicare coverage; or

4 b. *The recipient would otherwise be eligible for Medicare coverage*  
5 *but is subject to the Medicare Secondary Payer Act under 42*  
6 *U.S.C. sec. 1395y(b) and has been reemployed by a participating*  
7 *agency which offers the recipient a hospital and medical*  
8 *insurance benefit or by a participating agency which is prevented*  
9 *from offering a hospital and medical benefit to the recipient as a*  
10 *condition of reemployment under KRS 70.293, 95.022, or*  
11 *164.952.*

12 (c) For recipients of a retirement allowance who are not eligible for the same  
13 level of hospital and medical benefits as recipients living in Kentucky having  
14 the same Medicare hospital and medical insurance eligibility status, the board  
15 shall provide a medical insurance reimbursement plan as described in  
16 subsection (6) of this section.

17 (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board  
18 of trustees, in its discretion, may take necessary steps to ensure compliance  
19 with 42 U.S.C. secs. 300bb-1 et seq.

20 (3) (a) Each employer participating in the Kentucky Employees Retirement System  
21 or the State Police Retirement System as provided in KRS 16.505 to 16.652 or  
22 61.510 to 61.705 shall contribute to the insurance trust fund established under  
23 KRS 61.701 the amount necessary to provide the monthly contribution rate as  
24 provided for under this section. Such employer contribution rate shall be  
25 developed by appropriate actuarial method as a part of the determination of  
26 each respective employer contribution rate determined under KRS 61.565.

27 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct

1 from the creditable compensation of each member whose membership  
2 date begins on or after September 1, 2008, an amount equal to one  
3 percent (1%) of the member's creditable compensation. The deducted  
4 amounts shall, at the discretion of the board, be credited to accounts  
5 established pursuant to 26 U.S.C. sec. 401(h), within the funds  
6 established in KRS 16.510 and 61.515, or the insurance trust fund  
7 established under KRS 61.701. Notwithstanding the provisions of this  
8 paragraph, a transfer of assets between the accounts established pursuant  
9 to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510  
10 and 61.515, and the insurance trust fund established under KRS 61.701  
11 shall not be allowed.

12 2. The employer shall file the contributions as provided by subparagraph 1.  
13 of this paragraph at the retirement office in accordance with KRS  
14 61.675. Any interest or penalties paid on any delinquent contributions  
15 shall be credited to accounts established pursuant to 26 U.S.C. sec.  
16 401(h), within the funds established in KRS 16.510 and 61.515, or the  
17 insurance trust fund established under KRS 61.701. Notwithstanding any  
18 minimum compensation requirements provided by law, the deductions  
19 provided by this paragraph shall be made, and the compensation of the  
20 member shall be reduced accordingly.

21 3. Each employer shall submit payroll reports, contributions lists, and other  
22 data as may be required by administrative regulation promulgated by the  
23 board of trustees pursuant to KRS Chapter 13A.

24 4. Every member shall be deemed to consent and agree to the deductions  
25 made pursuant to this paragraph, and the payment of salary or  
26 compensation less the deductions shall be a full and complete discharge  
27 of all claims for services rendered by the person during the period

1 covered by the payment, except as to any benefits provided by KRS  
2 16.505 to 16.652 or 61.510 to 61.705. No member may elect whether to  
3 participate in, or choose the contribution amount to accounts established  
4 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
5 16.510 and 61.515, or the insurance trust fund established under KRS  
6 61.701. The member shall have no option to receive the contribution  
7 required by this paragraph directly instead of having the contribution  
8 paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
9 funds established in KRS 16.510 and 61.515, or the insurance trust fund  
10 established under KRS 61.701. No member may receive a rebate or  
11 refund of contributions. If a member establishes a membership date prior  
12 to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this  
13 paragraph shall not apply to the member and all contributions previously  
14 deducted in accordance with this paragraph shall be refunded to the  
15 member without interest. The contribution made pursuant to this  
16 paragraph shall not act as a reduction or offset to any other contribution  
17 required of a member or recipient under KRS 16.505 to 16.652 or  
18 61.510 to 61.705.

19 5. The board of trustees, at its discretion, may direct that the contributions  
20 required by this paragraph be accounted for within accounts established  
21 pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
22 16.510 and 61.515, or the insurance trust fund established under KRS  
23 61.701, through the use of separate accounts.

24 (4) (a) The premium required to provide hospital and medical insurance plan  
25 coverage under this section shall be paid wholly or partly from funds  
26 contributed by:

27 1. The recipient of a retirement allowance, by payroll deduction from his or

- 1 her retirement allowance, or by other method;
- 2 2. The insurance trust fund established under KRS 61.701 or accounts  
3 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
4 established in KRS 16.510 and 61.515;
- 5 3. Another state-administered retirement system, including the County  
6 Employees Retirement System, under a reciprocal arrangement, except  
7 that any portion of the premium paid from the funds specified by  
8 subparagraph 2. of this paragraph under a reciprocal agreement shall not  
9 exceed the amount that would be payable under this section if all the  
10 member's service were in the systems administered by the Kentucky  
11 Retirement Systems. If the board provides for cross-referencing of  
12 insurance premiums, the employer's contribution for the working  
13 member or spouse shall be applied toward the premium, and the  
14 insurance trust fund established under KRS 61.701 or accounts  
15 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
16 established in KRS 16.510 and KRS 61.515 shall pay the balance; or
- 17 4. A combination of the fund sources described by subparagraphs 1. to 3.  
18 of this paragraph.

19 Group rates under the hospital and medical insurance plan shall be made  
20 available to the spouse, each dependent child, and each disabled child,  
21 regardless of the disabled child's age, of a recipient who is a former member  
22 or the beneficiary, if the premium for the hospital and medical insurance for  
23 the spouse, each dependent child, and each disabled child, or beneficiary is  
24 paid by payroll deduction from the retirement allowance, electronic funds  
25 transfer, or by another method. For purposes of this subsection only, a child  
26 shall be considered disabled if he or she has been determined to be eligible for  
27 federal Social Security disability benefits or meets the dependent disability

1 standard established by the Department of Employee Insurance in the  
2 Personnel Cabinet.

3 (b) For a member who began participating in the system prior to July 1, 2003, the  
4 monthly contribution rate shall be paid by the system from the funds specified  
5 under paragraph (a)2. of this subsection and shall be equal to a percentage of  
6 the single premium to cover the retired member as follows:

- 7 1. One hundred percent (100%) of the monthly premium for single  
8 coverage shall be paid for a retired member who had two hundred forty  
9 (240) months of service or more upon retirement or for a retired member  
10 who when he or she was an employee became disabled as a direct result  
11 of an act in line of duty as defined in KRS 16.505 or as a result of a  
12 duty-related injury as defined in KRS 61.621;
- 13 2. Seventy-five percent (75%) of the monthly premium for single coverage  
14 shall be paid for a retired member who had less than two hundred forty  
15 (240) months of service but at least one hundred eighty (180) months of  
16 service upon retirement, provided such retired member agrees to pay the  
17 remaining twenty-five percent (25%) by payroll deduction from his or  
18 her retirement allowance, electronic funds transfer, or by another  
19 method;
- 20 3. Fifty percent (50%) of the monthly premium for single coverage shall be  
21 paid for a retired member who had less than one hundred eighty (180)  
22 months of service but had at least one hundred twenty (120) months of  
23 service upon retirement, provided such retired member agrees to pay the  
24 remaining fifty percent (50%) by payroll deduction from his or her  
25 retirement allowance, electronic funds transfer, or by another method; or
- 26 4. Twenty-five percent (25%) of the monthly premium for single coverage  
27 shall be paid for a retired member who had less than one hundred twenty

1 (120) months of service but had at least forty-eight (48) months of  
2 service upon retirement, provided such retired member agrees to pay the  
3 remaining seventy-five percent (75%) by payroll deduction from his or  
4 her retirement allowance, electronic funds transfer, or by another  
5 method.

6 Notwithstanding the foregoing provisions of this paragraph, an employee  
7 participating in the system prior to July 1, 2003, who is killed as a direct result  
8 of an act in line of duty as defined in KRS 16.505 or as a result of a duty-  
9 related injury as defined in KRS 61.621, shall have the monthly premium paid  
10 for the beneficiary, if the beneficiary is the member's spouse, and for each  
11 dependent child as defined by KRS 16.505, so long as they individually  
12 remain eligible for a monthly retirement benefit.

13 (c) 1. For a member who began participating in the system prior to July 1,  
14 2003, who was determined to be in a hazardous position in the Kentucky  
15 Employees Retirement System or in a position in the State Police  
16 Retirement System, the funds specified under paragraph (a)2. of this  
17 subsection shall also pay a percentage of the monthly contribution rate  
18 sufficient to fund the premium costs for hospital and medical insurance  
19 coverage for the spouse and for each dependent child of a recipient.

20 2. The percentage of the monthly contribution rate paid for the spouse and  
21 each dependent child of a recipient who was in a hazardous position in  
22 accordance with subparagraph 1. of this paragraph shall be based solely  
23 on the member's service in a hazardous position using the formula in  
24 paragraph (b) of this subsection.

25 (d) For members who begin participating in the system on or after July 1, 2003:

26 1. Participation in the insurance benefits provided under this section shall  
27 not be allowed until the member has earned at least one hundred twenty

- 1 (120) months of service in the state-administered retirement systems,  
2 except that for members who begin participating in the system on or  
3 after September 1, 2008, participation in the insurance benefits provided  
4 under this section shall not be allowed until the member has earned at  
5 least one hundred eighty (180) months of service credited under KRS  
6 16.543(1) or 61.543(1), or another state-administered retirement system.
- 7 2. A member who meets the minimum service requirements as provided by  
8 subparagraph 1. of this paragraph shall upon retirement be eligible for  
9 the following monthly contribution rate to be paid on his or her behalf  
10 from the funds specified under paragraph (a)2. of this subsection:
- 11 a. For members with service in a nonhazardous position, a monthly  
12 insurance contribution of ten dollars (\$10) for each year of service  
13 as a participating employee in a nonhazardous position; and
- 14 b. For members with service in a hazardous position or who  
15 participate in the State Police Retirement System, a monthly  
16 insurance contribution of fifteen dollars (\$15) for each year of  
17 service as a participating employee in a hazardous position or the  
18 State Police Retirement System. Upon the death of the retired  
19 member, the beneficiary, if the beneficiary is the member's spouse,  
20 shall be entitled to a monthly insurance contribution of ten dollars  
21 (\$10) for each year of service the member attained as a  
22 participating employee in a hazardous position.
- 23 3. The minimum service requirement to participate in benefits as provided  
24 by subparagraph 1. of this paragraph shall be waived for a member who  
25 becomes disabled as a direct result of an act in line of duty as defined in  
26 KRS 16.505 or who dies as a result of a duty-related injury as defined in  
27 KRS 61.621, and the member shall be entitled to the benefits payable

- 1           under this subsection as though the member had twenty (20) years of  
2           service in the position for which the disabling condition occurred.
- 3           4. Notwithstanding the provisions of this paragraph, the minimum service  
4           requirement to participate in benefits as provided by subparagraph 1. of  
5           this paragraph shall be waived for a for a member who dies as a direct  
6           result of an act in line of duty as defined in KRS 16.505 or who dies as a  
7           result of a duty-related injury as defined in KRS 61.621, and the  
8           premium for the member's spouse and for each dependent child as  
9           defined in KRS 16.505 shall be paid in full by the systems so long as  
10          they individually remain eligible for a monthly retirement benefit.
- 11          5. Except as provided by subparagraph 4. of this paragraph, the monthly  
12          insurance contribution amount shall be increased July 1 of each year by  
13          one and one-half percent (1.5%). The increase shall be cumulative and  
14          shall continue to accrue after the member's retirement for as long as a  
15          monthly insurance contribution is payable to the retired member or  
16          beneficiary.
- 17          6. The benefits of this paragraph provided to a member whose participation  
18          begins on or after July 1, 2003, shall not be considered as benefits  
19          protected by the inviolable contract provisions of KRS 16.652 or 61.692.  
20          The General Assembly reserves the right to suspend or reduce the  
21          benefits conferred in this paragraph if in its judgment the welfare of the  
22          Commonwealth so demands.
- 23          7. An employee whose membership date is on or after September 1, 2008,  
24          who retires and is reemployed in a regular full-time position required to  
25          participate in the system or the County Employees Retirement System  
26          shall not be eligible for health insurance coverage or benefits provided  
27          by this section and shall take coverage with his or her employing agency



1                   during the period of reemployment in a regular full-time position.

2           (e) For members with service in another state-administered retirement system  
3           who select hospital and medical insurance plan coverage through the system:

4           1. The system shall compute the member's combined service, including  
5           service credit in another state-administered retirement system, and  
6           calculate the portion of the member's premium monthly contribution rate  
7           to be paid by the funds specified under paragraph (a)2. of this subsection  
8           according to the criteria established in paragraphs (a) to (d) of this  
9           subsection. Each state-administered retirement system shall pay annually  
10          to the insurance trust fund established under KRS 61.701 the portion of  
11          the system's cost of the retiree's monthly contribution for single coverage  
12          for hospital and medical insurance plan which shall be equal to the  
13          percentage of the member's number of months of service in the other  
14          state-administered retirement plan divided by his or her total combined  
15          service and in conjunction with the reciprocal agreement established  
16          between the system and the other state-administered retirement systems.  
17          The amounts paid by the other state-administered retirement plans and  
18          by the Kentucky Retirement Systems from funds specified under  
19          paragraph (a)2. of this subsection shall not be more than one hundred  
20          percent (100%) of the monthly contribution adopted by the respective  
21          boards of trustees;

22          2. A member may not elect coverage for hospital and medical benefits  
23          through more than one (1) of the state-administered retirement systems;  
24          and

25          3. A state-administered retirement system shall not pay any portion of a  
26          member's monthly contribution for medical insurance unless the member  
27          is a recipient or annuitant of the plan.

1 (5) Premiums paid for hospital and medical insurance coverage procured under  
2 authority of this section shall be exempt from any premium tax which might  
3 otherwise be required under KRS Chapter 136. The payment of premiums by the  
4 funds described by subsection (4)(a)2. of this section shall not constitute taxable  
5 income to an insured recipient. No commission shall be paid for hospital and  
6 medical insurance procured under authority of this section.

7 (6) The board shall promulgate an administrative regulation to establish a medical  
8 insurance reimbursement plan to provide reimbursement for hospital and medical  
9 insurance plan premiums of recipients of a retirement allowance who are not  
10 eligible for the same level of hospital and medical benefits as recipients living in  
11 Kentucky and having the same Medicare hospital and medical insurance eligibility  
12 status. An eligible recipient shall file proof of payment for hospital and medical  
13 insurance plan coverage with the retirement office. Reimbursement to eligible  
14 recipients shall be made on a quarterly basis. The recipient shall be eligible for  
15 reimbursement of substantiated medical insurance premiums for an amount not to  
16 exceed the total monthly contribution rate determined under subsection (4) of this  
17 section. The plan shall not be made available if all recipients are eligible for the  
18 same coverage as recipients living in Kentucky.

19 ➔Section 15. KRS 61.703 is amended to read as follows:

20 (1) Upon the death of a member, retiree, or recipient who has an existing account or  
21 other benefit in a retirement system administered by the Kentucky Retirement  
22 Systems that totals no more than one thousand dollars (\$1,000), the surviving  
23 spouse, or if none, a surviving child, or if none, a surviving parent, or if none, a  
24 surviving brother or sister, may without formal administration of the estate collect  
25 the account subject to the provisions of this section.

26 (2) The surviving spouse, child, parent, or brother or sister who makes demand for the  
27 deceased member, retiree, or recipient account shall file with the retirement office

1 an affidavit stating that he or she is entitled to payment of the account. The affidavit  
 2 shall conform to the requirements of the administrative regulation promulgated by  
 3 the board.

4 (3) After having paid the account to the surviving spouse, child, parent, or brother or  
 5 sister, the retirement system shall be discharged and held harmless to the same  
 6 extent as if conducting business with a personal representative. The retirement  
 7 system shall not be required to inquire into the truth or veracity of any statement  
 8 made in the affidavit. In the event any person or entity establishes a superior right to  
 9 the account, the surviving spouse, child, parent, or brother or sister, and not the  
 10 retirement system or the Kentucky Public Pensions Authority [Kentucky  
 11 ~~Retirement Systems~~], shall be answerable and accountable to any appointed  
 12 personal representative for the estate.

13 ➔Section 16. KRS 78.510 is amended to read as follows:

14 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- 15 (1) "System" means the County Employees Retirement System;
- 16 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- 17 (3) "County" means any county, or nonprofit organization created and governed by a  
 18 county, counties, or elected county officers, sheriff and his or her employees, county  
 19 clerk and his or her employees, circuit clerk and his or her deputies, former circuit  
 20 clerks or former circuit clerk deputies, or political subdivision or instrumentality,  
 21 including school boards, cities, charter county governments, urban-county  
 22 governments, consolidated local governments, or unified local governments  
 23 participating in the system by order appropriate to its governmental structure, as  
 24 provided in KRS 78.530, and if the board is willing to accept the agency,  
 25 organization, or corporation, the board being hereby granted the authority to  
 26 determine the eligibility of the agency to participate;
- 27 (4) "School board" means any board of education participating in the system by order

- 1 appropriate to its governmental structure, as provided in KRS 78.530, and if the  
2 board is willing to accept the agency or corporation, the board being hereby granted  
3 the authority to determine the eligibility of the agency to participate;
- 4 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 5 (6) "Employee" means every regular full-time appointed or elective officer or employee  
6 of a participating county and the coroner of a participating county, whether or not he  
7 or she qualifies as a regular full-time officer. The term shall not include persons  
8 engaged as independent contractors, seasonal, emergency, temporary, and part-time  
9 workers. In case of any doubt, the board shall determine if a person is an employee  
10 within the meaning of KRS 78.510 to 78.852;
- 11 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected  
12 officials of a county, or any authority of the county having the power to appoint or  
13 elect an employee to office or employment in the county;
- 14 (8) "Member" means any employee who is included in the membership of the system or  
15 any former employee whose membership has not ceased under KRS 78.535;
- 16 (9) "Service" means the total of current service and prior service as defined in this  
17 section;
- 18 (10) "Current service" means the number of years and months of employment as an  
19 employee, on and after July 1, 1958, for which creditable compensation is paid and  
20 employee contributions deducted, except as otherwise provided;
- 21 (11) "Prior service" means the number of years and completed months, expressed as a  
22 fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
23 creditable compensation was paid. An employee shall be credited with one (1)  
24 month of prior service only in those months he received compensation for at least  
25 one hundred (100) hours of work. Twelve (12) months of current service in the  
26 system shall be required to validate prior service;
- 27 (12) "Accumulated contributions" means the sum of all amounts deducted from the

1 compensation of a member and credited to his individual account in the members'  
2 account, including employee contributions picked up after August 1, 1982, pursuant  
3 to KRS 78.610(4), together with interest credited, on the amounts, and any other  
4 amounts the member shall have contributed thereto, including interest credited  
5 thereon. "Accumulated contributions" shall not include employee contributions that  
6 are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
7 fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);

8 (13) "Creditable compensation":

9 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,  
10 and fees, including payments for compensatory time, paid to the employee as  
11 a result of services performed for the employer or for time during which the  
12 member is on paid leave, which are includable on the member's federal form  
13 W-2 wage and tax statement under the heading "wages, tips, other  
14 compensation", including employee contributions picked up after August 1,  
15 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers  
16 who receive salary, fees, maintenance, or other perquisites as a result of their  
17 official duties is the gross amount received decreased by the cost of salary  
18 paid deputies and clerks and the cost of office supplies and other official  
19 expenses;

20 (b) Includes:

- 21 1. Lump-sum bonuses, severance pay, or employer-provided payments for  
22 purchase of service credit, which shall be averaged over the employee's  
23 service with the system in which it is recorded if it is equal to or greater  
24 than one thousand dollars (\$1,000);
- 25 2. Cases where compensation includes maintenance and other perquisites,  
26 but the board shall fix the value of that part of the compensation not paid  
27 in money;

- 1           3. Lump-sum payments for creditable compensation paid as a result of an  
2 order of a court of competent jurisdiction, the Personnel Board, or the  
3 Commission on Human Rights, or for any creditable compensation paid  
4 in anticipation of settlement of an action before a court of competent  
5 jurisdiction, the Personnel Board, or the Commission on Human Rights,  
6 including notices of violations of state or federal wage and hour statutes  
7 or violations of state or federal discrimination statutes, which shall be  
8 credited to the fiscal year during which the wages were earned or should  
9 have been paid by the employer. This subparagraph shall also include  
10 lump-sum payments for reinstated wages pursuant to KRS 61.569,  
11 which shall be credited to the period during which the wages were  
12 earned or should have been paid by the employer;
- 13           4. Amounts which are not includable in the member's gross income by  
14 virtue of the member having taken a voluntary salary reduction provided  
15 for under applicable provisions of the Internal Revenue Code; and
- 16           5. Elective amounts for qualified transportation fringes paid or made  
17 available on or after January 1, 2001, for calendar years on or after  
18 January 1, 2001, that are not includable in the gross income of the  
19 employee by reason of 26 U.S.C. sec. 132(f)(4); and
- 20       (c) Excludes:
- 21           1. Living allowances, expense reimbursements, lump-sum payments for  
22 accrued vacation leave, sick leave except as provided in KRS 78.616(5),  
23 and other items determined by the board;
- 24           2. For employees who begin participating on or after September 1, 2008,  
25 lump-sum payments for compensatory time;
- 26           3. Training incentive payments for city officers paid as set out in KRS  
27 64.5277 to 64.5279;

- 1           4. For employees who begin participating on or after August 1, 2016,  
2           nominal fees paid for services as a volunteer; and
- 3           5. Any salary or wages paid to an employee for services as a Kentucky  
4           State Police school resource officer as defined by KRS 158.441;

5 (14) "Final compensation" means:

- 6           (a) For a member who begins participating before September 1, 2008, who is  
7           employed in a nonhazardous position, the creditable compensation of the  
8           member during the five (5) fiscal years he or she was paid at the highest  
9           average monthly rate divided by the number of months of service credit during  
10          that five (5) year period multiplied by twelve (12). The five (5) years may be  
11          fractional and need not be consecutive. If the number of months of service  
12          credit during the five (5) year period is less than forty-eight (48), one (1) or  
13          more additional fiscal years shall be used;
- 14          (b) For a member who is employed in a nonhazardous position, whose effective  
15          retirement date is between August 1, 2001, and January 1, 2009, and whose  
16          total service credit is at least twenty-seven (27) years and whose age and years  
17          of service total at least seventy-five (75), final compensation means the  
18          creditable compensation of the member during the three (3) fiscal years the  
19          member was paid at the highest average monthly rate divided by the number  
20          of months of service credit during that three (3) year period multiplied by  
21          twelve (12). The three (3) years may be fractional and need not be  
22          consecutive. If the number of months of service credit during the three (3)  
23          year period is less than twenty-four (24), one (1) or more additional fiscal  
24          years shall be used;
- 25          (c) For a member who begins participating before September 1, 2008, who is  
26          employed in a hazardous position, as provided in KRS 61.592, the creditable  
27          compensation of the member during the three (3) fiscal years he or she was

1           paid at the highest average monthly rate divided by the number of months of  
2           service credit during that three (3) year period multiplied by twelve (12). The  
3           three (3) years may be fractional and need not be consecutive. If the number of  
4           months of service credit during the three (3) year period is less than twenty-  
5           four (24), one (1) or more additional fiscal years, which may contain less than  
6           twelve (12) months of service credit, shall be used;

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

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



- 1 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
2 calculated during the twelve (12) month period immediately preceding the  
3 member's effective retirement date, and shall include employee contributions picked  
4 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to  
5 the system by the employer and the following equivalents shall be used to convert  
6 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
7 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half  
8 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve  
9 (12) months, one (1) year;
- 10 (16) "Retirement allowance" means the retirement payments to which a member is  
11 entitled;
- 12 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
13 basis of the actuarial tables adopted by the board. In cases of disability retirement,  
14 the options authorized by KRS 61.635 shall be computed by adding ten (10) years  
15 to the age of the member, unless the member has chosen the Social Security  
16 adjustment option as provided for in KRS 61.635(8), in which case the member's  
17 actual age shall be used. For members who begin participating in the system prior to  
18 January 1, 2014, no disability retirement option shall be less than the same option  
19 computed under early retirement;
- 20 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,  
21 means:
- 22 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday  
23 of a member;
- 24 (b) For a member with service in a hazardous position who begins participating  
25 before September 1, 2008, the first day of the month following a member's  
26 fifty-fifth birthday; or
- 27 (c) For a member with service in a hazardous position who begins participating

1 on or after September 1, 2008, the first day of the month following a member's  
2 sixtieth birthday;

3 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
4 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
5 limitation year used to determine contribution and benefits limits as set out in 26  
6 U.S.C. sec. 415;

7 (20) "Agency reporting official" means the person designated by the participating  
8 employer who shall be responsible for forwarding all employer and employee  
9 contributions and a record of the contributions to the system and for performing  
10 other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

11 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean  
12 all positions that average one hundred (100) or more hours per month, determined  
13 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
14 (80) or more hours per month in the case of noncertified employees of school  
15 boards, determined by using the number of hours actually worked in a calendar or  
16 school year, unless otherwise specified, except:

17 (a) Seasonal positions, which although temporary in duration, are positions which  
18 coincide in duration with a particular season or seasons of the year and that  
19 may recur regularly from year to year, in which case the period of time shall  
20 not exceed nine (9) months, except for employees of school boards, in which  
21 case the period of time shall not exceed six (6) months;

22 (b) Emergency positions that are positions that do not exceed thirty (30) working  
23 days and are nonrenewable;

24 (c) Temporary positions that are positions of employment with a participating  
25 agency for a period of time not to exceed twelve (12) months and not  
26 renewable;

27 (d) Probationary positions which are positions of employment with a participating

1 employer that do not exceed twelve (12) months and that are used uniformly  
2 by the participating agency on new employees who would otherwise be  
3 eligible for participation in the system. Probationary positions shall not be  
4 renewable by the participating employer for the same employee, unless the  
5 employee has not been employed with the participating employer for a period  
6 of at least twelve (12) months; or

7 (e) Part-time positions that are positions that may be permanent in duration, but  
8 that require less than a calendar or fiscal year average of one hundred (100)  
9 hours of work per month, determined by using the number of months actually  
10 worked within a calendar or fiscal year, in the performance of duty, except in  
11 case of noncertified employees of school boards, the school term average shall  
12 be eighty (80) hours of work per month, determined by using the number of  
13 months actually worked in a calendar or school year, in the performance of  
14 duty;

15 (22) "Alternate participation plan" means a method of participation in the system as  
16 provided for by KRS 78.530(3);

17 (23) "Retired member" means any former member receiving a retirement allowance or  
18 any former member who has on file at the retirement office the necessary  
19 documents for retirement benefits and is no longer contributing to the system;

20 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
21 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
22 pay. The rate shall be certified by the employer;

23 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
24 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
25 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not  
26 mean an estate, trust, or trustee;

27 (26) "Recipient" means the retired member, the person or persons designated as

1 beneficiary by the member and drawing a retirement allowance as a result of the  
2 member's death, or a dependent child drawing a retirement allowance. An alternate  
3 payee of a qualified domestic relations order shall not be considered a recipient,  
4 except for purposes of KRS 61.623;

5 (27) "Person" means a natural person;

6 (28) "School term or year" means the twelve (12) months from July 1 through the  
7 following June 30;

8 (29) "Retirement office" means the Kentucky Public Pensions Authority office building  
9 in Frankfort, unless otherwise designated by the Kentucky Public Pensions  
10 Authority;

11 (30) "Vested" for purposes of determining eligibility for purchasing service credit under  
12 KRS 61.552 means the employee has at least forty-eight (48) months of service if  
13 age sixty-five (65) or older or at least sixty (60) months of service if under the age  
14 of sixty-five (65). For purposes of this subsection, "service" means service in the  
15 systems administered by the Kentucky Retirement Systems and County Employees  
16 Retirement System;

17 (31) "Participating" means an employee is currently earning service credit in the system  
18 as provided in KRS 78.615;

19 (32) "Month" means a calendar month;

20 (33) "Membership date" means the date upon which the member began participating in  
21 the system as provided in KRS 78.615;

22 (34) "Participant" means a member, as defined by subsection (8) of this section, or a  
23 retired member, as defined by subsection (23) of this section;

24 (35) "Qualified domestic relations order" means any judgment, decree, or order,  
25 including approval of a property settlement agreement, that:

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

27 (b) Relates to the provision of child support, alimony payments, or marital

1 property rights to an alternate payee;

2 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
3 participant, who is designated to be paid retirement benefits in a qualified domestic  
4 relations order;

5 (37) "Accumulated employer credit" means the employer pay credit deposited to the  
6 member's account and interest credited on such amounts as provided by KRS  
7 78.5512 and 78.5516;

8 (38) "Accumulated account balance" means:

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

11 (b) For members who began participating in the system on or after January 1,  
12 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and  
13 78.5516, the combined sum of the member's accumulated contributions and  
14 the member's accumulated employer credit;

15 (39) "Volunteer" means an individual who:

16 (a) Freely and without pressure or coercion performs hours of service for an  
17 employer participating in one (1) of the systems administered by Kentucky  
18 Retirement Systems or the County Employees Retirement System without  
19 receipt of compensation for services rendered, except for reimbursement of  
20 actual expenses, payment of a nominal fee to offset the costs of performing  
21 the voluntary services, or both; and

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

26 (40) "Nominal fee" means compensation earned for services as a volunteer that does not  
27 exceed five hundred dollars (\$500) per month. Compensation earned for services as

- 1 a volunteer from more than one (1) participating employer during a month shall be  
2 aggregated to determine whether the compensation exceeds the five hundred dollars  
3 (\$500) per month maximum provided by this subsection;
- 4 (41) "Nonhazardous position" means a position that does not meet the requirements of  
5 KRS 78.5520 or has not been approved by the board as a hazardous position;
- 6 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520  
7 and has been approved by the board as hazardous;
- 8 (43) "Level-percentage-of-payroll amortization method" means a method of determining  
9 the annual amortization payment on the unfunded actuarial accrued liability as  
10 expressed as a percentage of payroll over a set period of years. Under this method,  
11 the percentage of payroll shall be projected to remain constant for all years  
12 remaining in the set period and the unfunded actuarially accrued liability shall be  
13 projected to be fully amortized at the conclusion of the set period;
- 14 (44) "Increment" means twelve (12) months of service credit which are purchased. The  
15 twelve (12) months need not be consecutive. The final increment may be less than  
16 twelve (12) months;
- 17 (45) "Last day of paid employment" means the last date employer and employee  
18 contributions are required to be reported in accordance with KRS 16.543, 61.543, or  
19 78.615 to the retirement office in order for the employee to receive current service  
20 credit for the month. Last day of paid employment does not mean a date the  
21 employee receives payment for accrued leave, whether by lump sum or otherwise, if  
22 that date occurs twenty-four (24) or more months after previous contributions;
- 23 (46) "Objective medical evidence" means reports of examinations or treatments; medical  
24 signs which are anatomical, physiological, or psychological abnormalities that can  
25 be observed; psychiatric signs which are medically demonstrable phenomena  
26 indicating specific abnormalities of behavior, affect, thought, memory, orientation,  
27 or contact with reality; or laboratory findings which are anatomical, physiological,

1 or psychological phenomena that can be shown by medically acceptable laboratory  
2 diagnostic techniques, including but not limited to chemical tests,  
3 electrocardiograms, electroencephalograms, X-rays, and psychological tests. **The**  
4 **testimonial evidence of the person applying for disability retirement shall not**  
5 **constitute nor be deemed the equivalent of objective medical evidence;**

6 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which  
7 results in an employee's total incapacity to continue as an employee in a hazardous  
8 position, but the employee is not necessarily deemed to be totally and permanently  
9 disabled to engage in other occupations for remuneration or profit;

10 (48) "Act in line of duty" means, **for employees in hazardous positions under KRS**  
11 **78.5520:** ~~for purposes of members serving in a hazardous position,~~

12 **(a) A single** ~~an~~ act occurring which was required in the performance of the  
13 principal duties of the hazardous position as defined by the job description; **or**

14 **(b) A single act of violence committed against the employee that is found to be**  
15 **related to his or her job duties, whether or not it occurs at his or her job site;**

16 (49) "Dependent child" means a child in the womb and a natural or legally adopted child  
17 of the member who has neither attained age eighteen (18) nor married or who is an  
18 unmarried full-time student who has not attained age twenty-two (22). Solely in the  
19 case of a member who dies as a direct result of an act in line of duty as defined in  
20 this section, ~~or who~~ dies as a result of a duty-related injury as defined in KRS  
21 61.621, **becomes totally and permanently disabled as a direct result of an act in**  
22 **the line of duty as defined in this section, or becomes disabled as a result of a**  
23 **duty-related injury as defined in KRS 61.621 and is eligible for the benefits**  
24 **provided by KRS 61.621(5)(a).** "dependent child" also means a naturally or legally  
25 adopted disabled child of the member, regardless of the child's age, if the child has  
26 been determined to be eligible for federal Social Security disability benefits or is  
27 being claimed as a qualifying child for tax purposes due to the child's total and

1 permanent disability;

2 (50) "Normal retirement age" means the age at which the member meets the  
3 requirements for his or her normal retirement date as provided by subsection (18) of  
4 this section;

5 (51) "Disability retirement date" means the first day of the month following the last day  
6 of paid employment;

7 (52) "Monthly average pay" means:

8 (a) In the case of a member who dies as a direct result of an act in line of duty as  
9 defined in KRS 16.505 or who dies as a result of a duty-related injury as  
10 defined in KRS 61.621, the higher of the member's monthly final rate of pay  
11 or the average monthly creditable compensation earned by the deceased  
12 member during his or her last twelve (12) months of employment; or

13 (b) In the case where a member becomes totally and permanently disabled as a  
14 direct result of an act in line of duty as defined in KRS 16.505 or becomes  
15 disabled as a result of a duty-related injury as defined in KRS 61.621 and is  
16 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the  
17 member's monthly final rate of pay or the average monthly creditable  
18 compensation earned by the disabled member during his or her last twelve  
19 (12) months of employment prior to the date the act in line of duty or duty-  
20 related injury occurred;

21 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS  
22 61.505; and

23 (54) "Executive director" means the executive director of the Kentucky Public Pensions  
24 Authority.

25 ➔Section 17. KRS 78.5524 is amended to read as follows:

26 The disability retirement provisions contained in this section shall apply to a person  
27 whose last date of paid employment was in a hazardous position.



- 1 (1) (a) For purposes of this section:
- 2 1. "Total and permanent disability" means a disability which results in the
- 3 member's incapacity to engage in any occupation for remuneration or
- 4 profit. Loss by severance of both hands at or above the wrists, or both
- 5 feet at or above the ankles, or one (1) hand above the wrist and one (1)
- 6 foot above the ankle, or the complete, irrevocable loss of the sight of
- 7 both eyes shall be considered as total and permanent; and
- 8 2. "Hazardous disability" means a disability which results in an employee's
- 9 total incapacity to continue as an employee in a hazardous position, but
- 10 the employee is not necessarily deemed to be totally and permanently
- 11 disabled to engage in other occupations for remuneration or profit.
- 12 (b) In determining whether the disability meets the requirement of this section,
- 13 any reasonable accommodation provided by the employer as provided in 42
- 14 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 shall be considered.
- 15 (c) If the board determines that the total and permanent disability of a member
- 16 receiving a retirement allowance under this section has ceased, then the board
- 17 shall determine if the member has a hazardous disability as defined by KRS
- 18 78.510.
- 19 (2) Any person may qualify to retire on disability, subject to the following:
- 20 (a) The person shall have sixty (60) months of service, twelve (12) of which shall
- 21 be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The
- 22 service requirement shall be waived if the disability is a total and permanent
- 23 disability or a hazardous disability and is a direct result of an act in line of
- 24 duty;
- 25 (b) For a person whose membership date is prior to August 1, 2004, the person
- 26 shall not be eligible for an unreduced retirement allowance;
- 27 (c) The person's application shall be on file in the retirement office no later than

- 1           twenty-four (24) months after the person's last day of paid employment, as  
2           defined in KRS 78.510, in a regular full-time position that has been approved  
3           as a hazardous position in accordance with KRS 78.5520;
- 4           (d) The person shall receive a satisfactory determination pursuant to KRS 61.665;  
5           and
- 6           (e) A person's disability application based on the same claim of incapacity shall  
7           be accepted and reconsidered for disability if accompanied by new objective  
8           medical evidence. The application shall be on file in the retirement office no  
9           later than twenty-four (24) months after the person's last day of paid  
10          employment in a regular full-time hazardous position.
- 11       (3) Upon the examination of the objective medical evidence by licensed physicians  
12          pursuant to KRS 61.665, it shall be determined that:
- 13          (a) The incapacity results from bodily injury, mental illness, or disease. For  
14          purposes of this section, "injury" means any physical harm or damage to the  
15          human organism other than disease or mental illness;
- 16          (b) The incapacity is deemed to be permanent; and
- 17          (c) The incapacity does not result directly or indirectly from:
- 18               1. Injury intentionally self-inflicted while sane or insane; or
- 19               2. Bodily injury, mental illness, disease, or condition which pre-existed  
20               membership in the system or reemployment, whichever is most recent,  
21               unless:
- 22                   a. The disability results from bodily injury, mental illness, disease, or  
23                   a condition which has been substantially aggravated by an injury or  
24                   accident arising out of or in the course of employment; or
- 25                   b. The person has at least sixteen (16) years' current or prior service  
26                   for employment with employers participating in the County  
27                   Employees Retirement System or the Kentucky Retirement

1 Systems.

2 For purposes of this subparagraph, "reemployment" shall not mean a  
3 change of employment between employers participating in the County  
4 Employees Retirement System or the Kentucky Retirement Systems  
5 with no loss of service credit.

6 (4) (a) 1. An incapacity shall be deemed to be permanent **for the purpose of**  
7 **hazardous disability** if it is expected to result in death or can be  
8 expected to last for a continuous period of not less than twelve (12)  
9 months from the person's last day of paid employment in a hazardous  
10 position.

11 2. The determination of a permanent incapacity **for the purpose of**  
12 **hazardous disability** shall be based on the medical evidence contained  
13 in the member's file and the member's residual functional capacity and  
14 physical exertion requirements.

15 **3. The determination of a total and permanent incapacity shall be based**  
16 **on the medical evidence contained in the member's file and the**  
17 **member's residual functional capacity.**

18 (b) The person's residual functional capacity shall be the person's capacity for  
19 work activity on a regular and continuing basis. The person's physical ability  
20 shall be assessed in light of the severity of the person's physical, mental, and  
21 other impairments. The person's ability to walk, stand, carry, push, pull, reach,  
22 handle, and other physical functions shall be considered with regard to  
23 physical impairments. The person's ability to understand, remember, and carry  
24 out instructions and respond appropriately to supervision, coworkers, and  
25 work pressures in a work setting shall be considered with regard to mental  
26 impairments. Other impairments, including skin impairments, epilepsy, visual  
27 sensory impairments, postural and manipulative limitations, and

1 environmental restrictions, shall be considered in conjunction with the  
2 person's physical and mental impairments to determine residual functional  
3 capacity.

4 (c) The person's physical exertion requirements shall be determined based on the  
5 following standards:

- 6 1. Sedentary work shall be work that involves lifting no more than ten (10)  
7 pounds at a time and occasionally lifting or carrying articles such as  
8 large files, ledgers, and small tools. Although a sedentary job primarily  
9 involves sitting, occasional walking and standing may also be required  
10 in the performance of duties.
- 11 2. Light work shall be work that involves lifting no more than twenty (20)  
12 pounds at a time with frequent lifting or carrying of objects weighing up  
13 to ten (10) pounds. A job shall be in this category if lifting is  
14 infrequently required but walking and standing are frequently required,  
15 or if the job primarily requires sitting with pushing and pulling of arm or  
16 leg controls. If the person has the ability to perform substantially all of  
17 these activities, the person shall be deemed capable of light work. A  
18 person deemed capable of light work shall be deemed capable of  
19 sedentary work unless the person has additional limitations such as the  
20 loss of fine dexterity or inability to sit for long periods.
- 21 3. Medium work shall be work that involves lifting no more than fifty (50)  
22 pounds at a time with frequent lifting or carrying of objects weighing up  
23 to twenty-five (25) pounds. If the person is deemed capable of medium  
24 work, the person shall be deemed capable of light and sedentary work.
- 25 4. Heavy work shall be work that involves lifting no more than one  
26 hundred (100) pounds at a time with frequent lifting or carrying of  
27 objects weighing up to fifty (50) pounds. If the person is deemed capable

1 of heavy work, the person shall also be deemed capable of medium,  
2 light, and sedentary work.

3 5. Very heavy work shall be work that involves lifting objects weighing  
4 more than one hundred (100) pounds at a time with frequent lifting or  
5 carrying of objects weighing fifty (50) or more pounds. If the person is  
6 deemed capable of very heavy work, the person shall be deemed capable  
7 of heavy, medium, light, and sedentary work.

8 (5) Upon disability retirement, an employee may receive a disability retirement  
9 allowance payable during his or her lifetime which shall be:

10 (a) For a member who began participating in the system prior to August 1, 2004,  
11 an annual retirement allowance payable monthly and determined in the same  
12 manner as for retirement at his or her normal retirement date with years of  
13 service and final compensation being determined as of the date of his or her  
14 disability, except that service shall be added beginning with his or her last date  
15 of paid employment and continuing to his or her fifty-fifth birthday. The  
16 maximum service credit added shall not exceed the total service the member  
17 had on his or her last day of paid employment, and the maximum service  
18 credit for calculating his or her retirement allowance, including his or her total  
19 service and service added under this section, shall not exceed twenty (20)  
20 years;

21 (b) For a member who begins participating on or after August 1, 2004, but prior  
22 to January 1, 2014, the higher of twenty-five percent (25%) of the member's  
23 monthly final rate of pay or the retirement allowance determined in the same  
24 manner as for retirement at his or her normal retirement date with years of  
25 service and final compensation being determined as of the date of his or her  
26 disability; or

27 (c) For a member who begins participating on or after January 1, 2014, in the

1 hybrid cash balance plan as provided by KRS 78.5516, the disability  
2 retirement allowance shall be the higher of twenty-five percent (25%) of the  
3 member's monthly final rate of pay or the retirement allowance determined in  
4 the same manner as for retirement at his or her normal retirement date under  
5 KRS 78.5516.

6 (6) If the member receives a satisfactory determination of ~~total and permanent~~  
7 ~~disability or~~ hazardous disability pursuant to KRS 61.665 and the disability is the  
8 direct result of an act in line of duty ***as defined in KRS 78.510***, the member's  
9 retirement allowance shall be calculated as follows:

10 (a) For the disabled member, benefits as provided in subsection (5) of this section  
11 except that the monthly retirement allowance payable shall not be less than  
12 twenty-five percent (25%) of the member's monthly final rate of pay; and

13 (b) For each dependent child of the member on his or her disability retirement  
14 date, who is alive at the time any particular payment is due, a monthly  
15 payment equal to ten percent (10%) of the disabled member's monthly final  
16 rate of pay; however, total maximum dependent children's benefit shall not  
17 exceed forty percent (40%) of the member's monthly final rate of pay. The  
18 payments shall be payable to each dependent child, or to a legally appointed  
19 guardian or as directed by the system.

20 (7) ***If the member receives a satisfactory determination of total and permanent***  
21 ***disability pursuant to KRS 61.665 and the disability is the direct result of an act***  
22 ***in line of duty as defined in KRS 78.510, the member's retirement allowance shall***  
23 ***be calculated as follows:***

24 ***(a) For the disabled member, the benefits as provided in subsection (5) of this***  
25 ***section, except that the monthly retirement allowance payable shall not be***  
26 ***less than seventy-five percent (75%) of the member's monthly average pay;***  
27 ***and***

1        (b) For each dependent child of the member on his or her disability retirement  
 2        date, who is alive at the time any particular payment is due, a monthly  
 3        payment equal to ten percent (10%) of the disabled member's monthly  
 4        average pay, except that:

5        1. Member and dependent children payments under this subsection shall  
 6        not exceed one hundred percent (100%) of the member's monthly  
 7        average pay; and

8        2. Total maximum dependent children's benefits shall not exceed twenty-  
 9        five percent (25%) of the member's monthly average pay while the  
 10       member is living and forty percent (40%) of the member's monthly  
 11       average pay after the member's death. The payments shall be payable  
 12       to each dependent child, or to a legally appointed guardian or as  
 13       directed by the system, and shall be divided equally among all  
 14       dependent children.

15       (8) No benefit provided in this section shall be reduced as a result of any change in the  
 16       extent of disability of any retired member who is normal retirement age or older.

17       (9)~~(8)~~ If a regular full-time member in a hazardous position has been approved for  
 18       benefits under a hazardous disability, the board shall, upon request of the member,  
 19       permit the member to receive the hazardous disability allowance while accruing  
 20       benefits in a nonhazardous position, subject to proper medical review of the  
 21       nonhazardous position's job description by the Authority's medical examiner.

22       ➔Section 18. KRS 78.5526 is amended to read as follows:

23       (1) Once each year following the retirement of a person on a disability retirement  
 24       allowance, except for persons who become totally and permanently disabled as a  
 25       direct result of an act in line of duty as defined in KRS 78.510 or become disabled  
 26       as a result of a duty-related injury as defined in KRS 61.621 in which case shall  
 27       be once every three (3) years following retirement, or less frequently as determined

1 by the Authority's medical examiner but not less than once every five (5) years, the  
2 system may require the person, prior to his or her normal retirement date, to  
3 undergo an employment and medical staff review and, if necessary, be required to  
4 file at the retirement office on the review form prescribed by the Authority current  
5 employment information and current medical information for the bodily injury,  
6 mental illness, or disease for which he or she receives a disability retirement  
7 allowance. The person shall have one hundred eighty (180) days from the day the  
8 Authority ~~sent~~~~mailed~~ the review form **by United States first-class mail** to the  
9 person's last address on file in the retirement office, **by electronic mail to the**  
10 **person's last electronic mail address on file in the retirement office, or by other**  
11 **electronic means** to file at the retirement office the review form and the current  
12 employment and medical information. The person shall certify to the Authority that  
13 the review form, including current employment and medical information, is ready to  
14 be evaluated by the medical examiner in accordance with KRS 78.5528.

15 (2) If, after good faith efforts, the person informs the Authority that he or she has been  
16 unable to obtain the employment or medical information, the Authority shall assist  
17 the person in obtaining the records and may use the powers granted pursuant to  
18 KRS 61.685(1) to obtain the records.

19 (3) If the person fails or refuses to file at the retirement office the review form,  
20 including the current employment and medical information, his or her retirement  
21 allowance shall be discontinued or reduced on the first day of the month following  
22 the expiration of the one hundred eighty (180) days from the day the Authority  
23 ~~sent~~~~mailed~~ the review form **by United States first-class mail** to the person's last  
24 address on file in the retirement office, **by electronic mail to the person's last**  
25 **electronic mail address on file in the retirement office, or by other electronic**  
26 **means**. The Authority shall send notice of the discontinuance or reduction of the  
27 disability retirement allowance by United States first-class mail to the person's last



1 address on file in the retirement office, by electronic mail to the person's last  
2 electronic mail address on file in the retirement office, or by other electronic  
3 means. If the person's benefits are discontinued or reduced under this section, his or  
4 her rights to further disability retirement allowances shall cease, except as provided  
5 by KRS 78.5528.

6 **(4) The Kentucky Public Pensions Authority shall hire or contract for the services of**  
7 **one (1) or more investigators to investigate potential fraud involving disability**  
8 **benefits with the system. The investigators shall evaluate potential cases of**  
9 **disability fraud and conduct spot audits for potential fraud as determined by the**  
10 **system in cases involving members who become totally and permanently disabled**  
11 **as a direct result of an act in line of duty as defined in KRS 78.510 or become**  
12 **disabled as a result of a duty-related injury as defined in KRS 61.621.**

13 ➔Section 19. KRS 78.5530 is amended to read as follows:

14 Notwithstanding any other provisions of KRS 78.510 to 78.852, a maximum disability  
15 benefit is hereby established which shall apply, upon disability retirement, to any disabled  
16 employee's account to which service credit is added to determine disability benefits or in  
17 any case where disability benefits are determined by computing a percentage of the  
18 disabled employee's final monthly rate of pay or monthly average pay. The maximum  
19 disability benefit shall be determined by the following formula:

20 (1) Add the monthly benefit payable to the disabled employee from the County  
21 Employees Retirement System and the Kentucky Retirement Systems, using the  
22 monthly disability retirement allowance without any reduction due to the selection  
23 of an optional payment plan under KRS 61.635 but excluding dependent children's  
24 allowances, if any, to his or her monthly benefit, if any, from Social Security, even  
25 though these payments may not begin for a period of time as required for  
26 qualification under the federal Social Security law, excluding spouse or dependent  
27 benefits, and his or her monthly benefit, if any, from workers' compensation, even

1           though these payments may not have begun as of the date the disabled member  
2           applies for disability retirement benefits, excluding spouse or dependent children's  
3           allowances, from workers' compensation, to arrive at a projected combined monthly  
4           benefit.

5       (2) If the projected combined monthly benefit exceeds one hundred percent (100%) of  
6           the disabled employee's final rate of pay or his or her final compensation, whichever  
7           is greater, his or her disability retirement allowance from the County Employees  
8           Retirement System and the Kentucky Retirement Systems shall be reduced to an  
9           amount which would cause his or her projected combined monthly benefit to equal  
10          one hundred percent (100%) of his or her final rate of pay or his or her final  
11          compensation, whichever is greater; however, the disability retirement allowance  
12          shall not be reduced below an amount which would result from a computation of his  
13          or her disability retirement allowance from the County Employees Retirement  
14          System and the Kentucky Retirement Systems using the disabled employee's actual  
15          total service.

16       (3) The system may pay estimated benefits to a disabled employee, upon qualification  
17          for disability retirement, based on an estimate of his or her Social Security and  
18          workers' compensation benefits until the amounts are actually determined, at which  
19          time a final calculation of the member's actual benefits shall be determined and his  
20          or her account corrected retroactive to his or her effective retirement date.

21       (4) Any increase in Social Security benefits or workers' compensation benefits which  
22          becomes law, regardless of their effective date, subsequent to the disabled  
23          employee's effective retirement date, shall not be considered in determination of the  
24          maximum benefit payable, as the maximum benefit payable is based on the amount  
25          of combined benefits under these programs as of the disabled employee's effective  
26          retirement date.

27       (5) Any disabled recipient whose potential payments from the system were reduced as

1 provided for in this section shall advise the Authority if his or her payments under  
 2 the federal Social Security Act or Workers' Compensation Act cease at any time  
 3 subsequent to his or her effective retirement date. Upon investigation, if the system  
 4 determines that the disabled recipient continues to be eligible for disability benefits,  
 5 the system may increase his or her retirement allowance by adding to his or her  
 6 payment an amount equal to the reduction applied upon the effective retirement date  
 7 in accordance with subsection (2) of this section.

8 (6) The amount of combined disability benefit payments made to an individual on or  
 9 after April 1 2021, from the Kentucky Retirement Systems and the County  
 10 Employees Retirement System shall not be increased as a result of the passage of  
 11 2021 Ky. Acts ch. 102.

12 **(7) Subsequent to his or her effective retirement date, each disability recipient who is**  
 13 **still eligible to receive disability payments based upon a total and permanent**  
 14 **disability that occurred as a direct result of an act in line of duty as defined in**  
 15 **KRS 78.510 or a disablement that occurred as a result of a duty-related injury as**  
 16 **defined in KRS 61.621 shall annually file, on a form or via an electronic method**  
 17 **established by the Authority, information on whether payments to the recipient**  
 18 **have ceased or begun under the federal Social Security Act or Workers'**  
 19 **Compensation Act and the Authority shall make any necessary adjustments as**  
 20 **provided by this section.**

21 ➔Section 20. KRS 78.5536 is amended to read as follows:

22 (1) For purposes of this section:

23 (a) "Hospital and medical insurance plan" may include, at the board's discretion,  
 24 any one (1) or more of the following:

- 25 1. Any hospital and medical expense policy or certificate, provider-  
 26 sponsored integrated health delivery network, self-insured medical plan,  
 27 health maintenance organization contract, or other health benefit plan;

- 1           2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health  
2 reimbursement arrangement or a similar account as may be permitted by  
3 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's  
4 discretion, may reimburse any medical expense permissible under 26  
5 U.S.C. sec. 213; or
- 6           3. A medical insurance reimbursement program established by the board  
7 through the promulgation of administrative regulation under which  
8 members purchase individual health insurance coverage through a health  
9 insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
- 10       (b) "Monthly contribution rate" shall be the amount determined by the board  
11 based upon the requirements of subsection (4)(a) to (c) of this section, except  
12 that for members who began participating in the system on or after July 1,  
13 2003, the term shall mean the amount determined in subsection (4)(d) of this  
14 section; and
- 15       (c) "Months of service" shall mean the total months of combined service used to  
16 determine benefits under the system, except service added to determine  
17 disability benefits or service otherwise prohibited from being used to  
18 determine retiree health benefits under KRS 78.510 to 78.852 shall not be  
19 counted as "months of service."
- 20       (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract  
21 or on a self-insured basis to provide a group hospital and medical  
22 insurance plan coverage for:
- 23           a. Present and future recipients of a retirement allowance from the  
24 County Employees Retirement System; and
- 25           b. The spouse and each qualified dependent of a recipient who is a  
26 former member or the beneficiary, provided the spouse and  
27 dependent meet the requirements to participate in the hospital and

1                   medical insurance plans established, contracted, or authorized by  
2                   the system.

3           2. Any recipient who chooses coverage under a hospital and medical  
4           insurance plan shall pay, by payroll deduction from the retirement  
5           allowance, electronic funds transfer, or by another method, the  
6           difference between the premium cost of the hospital and medical  
7           insurance plan coverage selected and the monthly contribution rate to  
8           which he or she would be entitled under this section.

9           (b) 1. For present and future recipients of a retirement allowance from the  
10           system who are not eligible for Medicare, the board may authorize these  
11           participants to be included in the Kentucky Employees Health Plan as  
12           provided by KRS 18A.225 to 18A.2287 and shall provide benefits for  
13           recipients in the plan equal to those provided to state employees having  
14           the same Medicare hospital and medical insurance eligibility status.  
15           Notwithstanding the provisions of any other statute, system recipients  
16           shall be included in the same class as current state employees for  
17           purposes of determining medical insurance policies and premiums in the  
18           Kentucky Employees Health Plan as provided by KRS 18A.225 to  
19           18A.2287.

20           2. Regardless of age, if a recipient or the spouse or dependent child of a  
21           recipient who elects coverage becomes eligible for Medicare, he or she  
22           shall participate in the plans offered by the systems for Medicare eligible  
23           recipients. Individuals participating in the Medicare eligible plans may  
24           be required to obtain and pay for Medicare Part A and Part B coverage  
25           in order to participate in the Medicare eligible plans offered by the  
26           system.

27           3. The system shall continue to provide the same hospital and medical

1 insurance plan coverage for recipients and qualifying dependents after  
 2 the age of sixty-five (65) as before the age of sixty-five (65), if:

3 a. The recipient is not eligible for Medicare coverage; or

4 b. *The recipient would otherwise be eligible for Medicare coverage*  
 5 *but is subject to the Medicare Secondary Payer Act under 42*  
 6 *U.S.C. sec. 1395y(b) and has been reemployed by a participating*  
 7 *agency which offers the recipient a hospital and medical*  
 8 *insurance benefit or by a participating agency which is prevented*  
 9 *from offering a hospital and medical benefit to the recipient as a*  
 10 *condition of reemployment under KRS 70.293, 95.022, or*  
 11 *164.952.*

12 (c) For recipients of a retirement allowance who are not eligible for the same  
 13 level of hospital and medical benefits as recipients living in Kentucky having  
 14 the same Medicare hospital and medical insurance eligibility status, the board  
 15 shall provide a medical insurance reimbursement plan as described in  
 16 subsection (6) of this section.

17 (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of  
 18 trustees, in its discretion, may take necessary steps to ensure compliance with  
 19 42 U.S.C. secs. 300bb-1 et seq.

20 (3) (a) Each employer participating in the County Employees Retirement System as  
 21 provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund  
 22 established by KRS 61.701 the amount necessary to provide the monthly  
 23 contribution rate as provided for under this section. Such employer  
 24 contribution rate shall be developed by appropriate actuarial method as a part  
 25 of the determination of each respective employer contribution rate determined  
 26 under KRS 78.635.

27 (b) 1. Each employer described in paragraph (a) of this subsection shall deduct

1 from the creditable compensation of each member whose membership  
2 date begins on or after September 1, 2008, an amount equal to one  
3 percent (1%) of the member's creditable compensation. The deducted  
4 amounts shall, at the discretion of the board, be credited to accounts  
5 established pursuant to 26 U.S.C. sec. 401(h), within the funds  
6 established in KRS 78.520, or the insurance trust fund established under  
7 KRS 61.701. Notwithstanding the provisions of this paragraph, a  
8 transfer of assets between the accounts established pursuant to 26 U.S.C.  
9 sec. 401(h), within the funds established in KRS 78.520, and the  
10 insurance trust fund established under KRS 61.701 shall not be allowed.

11 2. The employer shall file the contributions as provided by subparagraph 1.  
12 of this paragraph at the retirement office in accordance with KRS  
13 78.625. Any interest or penalties paid on any delinquent contributions  
14 shall be credited to accounts established pursuant to 26 U.S.C. sec.  
15 401(h), within the funds established in KRS 78.520, or the insurance  
16 trust fund established under KRS 61.701. Notwithstanding any  
17 minimum compensation requirements provided by law, the deductions  
18 provided by this paragraph shall be made, and the compensation of the  
19 member shall be reduced accordingly.

20 3. Each employer shall submit payroll reports, contributions lists, and other  
21 data as may be required by administrative regulation promulgated by the  
22 board of trustees pursuant to KRS Chapter 13A.

23 4. Every member shall be deemed to consent and agree to the deductions  
24 made pursuant to this paragraph, and the payment of salary or  
25 compensation less the deductions shall be a full and complete discharge  
26 of all claims for services rendered by the person during the period  
27 covered by the payment, except as to any benefits provided by KRS

1           78.510 to 78.852. No member may elect whether to participate in, or  
2           choose the contribution amount to accounts established pursuant to 26  
3           U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the  
4           insurance trust fund established under KRS 61.701. The member shall  
5           have no option to receive the contribution required by this paragraph  
6           directly instead of having the contribution paid to accounts established  
7           pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
8           78.520, or the insurance trust fund established under KRS 61.701. No  
9           member may receive a rebate or refund of contributions. If a member  
10          establishes a membership date prior to September 1, 2008, pursuant to  
11          KRS 61.552(2) or (3), then this paragraph shall not apply to the member  
12          and all contributions previously deducted in accordance with this  
13          paragraph shall be refunded to the member without interest. The  
14          contribution made pursuant to this paragraph shall not act as a reduction  
15          or offset to any other contribution required of a member or recipient  
16          under KRS 78.510 to 78.852.

17          5.    The board of trustees, at its discretion, may direct that the contributions  
18          required by this paragraph be accounted for within accounts established  
19          pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS  
20          78.520, or the insurance trust fund established under KRS 61.701,  
21          through the use of separate accounts.

22    (4)   (a)   The premium required to provide hospital and medical insurance plan  
23          coverage under this section shall be paid wholly or partly from funds  
24          contributed by:

- 25          1.    The recipient of a retirement allowance, by payroll deduction from his or  
26                her retirement allowance, electronic funds transfer, or by other method;
- 27          2.    The insurance trust fund established by KRS 61.701 or accounts



1 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
2 established in KRS 78.520;

- 3 3. Another state-administered retirement system, including the systems  
4 administered by Kentucky Retirement Systems, under a reciprocal  
5 arrangement, except that any portion of the premium paid from the funds  
6 specified by subparagraph 2. of this paragraph under a reciprocal  
7 agreement shall not exceed the amount that would be payable under this  
8 section if all the member's service were in the County Employees  
9 Retirement System. If the board provides for cross-referencing of  
10 insurance premiums, the employer's contribution for the working  
11 member or spouse shall be applied toward the premium, and the  
12 insurance trust fund established under KRS 61.701 or accounts  
13 established pursuant to 26 U.S.C. sec. 401(h) within the funds  
14 established in KRS 78.520, shall pay the balance; or
- 15 4. A combination of the fund sources described by subparagraph 1. to 3. of  
16 this paragraph.

17 Group rates under the hospital and medical insurance plan shall be made  
18 available to the spouse, each dependent child, and each disabled child,  
19 regardless of the disabled child's age, of a recipient who is a former member  
20 or the beneficiary, if the premium for the hospital and medical insurance for  
21 the spouse, each dependent child, and each disabled child, or beneficiary is  
22 paid by payroll deduction from the retirement allowance, electronic funds  
23 transfer, or by another method. For purposes of this subsection only, a child  
24 shall be considered disabled if he or she has been determined to be eligible for  
25 federal Social Security disability benefits or meets the dependent disability  
26 standard established by the Department of Employee Insurance in the  
27 Personnel Cabinet.

- 1 (b) For a member who began participating in the system prior to July 1, 2003, the  
2 monthly contribution rate shall be paid by the system from the funds specified  
3 under paragraph (a)2. of this subsection and shall be equal to a percentage of  
4 the single premium to cover the retired member as follows:
- 5 1. One hundred percent (100%) of the monthly premium for single  
6 coverage shall be paid for a retired member who had two hundred forty  
7 (240) months of service or more upon retirement or for a retired member  
8 who when he or she was an employee was disabled as a direct result of  
9 an act in line of duty as defined in KRS 78.510(48) or as a result of a  
10 duty-related injury as defined in KRS 61.621;
  - 11 2. Seventy-five percent (75%) of the monthly premium for single coverage  
12 shall be paid for a retired member who had less than two hundred forty  
13 (240) months of service but at least one hundred eighty (180) months of  
14 service upon retirement, provided such retired member agrees to pay the  
15 remaining twenty-five percent (25%) by payroll deduction from his or  
16 her retirement allowance, electronic funds transfer, or by another  
17 method;
  - 18 3. Fifty percent (50%) of the monthly premium for single coverage shall be  
19 paid for a retired member who had less than one hundred eighty (180)  
20 months of service but had at least one hundred twenty (120) months of  
21 service upon retirement, provided such retired member agrees to pay the  
22 remaining fifty percent (50%) by payroll deduction from his or her  
23 retirement allowance, electronic funds transfer, or by another method; or
  - 24 4. Twenty-five percent (25%) of the monthly premium for single coverage  
25 shall be paid for a retired member who had less than one hundred twenty  
26 (120) months of service but had at least forty-eight (48) months of  
27 service upon retirement, provided such retired member agrees to pay the

1 remaining seventy-five percent (75%) by payroll deduction from his or  
2 her retirement allowance, electronic funds transfer, or by another  
3 method.

4 Notwithstanding the foregoing provisions of this paragraph, an employee  
5 participating in the system prior to July 1, 2003, who is killed as a direct result  
6 of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-  
7 related injury as defined in KRS 61.621, shall have the monthly premium paid  
8 for the beneficiary, if the beneficiary is the member's spouse, and for each  
9 dependent child, so long as they individually remain eligible for a monthly  
10 retirement benefit.

11 (c) 1. For a member who began participating in the system prior to July 1,  
12 2003, who was determined to be in a hazardous position in the County  
13 Employees Retirement System, the funds specified under paragraph (a)2.  
14 of this subsection shall also pay a percentage of the monthly contribution  
15 rate sufficient to fund the premium costs for hospital and medical  
16 insurance coverage for the spouse and for each dependent child of a  
17 recipient.

18 2. The percentage of the monthly contribution rate paid for the spouse and  
19 each dependent child of a recipient who was in a hazardous position in  
20 accordance with subparagraph 1. of this paragraph shall be based solely  
21 on the member's service in a hazardous position using the formula in  
22 paragraph (b) of this subsection, except that for any recipient of a  
23 retirement allowance from the County Employees Retirement System  
24 who was contributing to the system on January 1, 1998, for service in a  
25 hazardous position, the percentage of the monthly contribution shall be  
26 based on the total of hazardous service and any nonhazardous service as  
27 a police or firefighter with the same agency, if that agency was

1 participating in the County Employees Retirement System but did not  
2 offer hazardous duty coverage for its police and firefighters at the time  
3 of initial participation.

4 (d) For members who begin participating in the system on or after July 1, 2003:

- 5 1. Participation in the insurance benefits provided under this section shall  
6 not be allowed until the member has earned at least one hundred twenty  
7 (120) months of service in the state-administered retirement systems,  
8 except that for members who begin participating in the system on or  
9 after September 1, 2008, participation in the insurance benefits provided  
10 under this section shall not be allowed until the member has earned at  
11 least one hundred eighty (180) months of service credited under KRS  
12 78.615(1) or another state-administered retirement system.
- 13 2. A member who meets the minimum service requirements as provided by  
14 subparagraph 1. of this paragraph shall upon retirement be eligible for  
15 the following monthly contribution rate to be paid on his or her behalf  
16 from the funds specified under paragraph (a)2. of this subsection:
  - 17 a. For members with service in a nonhazardous position, a monthly  
18 insurance contribution of ten dollars (\$10) for each year of service  
19 as a participating employee in a nonhazardous position; and
  - 20 b. For members with service in a hazardous position, a monthly  
21 insurance contribution of fifteen dollars (\$15) for each year of  
22 service as a participating employee in a hazardous position. Upon  
23 the death of the retired member, the beneficiary, if the beneficiary  
24 is the member's spouse, shall be entitled to a monthly insurance  
25 contribution of ten dollars (\$10) for each year of service the  
26 member attained as a participating employee in a hazardous  
27 position.

- 1           3.    The minimum service requirement to participate in benefits as provided  
2                    by subparagraph 1. of this paragraph shall be waived for a member who  
3                    is disabled as a result of an act in line of duty as defined in KRS  
4                    78.510(48) or as a result of a duty-related injury as defined by KRS  
5                    61.621 and the member shall be entitled to the benefits payable under  
6                    this subsection as though the member had twenty (20) years of service in  
7                    the position for which the disabling condition occurred.
- 8           4.    Notwithstanding the provisions of this paragraph, the minimum service  
9                    requirement to participate in benefits as provided by subparagraph 1. of  
10                   this paragraph shall be waived for a for a member who dies a as a result  
11                   of an act in line of duty as defined in KRS 78.510(48) or as a result of a  
12                   duty-related injury as defined in KRS 61.621, and the premium for the  
13                   member's spouse and for each dependent child as defined in KRS 78.510  
14                   shall be paid in full by the systems so long as they individually remain  
15                   eligible for a monthly retirement benefit.
- 16          5.    Except as provided by subparagraph 4. of this paragraph, the monthly  
17                   insurance contribution amount shall be increased July 1 of each year by  
18                   one and one-half percent (1.5%). The increase shall be cumulative and  
19                   shall continue to accrue after the member's retirement for as long as a  
20                   monthly insurance contribution is payable to the retired member or  
21                   beneficiary.
- 22          6.    The benefits of this paragraph provided to a member whose participation  
23                   begins on or after July 1, 2003, shall not be considered as benefits  
24                   protected by the inviolable contract provisions of KRS 78.852. The  
25                   General Assembly reserves the right to suspend or reduce the benefits  
26                   conferred in this paragraph if in its judgment the welfare of the  
27                   Commonwealth so demands.

1           7. An employee whose membership date is on or after September 1, 2008,  
2           who retires and is reemployed in a regular full-time position required to  
3           participate in the system or the Kentucky Retirement Systems shall not  
4           be eligible for health insurance coverage or benefits provided by this  
5           section and shall take coverage with his or her employing agency during  
6           the period of reemployment in a regular full-time position.

7           (e) For members with service in another state-administered retirement system  
8           who select hospital and medical insurance plan coverage through the system:

9           1. The system shall compute the member's combined service, including  
10           service credit in another state-administered retirement system, and  
11           calculate the portion of the member's premium monthly contribution rate  
12           to be paid by the funds specified under paragraph (a)2. of this subsection  
13           according to the criteria established in paragraphs (a) to (d) of this  
14           subsection. Each state-administered retirement system shall pay annually  
15           to the insurance trust fund established under KRS 61.701 the portion of  
16           the system's cost of the retiree's monthly contribution for single coverage  
17           for hospital and medical insurance plan which shall be equal to the  
18           percentage of the member's number of months of service in the other  
19           state-administered retirement plan divided by his or her total combined  
20           service and in conjunction with the reciprocal agreement established  
21           between the system and the other state-administered retirement systems.  
22           The amounts paid by the other state-administered retirement plans and  
23           by the County Employees Retirement System from funds specified under  
24           paragraph (a)2. of this subsection shall not be more than one hundred  
25           percent (100%) of the monthly contribution adopted by the respective  
26           boards of trustees;

27           2. A member may not elect coverage for hospital and medical benefits

1 through more than one (1) of the state-administered retirement systems;  
2 and

3 3. A state-administered retirement system shall not pay any portion of a  
4 member's monthly contribution for medical insurance unless the member  
5 is a recipient or annuitant of the plan.

6 (5) Premiums paid for hospital and medical insurance coverage procured under  
7 authority of this section shall be exempt from any premium tax which might  
8 otherwise be required under KRS Chapter 136. The payment of premiums by the  
9 funds described by subsection (4)(a)2. of this section shall not constitute taxable  
10 income to an insured recipient. No commission shall be paid for hospital and  
11 medical insurance procured under authority of this section.

12 (6) The board shall promulgate an administrative regulation to establish a medical  
13 insurance reimbursement plan to provide reimbursement for hospital and medical  
14 insurance plan premiums of recipients of a retirement allowance who are not  
15 eligible for the same level of hospital and medical benefits as recipients living in  
16 Kentucky and having the same Medicare hospital and medical insurance eligibility  
17 status. An eligible recipient shall file proof of payment for hospital and medical  
18 insurance plan coverage with the retirement office. Reimbursement to eligible  
19 recipients shall be made on a quarterly basis. The recipient shall be eligible for  
20 reimbursement of substantiated medical insurance premiums for an amount not to  
21 exceed the total monthly contribution rate determined under subsection (4) of this  
22 section. The plan shall not be made available if all recipients are eligible for the  
23 same coverage as recipients living in Kentucky.

24 ➔Section 21. KRS 78.5540 is amended to read as follows:

25 (1) A retired member whose disability retirement was discontinued pursuant to KRS  
26 78.5528 and who is reemployed by an employer participating in the system or the  
27 Kentucky Retirement Systems prior to his or her normal retirement date shall have

1 his or her accounts combined upon termination for determining eligibility for  
2 benefits. If the member is eligible for retirement, the member's service and  
3 creditable compensation earned as a result of his or her reemployment shall be used  
4 in the calculation of benefits, except that the member's final compensation shall not  
5 be less than the final compensation last used in determining his or her retirement  
6 allowance. The member shall not change beneficiary or payment option  
7 designations.

8 (2) (a) If a retired member accepts employment or begins serving as a volunteer with  
9 an employer participating in the systems administered by Kentucky  
10 Retirement Systems or the County Employees Retirement System within  
11 twelve (12) months of his or her retirement date, the retired member shall  
12 notify the Authority and the participating employer shall submit the  
13 information required or requested by the Authority to confirm the individual's  
14 employment or volunteer status. The retired member shall not be required to  
15 notify the Authority regarding any employment or volunteer service with a  
16 participating agency that is accepted after twelve (12) months following his or  
17 her retirement date.

18 (b) If the retired member is under a contract to provide services as an independent  
19 contractor or leased employee to an employer participating in the systems  
20 administered by Kentucky Retirement Systems or the County Employees  
21 Retirement System within twelve (12) months of his or her retirement date,  
22 the member shall submit a copy of that contract to the Authority, and the  
23 Authority shall determine if the member is an independent contractor or leased  
24 employee for purposes of retirement benefits. The retired member and the  
25 participating employer shall submit the information required or requested by  
26 the Authority to confirm the individual's status as an independent contractor or  
27 leased employee. The retired member shall not be required to notify the



1 Authority regarding any services entered into as an independent contractor or  
2 leased employee with a participating agency that the employee enters into  
3 after twelve (12) months following his or her retirement date.

4 (3) Retired members of the County Employees Retirement System who returned to  
5 work with an employer that participates in the County Employees Retirement  
6 System or Kentucky Retirement Systems prior to September 1, 2008, shall be  
7 governed by the provisions of KRS 61.637(1) to (16).

8 (4) The following shall apply to retired members of the County Employees Retirement  
9 System who are reemployed on or after September 1, 2008, by an agency  
10 participating in the systems administered by the County Employees Retirement  
11 System or the Kentucky Retirement Systems:

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

25 1. The member shall contribute to a member account established for him or  
26 her in the County Employees Retirement System or the Kentucky  
27 Retirement Systems, and employer contributions shall be paid on behalf

1 of the member by the participating employer to the system; and

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

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

14 1. If a member is reemployed by a participating employer within twelve  
15 (12) months of the member's retirement date, the participating employer  
16 shall certify in writing on a form prescribed by the Authority that no  
17 prearranged agreement existed between the employee and employer  
18 prior to the employee's retirement for the employee to return to work  
19 with the participating employer. If the participating employer fails to  
20 complete the certification or the Authority determines a prearranged  
21 agreement exists, the member's retirement shall be voided and the  
22 provisions of paragraph (a) of this subsection shall apply to the member  
23 and the employer. For purposes of this paragraph:

24 a. If an elected official is reelected to a new term of office in the  
25 same position **as the elected official held prior to retirement and**  
26 **takes office**~~[and has retired from the elected office]~~ within twelve  
27 (12) months **of his or her retirement date**~~[prior to taking the new~~

- 1                   ~~term of office~~], he or she shall be deemed by the Authority as  
2                   having a prearranged agreement; and
- 3                   b.    Employment that is accepted by the retired member after twelve  
4                   (12) months following the member's retirement date shall not  
5                   constitute a prearranged agreement under this paragraph;
- 6                   2.    Notwithstanding any other provision of KRS Chapter 78 to the contrary,  
7                   the member shall not contribute to the system and shall not earn any  
8                   additional benefits for any work performed during the period of  
9                   reemployment;
- 10                  3.    Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
11                  except for any retiree employed as a school resource officer as defined  
12                  by KRS 158.441, the employer shall pay employer contributions as  
13                  specified by KRS 78.5536 and 78.635 on all creditable compensation  
14                  earned by the employee during the period of reemployment. The  
15                  additional contributions paid shall be used to reduce the unfunded  
16                  actuarial liability of the system; and
- 17                  4.    Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
18                  except for any retiree employed as a school resource officer as defined  
19                  by KRS 158.441, the employer shall be required to reimburse the system  
20                  for the cost of the health insurance premium paid by the system to  
21                  provide coverage for the retiree, not to exceed the cost of the single  
22                  premium. Effective July 1, 2015, local school boards shall not be  
23                  required to pay the reimbursement required by this subparagraph for  
24                  retirees employed by the board for eighty (80) days or less during the  
25                  fiscal year;
- 26                  (c)   If a member is receiving a retirement allowance from hazardous position  
27                  coverage with the County Employees Retirement System, or has filed the

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

- 10 1. The member shall contribute to a member account established for him or  
11 her in the County Employees Retirement System or the Kentucky  
12 Retirement Systems, and employer contributions shall be paid on behalf  
13 of the member by the participating employer; and
- 14 2. Upon subsequent retirement, the member shall be eligible for a  
15 retirement allowance based upon total service and creditable  
16 compensation, including any additional service or creditable  
17 compensation earned after his or her initial retirement was voided;

18 (d) If a member is receiving a retirement allowance from the hazardous position  
19 coverage with the County Employees Retirement System and is employed in a  
20 regular full-time hazardous position required to participate in the County  
21 Employees Retirement System or the Kentucky Retirement Systems after a  
22 one (1) month period following the member's initial retirement date, the  
23 member may continue to receive his or her retirement allowance during the  
24 period of reemployment subject to the following provisions:

- 25 1. If a member is reemployed by a participating employer within twelve  
26 (12) months of the member's retirement date, the participating employer  
27 shall certify in writing on a form prescribed by the Authority that no

- 1 prearranged agreement existed between the employee and employer  
2 prior to the employee's retirement for the employee to return to work  
3 with the participating employer. If the participating employer fails to  
4 complete the certification or the Authority determines a prearranged  
5 agreement exists, the member's retirement shall be voided and the  
6 provisions of paragraph (c) of this subsection shall apply to the member  
7 and the employer. For purposes of this paragraph:
- 8 a. If an elected official is reelected to a new term of office in the  
9 same position **as the elected official held prior to retirement and**  
10 **takes office**~~and has retired from the elected office~~ within twelve  
11 (12) months **of his or her retirement date**~~prior to taking the new~~  
12 ~~term of office~~, he or she shall be deemed by the  
13 **Authority**~~system~~ as having a prearranged agreement; and
- 14 b. Employment that is accepted by the retired member after twelve  
15 (12) months following the member's retirement date shall not  
16 constitute a prearranged agreement under this paragraph;
- 17 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary,  
18 the member shall not contribute to the system or the Kentucky  
19 Retirement Systems and shall not earn any additional benefits for any  
20 work performed during the period of reemployment;
- 21 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
22 except for any retiree employed as a school resource officer as defined  
23 by KRS 158.441, the employer shall pay employer contributions as  
24 specified by KRS 78.5536 and 78.635 on all creditable compensation  
25 earned by the employee during the period of reemployment. The  
26 additional contributions paid shall be used to reduce the unfunded  
27 actuarial liability of the system; and

- 1           4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and  
2           except for any retiree employed as a school resource officer as defined  
3           by KRS 158.441, the employer shall be required to reimburse the system  
4           for the cost of the health insurance premium paid by the system to  
5           provide coverage for the retiree, not to exceed the cost of the single  
6           premium;
- 7           (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member  
8           who qualifies as a volunteer for an employer participating in the County  
9           Employees Retirement System or the Kentucky Retirement Systems and who  
10          is receiving reimbursement of actual expenses, a nominal fee for his or her  
11          volunteer services, or both, shall not be considered an employee of the  
12          participating employer and shall not be subject to paragraphs (a) to (d) of this  
13          subsection if:
- 14          1. Prior to the retired member's most recent retirement date, he or she did  
15          not receive creditable compensation from the participating employer in  
16          which the retired member is performing volunteer services;
- 17          2. Any reimbursement or nominal fee received prior to the retired  
18          member's most recent retirement date has not been credited as creditable  
19          compensation to the member's account or utilized in the calculation of  
20          the retired member's benefits;
- 21          3. The retired member has not purchased or received service credit under  
22          any of the provisions of KRS 78.510 to 78.852 for service with the  
23          participating employer for which the retired member is performing  
24          volunteer services; and
- 25          4. Other than the status of volunteer, the retired member does not become  
26          an employee, leased employee, or independent contractor of the  
27          employer for which he or she is performing volunteer services for a

1           period of at least twelve (12) months following the retired member's  
2           most recent retirement date.

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

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

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

1                   effective retirement date;

2           (g) If a member is receiving a retirement allowance from the County Employees  
3           Retirement System and enters into a contract or becomes a leased employee of  
4           an employer under contract with an employer participating in the County  
5           Employees Retirement System or the Kentucky Retirement Systems:

- 6           1. At any time following retirement, if the Authority determines the  
7           employment arrangement does qualify as an independent contractor or  
8           leased employee, the member may continue to receive his or her  
9           retirement allowance during the period of the contract;
- 10          2. Within three (3) months following the member's initial retirement date,  
11          if the Authority determines the employment arrangement does not  
12          qualify as an independent contractor or leased employee, the member's  
13          retirement shall be voided in accordance with paragraph (a) of this  
14          subsection;
- 15          3. After three (3) months but within twelve (12) months following the  
16          member's initial retirement, if the Authority determines the employment  
17          arrangement does not qualify as an independent contractor or leased  
18          employee and that a prearranged agreement existed between the member  
19          and the agency for the member to return to work with the agency, the  
20          member's retirement shall be voided in accordance with paragraph (a) of  
21          this subsection; and
- 22          4. After a twelve (12) month period following the member's initial  
23          retirement, the member may continue to receive his or her retirement  
24          allowance during the period of the contract and the member shall not be  
25          required to notify the Authority or submit any documentation for  
26          purposes of this section to the Authority. The initiation of a contract or  
27          the initial date of the leased employment of a retired member by a



1 participating agency that occurs after twelve (12) months or more  
2 following the retired member's retirement date shall not constitute a  
3 prearranged agreement under this subsection;

4 (h) The Authority shall issue a final determination regarding a certification of the  
5 absence of a prearranged agreement or the retired member's qualification as an  
6 independent contractor or leased employee as required under this section no  
7 later than thirty (30) days after the retired member and participating employer  
8 provide all required forms and additional information required by the  
9 Authority; and

10 (i) Retired members of one (1) of the systems administered by Kentucky  
11 Retirement Systems who are reemployed by an employer in the County  
12 Employees Retirement System on or after September 1, 2008, shall not be  
13 eligible to earn a second retirement account in the County Employees  
14 Retirement System for his or her service to the employer.

15 (5) The Authority shall promulgate administrative regulations to implement the  
16 requirements of this section, including incorporating by reference Authority-  
17 prescribed forms that a retired member and participating agency shall provide the  
18 systems under subsections (1) and (4) of this section.

19 (6) "Reemployment" or "reinstatement" as used in this section shall not include a  
20 retired member who has been ordered reinstated by the Personnel Board under  
21 authority of KRS 18A.095. A retired member who has been ordered reinstated by  
22 the Personnel Board under authority of KRS 18A.095 or by court order or by order  
23 of the Human Rights Commission and accepts employment by an agency  
24 participating in the Kentucky Employees Retirement System or County Employees  
25 Retirement System shall void his or her retirement by reimbursing the system in the  
26 full amount of his or her retirement allowance payments received.

27 ➔Section 22. KRS 78.782 is amended to read as follows:

- 1 (1) The County Employees Retirement System shall be administered by the board of  
2 trustees composed of nine (9) members, who shall be selected as follows:
- 3 (a) Three (3) trustees, who shall be members or retired from the County  
4 Employees Retirement System, elected by the members and retired members  
5 of the County Employees Retirement System, of which:
- 6 1. Two (2) shall have a majority of his or her service credit earned in the  
7 County Employees Retirement System in a nonhazardous position; and  
8 2. One (1) shall have a majority of his or her service credit earned in the  
9 County Employees Retirement System in a hazardous position;
- 10 (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in  
11 accordance with KRS 11.160 for each appointment or reappointment. Of the  
12 six (6) trustees appointed by the Governor:
- 13 1. One (1) trustee with retirement experience shall be appointed from a list  
14 of three (3) applicants submitted by the Kentucky League of Cities;  
15 2. One (1) trustee with investment experience shall be appointed from a list  
16 of three (3) applicants submitted by the Kentucky League of Cities;  
17 3. One (1) trustee with retirement experience shall be appointed from a list  
18 of three (3) applicants submitted by the Kentucky Association of  
19 Counties;  
20 4. One (1) trustee with investment experience shall be appointed from a list  
21 of three (3) applicants submitted by the Kentucky Association of  
22 Counties;  
23 5. One (1) trustee with retirement experience shall be appointed from a list  
24 of three (3) applicants submitted by the Kentucky School Boards  
25 Association; and  
26 6. One (1) trustee with investment experience shall be appointed from a list  
27 of three (3) applicants submitted by the Kentucky School Boards

1 Association.

2 Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint  
3 each individual trustee described by subparagraphs 1. to 6. of this paragraph  
4 solely from each corresponding individual list required to be submitted by the  
5 Kentucky League of Cities, the Kentucky Association of Counties, or the  
6 Kentucky School Boards Association as provided by subparagraphs 1. to 6. of  
7 this paragraph, and the Governor shall not be able to reject the list of  
8 applicants submitted, request that another list be provided, or use a list  
9 different from the one (1) individual list required to be submitted for each  
10 specific appointment or reappointment;

11 (c) For purposes of paragraph (b) of this subsection, a trustee with "investment  
12 experience" means an individual who does not have a conflict of interest, as  
13 provided by KRS 61.655, and who has at least ten (10) years of experience in  
14 one (1) of the following areas of expertise:

- 15 1. A portfolio manager acting in a fiduciary capacity;
- 16 2. A professional securities analyst or investment consultant;
- 17 3. A current or retired employee or principal of a trust institution,  
18 investment or finance organization, or endowment fund acting in an  
19 investment-related capacity;
- 20 4. A chartered financial analyst in good standing as determined by the CFA  
21 Institute; or
- 22 5. A university professor, teaching investment-related studies; and

23 (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement  
24 experience" means an individual who does not have a conflict of interest, as  
25 provided by KRS 61.655, and who has at least ten (10) years of experience in  
26 one (1) of the following areas of expertise:

- 27 1. Experience in retirement or pension plan management;

- 1           2.    A certified public accountant with relevant experience in retirement or
- 2                    pension plan accounting;
- 3           3.    An actuary with relevant experience in retirement or pension plan
- 4                    consulting;
- 5           4.    An attorney licensed to practice law in the Commonwealth of Kentucky
- 6                    with relevant experience in retirement or pension plans; or
- 7           5.    A current or former university professor whose primary area of emphasis
- 8                    is economics or finance.

9   (2)   The board is hereby granted the powers and privileges of a corporation, including  
10       but not limited to the following powers:

- 11       (a)   To sue and be sued in its corporate name;
- 12       (b)   To make bylaws not inconsistent with the law;
- 13       (c)   To conduct the business and promote the purposes for which it was formed;
- 14       (d)   Except as provided in KRS 78.790(6), to contract for investment counseling,
- 15            auditing, medical, and other professional or technical services as required to
- 16            carry out the obligations of the board subject to the provisions of KRS
- 17            Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided
- 18            by a firm hired by the Kentucky Public Pensions Authority;
- 19       (e)   To purchase fiduciary liability insurance;
- 20       (f)   Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of,
- 21            pledge, lease, or mortgage, the goods or property necessary to exercise the
- 22            board's powers and perform the board's duties subject to KRS Chapters 45,
- 23            45A, and 56; and
- 24       (g)   The board shall reimburse any trustee, officer, or employee for any legal
- 25            expense resulting from a civil action arising out of the performance of his or
- 26            her official duties. The hourly rate of reimbursement for any contract for legal
- 27            services under this paragraph shall not exceed the maximum hourly rate

1 provided in the Legal Services Duties and Maximum Rate Schedule  
2 promulgated by the Government Contract Review Committee established  
3 pursuant to KRS 45A.705, unless a higher rate is specifically approved by the  
4 secretary of the Finance and Administration Cabinet or his or her designee.

5 (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall  
6 serve a term of four (4) years or until his or her successor is duly qualified except as  
7 otherwise provided in this section. An elected or appointed trustee shall not serve  
8 more than three (3) consecutive four (4) year terms. An elected or appointed trustee  
9 who has served three (3) consecutive terms may be elected or appointed again after  
10 an absence of four (4) years from the board.

11 (4) (a) The trustees selected by the membership of the system shall be elected by  
12 ballot. For each trustee to be elected, the board may nominate, not less than  
13 six (6) months before a term of office of a trustee is due to expire, three (3)  
14 constitutionally eligible individuals.

15 (b) Individuals may be nominated by the system members by presenting to the  
16 executive director, not less than four (4) months before a term of office of a  
17 trustee is due to expire, a petition, bearing the name, last four (4) digits of the  
18 Social Security number, and signature of no less than one-tenth (1/10) of the  
19 number voting in the last election by the system members.

20 (c) Within four (4) months of the nominations made in accordance with  
21 paragraphs (a) and (b) of this subsection, the executive director shall cause to  
22 be prepared an official ballot. The ballot shall carry the name, address, and  
23 position title of each individual nominated by the board and by petition.  
24 Provision shall also be made for write-in votes.

25 (d) Except as provided by paragraph (j) of this subsection, the ballots shall be  
26 distributed to the eligible voters by mail to their last known residence address  
27 **on file with the Kentucky Public Pensions Authority. Ballots shall not be**

1                   *distributed by mail to member addresses reported as invalid to the Kentucky*  
2                   *Public Pensions Authority.*

- 3           (e) The ballots shall be addressed to the County Employees Retirement System in  
4           care of a predetermined box number at a United States Post Office or  
5           submitted electronically as provided by paragraph (j) of this subsection.  
6           Access to this post office box shall be limited to the board's contracted firm.  
7           The individual receiving a plurality of votes shall be declared elected.
- 8           (f) The eligible voter shall cast his or her ballot by selecting the candidate of his  
9           or her choice. He or she shall sign and mail the ballot or submit the electronic  
10          ballot at least thirty (30) days prior to the date the term to be filled is due to  
11          expire. The latest mailing date, or date of submission in the case of electronic  
12          ballots, shall be provided on the ballot.
- 13          (g) The board's contracted firm shall report in writing the outcome to the chair of  
14          the board of trustees. Costs of an election shall be payable from the funds of  
15          the system.
- 16          (h) For purposes of this subsection, an eligible voter shall be a person who was a  
17          member of the system on December 31 of the year preceding the election year.
- 18          (i) Each individual who submits a request to be nominated by the board under  
19          paragraph (a) of this subsection and each individual who is nominated by the  
20          membership under paragraph (b) of this subsection shall:
- 21           1. Complete an application developed by the system which shall include  
22           but not be limited to a disclosure of any prior felonies and any conflicts  
23           of interest that would hinder the individual's ability to serve on the  
24           board;
  - 25           2. Submit a resume detailing the individual's education and employment  
26           history and a cover letter detailing the member's qualifications for  
27           serving as trustee to the board; and

1           3.    Authorize the system to have a criminal background check performed.  
2                    The criminal background check shall be performed by the Department of  
3                    Kentucky State Police.

4           (j)    In lieu of the ballots mailed to members and retired members as provided by  
5                    this subsection, the systems may by promulgation of administrative regulation  
6                    pursuant to KRS Chapter 13A conduct trustee elections using electronic  
7                    ballots, except that the systems shall mail a paper ballot upon request of any  
8                    eligible voter.

9           (5)   (a)   Any vacancy which may occur in an appointed position during a term of office  
10                   shall be filled in the same manner which provides for the selection of the  
11                   particular trustee, and any vacancy which may occur in an elected position  
12                   during a term of office shall be filled by appointment by a majority vote of the  
13                   remaining elected trustees; however, any vacancy shall be filled only for the  
14                   duration of the unexpired term. In the event of a vacancy of an elected trustee  
15                   during a term of office, the system shall notify members of the vacancy and  
16                   the opportunity to be considered for the vacant position. Any vacancy shall be  
17                   filled within ninety (90) days of the position becoming vacant.

18           (b)    Any appointments or reappointments to an appointed position on the board  
19                   shall be made at least thirty (30) days prior to an appointed member's term of  
20                   office ending. The Governor's Office shall, with each appointment or  
21                   reappointment, request lists to be submitted and base selections on those lists  
22                   solely under the procedures and requirements provided by subsection (1)(b) of  
23                   this section.

24           (6)   (a)   Membership on the board of trustees shall not be incompatible with any other  
25                   office unless a constitutional incompatibility exists. No trustee shall serve in  
26                   more than one (1) position as trustee on the board and, if a trustee holds more  
27                   than one (1) position as trustee on the board, he or she shall resign a position.

- 1 (b) A trustee shall be removed from office upon conviction of a felony or for a  
2 finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court  
3 of competent jurisdiction.
- 4 (c) A current or former employee of the County Employees Retirement System,  
5 Kentucky Retirement Systems, or the Kentucky Public Pensions Authority  
6 shall not be eligible to serve as a member of the board.
- 7 (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive  
8 a per diem of eighty dollars (\$80) for each day they are in session or on official  
9 duty, and they shall be reimbursed for their actual and necessary expenses in  
10 accordance with state administrative regulations and standards.
- 11 (8) (a) The board shall meet at least once in each quarter of the year and may meet in  
12 special session upon the call of the chair or the chief executive officer.
- 13 (b) The board shall elect a chair and a vice chair. The chair shall not serve more  
14 than four (4) consecutive years as chair or vice chair of the board. The vice  
15 chair shall not serve more than four (4) consecutive years as chair or vice chair  
16 of the board. A trustee who has served four (4) consecutive years as chair or  
17 vice chair of the board may be elected chair or vice chair of the board after an  
18 absence of two (2) years from the positions.
- 19 (c) A majority of the trustees shall constitute a quorum, and all actions taken by  
20 the board shall be by affirmative vote of a majority of the trustees present.
- 21 (9) (a) The board of trustees shall appoint or contract for the services of a chief  
22 executive officer and general counsel and fix the compensation and other  
23 terms of employment for these positions without limitation of the provisions  
24 of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer  
25 shall serve as the legislative and executive adviser to the board. The general  
26 counsel shall serve as legal adviser to the board. The chief executive officer  
27 and general counsel shall work with the executive director of the Kentucky



- 1           Public Pensions Authority to carry out the provisions of KRS 78.510 to  
2           78.852. The executive director of the Kentucky Public Pensions Authority  
3           shall be the chief administrative officer of the board.
- 4           (b) The board shall require the chief executive officer and may require the general  
5           counsel to execute bonds for the faithful performance of his or her duties  
6           notwithstanding the limitations of KRS Chapter 62.
- 7           (c) The board shall have a system of accounting established by the Kentucky  
8           Public Pensions Authority.
- 9           (d) The board shall do all things, take all actions, and promulgate all  
10          administrative regulations, not inconsistent with the provisions of KRS 78.510  
11          to 78.852, necessary or proper in order to carry out the provisions of KRS  
12          78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it  
13          is hereby declared to be the controlling legislative intent that the provisions of  
14          KRS 78.510 to 78.852 conform with federal statute or regulation and meet the  
15          qualification requirements under 26 U.S.C. sec. 401(a), applicable federal  
16          regulations, and other published guidance. Provisions of KRS 78.510 to  
17          78.852 which conflict with federal statute or regulation or qualification under  
18          26 U.S.C. sec. 401(a), applicable federal regulations, and other published  
19          guidance shall not be available. The board shall have the authority to  
20          promulgate administrative regulations to conform with federal statute and  
21          regulation and to meet the qualification requirements under 26 U.S.C. sec.  
22          401(a), including an administrative regulation to comply with 26 U.S.C. sec.  
23          401(a)(9).
- 24          (e) Notwithstanding any other provision of statute to the contrary, including but  
25          not limited to any provision of KRS Chapter 12, the Governor shall have no  
26          authority to change any provision of KRS 78.510 to 78.852 by executive order  
27          or action, including but not limited to reorganizing, replacing, amending, or

1           abolishing the membership of the County Employees Retirement System  
2           board of trustees.

3   (10) The chief executive officer and general counsel of the board shall serve during its  
4       will and pleasure. Notwithstanding any statute to the contrary, the chief executive  
5       officer shall not be considered a legislative agent under KRS 6.611.

6   (11) The Attorney General, or an assistant designated by him or her, may attend each  
7       meeting of the board and may receive the agenda, board minutes, and other  
8       information distributed to trustees of the board upon request. The Attorney General  
9       may act as legal adviser and attorney for the board, and the board may contract for  
10      legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

11   (12) (a) The **Kentucky Public Pensions Authority**~~[system]~~ shall publish an annual  
12       financial report showing all receipts, disbursements, assets, and liabilities **for**  
13       **the systems**. The annual report shall include a copy of an audit conducted in  
14       accordance with generally accepted auditing standards. Except as provided by  
15       paragraph (b) of this subsection, the board may select **the**~~[an]~~ independent  
16       certified public accountant **hired by the Kentucky Public Pensions Authority**  
17       or the Auditor of Public Accounts to perform the audit. If the audit is  
18       performed by an independent certified public accountant, the Auditor of  
19       Public Accounts shall not be required to perform an audit pursuant to KRS  
20       43.050(2)(a), but may perform an audit at his or her discretion. All  
21       proceedings and records of the board shall be open for inspection by the  
22       public. The **Kentucky Public Pensions Authority**~~[system]~~ shall make copies  
23       of the audit required by this subsection available for examination by any  
24       member, retiree, or beneficiary in the offices of the County Employees  
25       Retirement System and in other places as necessary to make the audit  
26       available to all members, retirees, and beneficiaries. A copy of the annual  
27       audit shall be sent electronically to the Legislative Research Commission no

1 later than ten (10) days after receipt by the board.

2 (b) At least once every five (5) years, the Auditor of Public Accounts shall  
3 perform the audit described by this subsection, and the system shall reimburse  
4 the Auditor of Public Accounts for all costs of the audit. The Auditor of  
5 Public Accounts shall determine which fiscal year during the five (5) year  
6 period the audit prescribed by this paragraph will be completed.

7 (13) All expenses incurred by or on behalf of the system and the board in the  
8 administration of the system during a fiscal year shall be paid from the retirement  
9 allowance account, including any administrative expenses for the Kentucky Public  
10 Pensions Authority that are assigned to the County Employees Retirement System  
11 by KRS 61.505. The board shall submit any administrative expenses that are  
12 specific to the County Employees Retirement System that are not otherwise covered  
13 by KRS 61.505(11)(a).

14 (14) Except as provided under subsection (16) of this section or KRS 61.665, any person  
15 adversely affected by a decision of the board involving KRS 78.510 to 78.852 may  
16 appeal the decision of the board to the Franklin Circuit Court within sixty (60) days  
17 of the board action.

18 (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her  
19 duties as a member of a committee:

- 20 1. In good faith;
- 21 2. On an informed basis; and
- 22 3. In a manner he or she honestly believes to be in the best interest of the  
23 County Employees Retirement System.

24 (b) A trustee discharges his or her duties on an informed basis if, when he or she  
25 makes an inquiry into the business and affairs of the system or into a  
26 particular action to be taken or decision to be made, he or she exercises the  
27 care an ordinary prudent person in a like position would exercise under similar

1 circumstances.

2 (c) In discharging his or her duties, a trustee may rely on information, opinions,  
3 reports, or statements, including financial statements and other financial data,  
4 if prepared or presented by:

5 1. One (1) or more officers or employees of the system or  
6 Authority[authority] whom the trustee honestly believes to be reliable  
7 and competent in the matters presented;

8 2. Legal counsel, public accountants, actuaries, or other persons as to  
9 matters the trustee honestly believes are within the person's professional  
10 or expert competence; or

11 3. A committee of the board of trustees of which he or she is not a member  
12 if the trustee honestly believes the committee merits confidence.

13 (d) A trustee shall not be considered as acting in good faith if he or she has  
14 knowledge concerning the matter in question that makes reliance otherwise  
15 permitted by paragraph (c) of this subsection unwarranted.

16 (e) Any action taken as a trustee, or any failure to take any action as a trustee,  
17 shall not be the basis for monetary damages or injunctive relief unless:

18 1. The trustee has breached or failed to perform the duties of the trustee's  
19 office in compliance with this section; and

20 2. In the case of an action for monetary damages, the breach or failure to  
21 perform constitutes willful misconduct or wanton or reckless disregard  
22 for human rights, safety, or property.

23 (f) A person bringing an action for monetary damages under this section shall  
24 have the burden of proving by clear and convincing evidence the provisions of  
25 paragraph (e)1. and 2. of this subsection, and the burden of proving that the  
26 breach or failure to perform was the legal cause of damages suffered by the  
27 system.

1 (g) In discharging his or her administrative duties under this section, a trustee  
2 shall strive to administer the system in an efficient and cost-effective manner  
3 for the taxpayers of the Commonwealth of Kentucky and shall take all actions  
4 available under the law to contain costs for the trusts, including costs for  
5 participating employers, members, and retirees.

6 (16) When an order by the system substantially impairs the benefits or rights of a  
7 member, retired member, or recipient, except action which relates to entitlement to  
8 disability benefits, ***or when an employer disagrees with an order of the system as***  
9 ***provided by KRS 61.598***, the affected member, retired member,~~or~~ recipient, ***or***  
10 ***employer*** may request a hearing to be held in accordance with KRS Chapter 13B.  
11 The board may establish an appeals committee whose members shall be appointed  
12 by the chair and who shall have authority to act upon the recommendations and  
13 reports of the hearing officer on behalf of the board. The member, retired member,  
14 recipient, or employer aggrieved by a final order of the board following the hearing  
15 may appeal the decision to the Franklin Circuit Court, in accordance with KRS  
16 Chapter 13B. The board may establish a joint administrative appeals committee  
17 with the Kentucky Retirement Systems and may also establish a joint disability  
18 appeals committee with the Kentucky Retirement Systems.

19 (17) The board shall establish a formal trustee education program for all trustees of the  
20 board. The program shall include but not be limited to the following:

21 (a) A required orientation program for all new trustees elected or appointed to the  
22 board. The orientation program shall include training on:

- 23 1. Benefits and benefits administration;
- 24 2. Investment concepts, policies, and current composition and  
25 administration of system investments;
- 26 3. Laws, bylaws, and administrative regulations pertaining to the system  
27 and to fiduciaries; and

1           4. Actuarial and financial concepts pertaining to the system.

2           If a trustee fails to complete the orientation program within one (1) year from  
3           the beginning of his or her first term on the board, the system shall withhold  
4           payment of the per diem and travel expenses due to the board member under  
5           this section until the trustee has completed the orientation program;

6           (b) Annual required training for board members on the administration, benefits,  
7           financing, and investing of the system. If a trustee fails to complete the annual  
8           required training during the calendar or fiscal year, the retirement system shall  
9           withhold payment of the per diem and travel expenses due to the board  
10          member under this section until the board member has met the annual training  
11          requirements; and

12          (c) The system shall incorporate by reference in an administrative regulation,  
13          pursuant to KRS 13A.2251, the trustee education program.

14       (18) In order to improve public transparency regarding the administration of the system,  
15          the board of trustees shall adopt a best practices model by posting the following  
16          information to the Kentucky Public Pensions Authority's Web site and shall make  
17          available to the public:

18          (a) Meeting notices and agendas for all meetings of the board. Notices and  
19          agendas shall be posted to the Kentucky Public Pensions Authority's Web site  
20          at least seventy-two (72) hours in advance of the board or committee  
21          meetings, except in the case of special or emergency meetings as provided by  
22          KRS 61.823;

23          (b) The Comprehensive Annual Financial Report with the information as follows:

- 24           1. A general overview and update on the system by the executive director;
- 25           2. A listing of the board of trustees;
- 26           3. A listing of key staff;
- 27           4. An organizational chart;

- 1           5. Financial information, including a statement of plan net assets, a  
2           statement of changes in plan net assets, an actuarial value of assets, a  
3           schedule of investments, a statement of funded status and funding  
4           progress, and other supporting data;
- 5           6. Investment information, including a general overview, a list of the  
6           system's professional consultants, a total net of fees return on system  
7           investments over a historical period, an investment summary, contracted  
8           investment management expenses, transaction commissions, and a  
9           schedule of investments;
- 10          7. The annual actuarial valuation report on the pension benefit and the  
11          medical insurance benefit; and
- 12          8. A general statistical section, including information on contributions,  
13          benefit payouts, and retirement system demographic data;
- 14          (c) All external audits;
- 15          (d) All board minutes or other materials that require adoption or ratification by  
16          the board of trustees. The items listed in this paragraph shall be posted within  
17          seventy-two (72) hours of adoption or ratification of the board;
- 18          (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- 19          (f) The system's summary plan description;
- 20          (g) A document containing an unofficial copy of the statutes governing the  
21          system;
- 22          (h) A listing of the members of the board of trustees and membership on each  
23          committee established by the board, including any investment committees;
- 24          (i) All investment holdings in aggregate, fees, and commissions for each fund  
25          administered by the board, which shall be updated on a quarterly basis for  
26          fiscal years beginning on or after July 1, 2021. The system shall request from  
27          all managers, partnerships, and any other available sources all information

1 regarding fees and commissions and shall, based on the requested information  
2 received:

- 3 1. Disclose the dollar value of fees and commissions paid to each  
4 individual manager or partnership;
- 5 2. Disclose the dollar value of any profit sharing, carried interest, or any  
6 other partnership incentive arrangements, partnership agreements, or any  
7 other partnership expenses received by or paid to each manager or  
8 partnership; and
- 9 3. As applicable, report each fee or commission by manager or partnership  
10 consistent with standards established by the Institutional Limited  
11 Partners Association (ILPA).

12 In addition to the requirements of this paragraph, the system shall also  
13 disclose the name and address of all individual underlying managers or  
14 partners in any fund of funds in which system assets are invested;

15 (j) An update of net of fees investment returns, asset allocations, and the  
16 performance of the funds against benchmarks adopted by the board for each  
17 fund, for each asset class administered by the board, and for each manager.  
18 The update shall be posted on a quarterly basis for fiscal years beginning on or  
19 after July 1, 2021;

20 (k) A searchable database of the system's expenditures and a listing of each  
21 individual employed by the system along with the employee's salary or wages.  
22 In lieu of posting the information required by this paragraph to the Kentucky  
23 Public Pensions Authority's Web site, the system may provide the information  
24 through a Web site established by the executive branch to inform the public  
25 about public employee salaries and wages;

26 (l) All contracts or offering documents for services, goods, or property purchased  
27 or utilized by the system for contracts or offering documents entered into on



1           or after July 1, 2021; and

2           (m) Information regarding the system's financial and actuarial condition that is  
3           easily understood by the members, retired members, and the public.

4 (19) Notwithstanding the requirements of subsection (18) of this section, the system  
5 shall not be required to furnish information that is protected under KRS 61.661,  
6 exempt under KRS 61.878, or that, if disclosed, would compromise the system's  
7 ability to competitively invest in real estate or other asset classes, except that no  
8 provision of this section or KRS 61.878 shall exclude disclosure and review of all  
9 contracts, including investment contracts, by the board, the Auditor of Public  
10 Accounts, and the Government Contract Review Committee established pursuant to  
11 KRS 45A.705 or the disclosure of investment fees and commissions as provided by  
12 this section. If any public record contains material which is not excepted under this  
13 section, the system shall separate the excepted material by removal, segregation, or  
14 redaction, and make the nonexcepted material available for examination.

15 (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no  
16 funds of the County Employees Retirement System, including fees and  
17 commissions paid to an investment manager, private fund, or company issuing  
18 securities, who manages systems assets, shall be used to pay fees and commissions  
19 to placement agents. For purposes of this subsection, "placement agent" means a  
20 third-party individual, who is not an employee, or firm, wholly or partially owned  
21 by the entity being hired, who solicits investments on behalf of an investment  
22 manager, private fund, or company issuing securities.