

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

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

4 ➔Section 1. KRS 61.5991 is amended to read as follows:

5 Except as otherwise provided by this section, the following shall apply to nonhazardous  
6 employers in the Kentucky Employees Retirement System, who contributed to the system  
7 in fiscal year 2019-2020 except in the case of county attorneys, who are local and district  
8 health departments governed by KRS Chapter 212, state-supported universities and  
9 community colleges, county attorneys, mental health/mental retardation boards, domestic  
10 violence shelters, rape crisis centers, child advocacy centers, or any other agency that is  
11 eligible to voluntarily cease participation in the Kentucky Employees Retirement System  
12 as provided by KRS 61.522:

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

17 1. **Except as provided by paragraph (b)3. of this subsection,** persons  
18 employed as an independent contractor, a leased employee, or via any  
19 other employment arrangement as determined by the Authority, who if  
20 employed directly by the employer would qualify as a regular full-time  
21 employee in accordance with KRS 61.510(21); and

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

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

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

- 1           2. Except as provided by subparagraph 3. of this paragraph, include  
2           persons providing services to the employer as an independent contractor,  
3           a leased employee, or via any other employment arrangement as  
4           determined by the Authority, and those services have historically been  
5           provided or are currently being provided by employees eligible to  
6           participate in the system through the employer; and
- 7           3. Exclude:
- 8           a. Contracts for professional services that have not historically been  
9           provided by employees of the employer; ~~and~~
- 10          b. Any contracts entered into prior to January 1, 2021, with a person  
11          or company to provide services as an independent contractor, a  
12          leased employee, or other employment arrangement as determined  
13          by the Authority, but only for the duration of the original contract,  
14          excluding any renewal periods, and only for those services and  
15          persons included in the original contract, except as provided  
16          subdivision c. of this subparagraph; and
- 17          c. Contracts providing services through a non-core services  
18          independent contractor as defined in subsection (9) of this  
19          section, regardless of whether or not the contract was initiated  
20          before January 1, 2021, or on or after January 1, 2021.
- 21          (c) In any case of doubt, the Authority shall determine whether data should be  
22          reported on a specific person providing services to the employer and the  
23          Authority may by promulgation of administrative regulation provide guidance  
24          on which persons should be included for reporting purposes[-
- 25          ~~(d) If the Kentucky Public Pensions Authority determines a person who was not~~  
26          ~~reported to the system under this subsection should be reported to the system~~  
27          ~~as a regular full-time employee, the system shall require the employer covered~~

1           ~~by this section to report the employee on or after July 1, 2021, and pay~~  
2           ~~employer contributions prospectively but shall not, notwithstanding any other~~  
3           ~~statute to the contrary, bill the employer for any contributions or penalties for~~  
4           ~~any service occurring prior to July 1, 2021, for that specific employee];~~

5       (2) (a) Notwithstanding any other provision of statute to the contrary, the Authority  
6           shall:

7           1. Have full power, including any authority under KRS 61.685, to audit an  
8           employer who is subject to the provisions of this section to ensure  
9           compliance and accuracy of the data required to be reported by the  
10          employer in accordance with this section; and

11          2. Perform audits on a percentage of employers who are subject to the  
12          reporting requirements of this subsection, as determined by the board,  
13          for the purpose of ensuring that all eligible employees are being  
14          reported and contributions are being paid in accordance with KRS  
15          61.510 to 61.705. The system shall have full power and authority,  
16          including any authority and power granted under KRS 61.675 and  
17          61.685, to accomplish the audits required by this subparagraph. An  
18          audit time frame and schedule shall be adopted by the board, made  
19          available to impacted employers, and reported to the Public Pension  
20          Oversight Board.

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

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

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

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

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

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

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

15 2. The employer may lose eligibility to receive any future appropriations or  
16 subsidies from the state to assist in paying employer contributions to the  
17 system, **except that if an employer does not comply with requests from**  
18 **the Authority pursuant to an audit conducted in accordance with**  
19 **paragraph (a)2. of this subsection the employer shall lose eligibility to**  
20 **receive any future appropriations or subsidies from the state to assist**  
21 **in paying employer contributions to the system until such time the**  
22 **employer complies with the audit;**

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

27 (a) The number of regular full-time employees of the employer who were

- 1 reported to the system during the prior fiscal year for which contributions  
2 were reported in accordance with KRS 61.675;
- 3 (b) The number of persons providing services to the employer under subsection  
4 (1) of this section during the prior fiscal year who were not reported to the  
5 system and for which no contributions were reported;
- 6 (c) A percentage computed by dividing the number of employees reported in  
7 paragraph (a) of this subsection by the combined sum of the number of  
8 employees and persons reported in paragraphs (a) and (b) of this subsection  
9 and multiplying by one hundred (100); and
- 10 (d) The information required by subsection (2) of this section for any employer  
11 who has been determined by the Authority to have knowingly falsified data or  
12 is noncompliant in submitting the data required by this section to the  
13 Authority;
- 14 (4) It is the intent of the General Assembly in fiscal years occurring on or after July 1,  
15 2021, to provide appropriations for county attorneys for retirement costs in the  
16 Kentucky Employees Retirement System that is equal to the difference between the  
17 dollar value of actual contributions paid by the employer in fiscal year 2019-2020 to  
18 the system and the dollar value of contributions projected to be paid by the  
19 employer to the system in fiscal year 2021-2022;
- 20 (5) For fiscal year 2021-2022, it is the intent of the General Assembly to provide a  
21 subsidy towards the retirement costs of employers covered by this section, except  
22 for county attorneys who are provided a subsidy by subsection (4) of this section,  
23 that is equal to the difference between the dollar value of actual contributions paid  
24 by the employer to the system in fiscal year 2019-2020 and the dollar value of  
25 contributions projected to be paid by the employer to the system in fiscal year 2021-  
26 2022;
- 27 (6) It is the intent of the General Assembly that for fiscal years occurring on or after

1 July 1, 2022:

2 (a) To provide a subsidy towards the retirement costs of each employer subject to  
3 this section, except for county attorneys who are provided a subsidy by  
4 subsection (4) of this section, who has made efforts to increase or maintain the  
5 number of employees reported to the system. Specifically, it is the intent of  
6 the General Assembly to provide subsidies only to those employers who have  
7 a percentage of employees reported to the system as specified by subsection  
8 (3)(c) of this section, equal to or greater than:

- 9 1. Sixty percent (60%) for any subsidies provided in fiscal years occurring  
10 on or after July 1, 2022, to June 30, 2024; and
- 11 2. Eighty percent (80%) for any subsidies provided in fiscal years occurring  
12 on or after July 1, 2024.

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

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

- 20 1. For local and district health departments governed by KRS Chapter 212,  
21 state-supported universities and community colleges, and any other  
22 employer subject to this section that has taxing or fee authority:
  - 23 a. Ninety percent (90%) in fiscal year 2022-2023;
  - 24 b. Eighty percent (80%) in fiscal year 2023-2024;
  - 25 c. Seventy percent (70%) in fiscal year 2024-2025;
  - 26 d. Sixty percent (60%) in fiscal year 2025-2026; and
  - 27 e. Fifty percent (50%) in fiscal years occurring on or after July 1,



1 services, bookstore services, dining services, construction services, trade or  
2 maintenance services, health services for university students and employees of the  
3 employer, information technology services, public relation services, photography  
4 services, design services, safety services at universities, hospitality services,  
5 entertainment production services, mail services, printing and copier services,  
6 sports arena and stadium management, farrier services, assistive services at  
7 universities such as interpreters or sign language services, or delivery services.

8 ➔Section 2. KRS 61.565 is amended to read as follows:

- 9 (1) (a) Each employer participating in the State Police Retirement System as  
10 provided for in KRS 16.505 to 16.652 and the Kentucky Employees  
11 Retirement System as provided for in KRS 61.510 to 61.705 shall contribute  
12 annually to the respective retirement system an amount determined by the  
13 actuarial valuation completed in accordance with KRS 61.670 and as specified  
14 by this section. Employer contributions for each respective retirement system  
15 shall be equal to the sum of the "normal cost contribution" and the "actuarially  
16 accrued liability contribution."
- 17 (b) For purposes of this section, the normal cost contribution shall be computed as  
18 a percentage of pay and shall be an annual amount that is sufficient when  
19 combined with employee contributions to fund benefits earned during the year  
20 in the respective system. The amount shall be:
- 21 1. Paid as a percentage of creditable compensation reported for each  
22 employee participating in the system and accruing benefits; and
  - 23 2. The same percentage of pay for all employees who are participating in  
24 the same retirement system, except that separate percentage rates shall  
25 be developed in each system for those employers whose employees are  
26 participating in hazardous duty retirement coverage as provided by KRS  
27 61.592.

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

1 closed period of thirty (30) years beginning with the 2019 actuarial  
2 valuation using the level percentage of payroll amortization  
3 method, except that any increase or decrease in the unfunded  
4 actuarially accrued liability occurring after the completion of the  
5 2019 actuarial valuation shall be amortized over a closed period of  
6 twenty (20) years beginning with the actuarial valuation in which  
7 the increase or decrease in the unfunded actuarially accrued  
8 liability is recognized. An increase or decrease in the unfunded  
9 actuarially accrued liability may result from but not be limited to  
10 legislative changes to benefits, changes in actuarial methods or  
11 assumptions, or actuarial gains or losses;

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

1 participation as provided by KRS 61.522 and except as provided  
2 by subparagraphs 4. and 5. of this paragraph. For purposes of this  
3 subdivision, all executive branch departments, program cabinets  
4 and their respective departments, and administrative bodies  
5 enumerated in KRS 12.020, and any other executive branch  
6 agencies administratively attached to a department, program  
7 cabinet, or administrative body enumerated in KRS 12.020, shall  
8 be considered a single individual employer and only one (1) value  
9 shall be computed for these executive branch employers. For  
10 purposes of this subdivision, all employers of the legislative  
11 branch, including the Legislative Research Commission and the  
12 General Assembly that covers legislators and staff who participate  
13 in the Kentucky Employees Retirement System, shall be  
14 considered a single individual employer and only one (1) value  
15 shall be computed for these employers. For purposes of this  
16 subdivision, all employers of the judicial branch, including the  
17 Administrative Office of the Courts, the Judicial Form Retirement  
18 System, and all master commissioners, shall be considered a single  
19 individual employer and only one (1) value shall be computed for  
20 these employers. Upon request by any nonhazardous employer  
21 covered by this paragraph, the system shall, within ninety (90)  
22 days of the employer's request, provide the requesting employer  
23 with any:  
24 i. Identifying, demographic, financial, or any other  
25 information that was provided to the system's actuary to  
26 determine the employer's share of the system's total  
27 actuarially accrued liability, including individual data

1 provided to the actuary on each member, retiree, or  
2 recipient whose cost was assigned to the employer. The  
3 data shall also include identifying information that will  
4 allow the employer to match its records to the members,  
5 retirees, and recipients that resulted in the cost that has  
6 been assigned to the employer; and

7 ii. Calculations produced by the actuary on each member,  
8 retiree, or recipient during the completion of the valuation  
9 that resulted in the cost assigned to the employer under this  
10 paragraph. The data shall include identifying information  
11 that will allow the employer to match it's records to the  
12 members, retirees, and recipients that resulted in the cost  
13 that has been assigned to the employer;

14 c. Shall be payable by an individual employer in equal monthly dollar  
15 installments during the fiscal year in accordance with the reporting  
16 requirements specified by KRS 61.675 so that the individual  
17 employer pays its full prorated dollar amount of the actuarially  
18 accrued liability contribution as determined by subdivision b. of  
19 this subparagraph; and

20 d. Notwithstanding subdivision b. of this subparagraph for those  
21 individual participating employers who are local and district health  
22 departments governed by KRS Chapter 212, community mental  
23 health centers, and employers whose employees are not subject to  
24 KRS 18A.005 to 18A.200, who received or were eligible to  
25 receive a distribution of general fund appropriations in the 2018-  
26 2020 biennial executive branch budget to assist in paying  
27 retirement costs under 2018 Ky. Acts ch. 169, Part I, G., 4., (5);

1                   2018 Ky. Acts ch. 169, Part I, G., 5., (2); or 2018 Ky. Acts ch. 169,  
2                   Part I, G., 9., (2), shall not, once the initial dollar amounts are  
3                   established in accordance with this paragraph, be adjusted in terms  
4                   of dollars paid by the individual employer, except that adjustments  
5                   shall be made by the system upon completion of an actuarial  
6                   investigation as provided by KRS 61.670, so long as at least four  
7                   (4) years have passed since the last adjustment to the actuarially  
8                   accrued liability contribution for these employers. The provisions  
9                   of this subdivision shall not be interpreted to mean that employers  
10                  described by this subdivision may continue paying the dollar value  
11                  of contributions or employer contribution rates established or paid  
12                  by the employer in budget periods occurring prior to July 1, 2021.

13                  2. Individual employers, solely for purposes of collecting employer  
14                  contributions from various fund sources during the fiscal year, may  
15                  convert the actuarially accrued liability contribution established by this  
16                  paragraph to a percentage of pay and may adjust the percent of pay  
17                  during the fiscal year in order to pay the required dollar value of  
18                  actuarially accrued liability contribution required by this paragraph. No  
19                  provision of this subparagraph shall be construed to reduce an individual  
20                  employer's actuarially accrued liability contribution as otherwise  
21                  provided by this paragraph.

22                  3. The provisions of this paragraph shall not apply to those employers who  
23                  cease participation as provided by KRS 61.522.

24                  4. In the event an individual Kentucky Employees Retirement System  
25                  nonhazardous employer who is required to pay an actuarially accrued  
26                  liability contribution as provided by this paragraph and as calculated  
27                  from the 2019 actuarial valuation or subsequent valuations, merges with

1 another employer or entity, forms a new or separate employer or entity,  
2 or splits or separates operations into multiple employers or entities, the  
3 system shall, except for those employers or entities who pay the costs to  
4 cease participation as provided by KRS 61.522, have full authority to  
5 assign a portion or all of the total actuarially accrued liability  
6 contribution to the merged, new, split, or separate employers or entities,  
7 regardless of whether or not the merged, new, split, or separate  
8 employers or entities participate in the system. In the case of a district  
9 health department established pursuant to KRS Chapter 212, which  
10 ceases to operate or which has a county or counties that withdraw from  
11 the district health department, the systems shall assign the total  
12 actuarially accrued liability contribution based upon the proportion of  
13 taxable property of each county as certified by the Department for Public  
14 Health in the Cabinet for Health and Family Services in accordance with  
15 KRS 212.132. The system shall establish by administrative regulations  
16 the process of assigning actuarially accrued liability contributions as  
17 authorized by this subparagraph.

- 18 5. a. An employer who is not in the executive, legislative, or judicial  
19 branch of Kentucky state government as enumerated in  
20 subparagraph 1.b. of this paragraph may on or before July 1, 2021,  
21 appeal to the board regarding any current or former employees or  
22 retirees the employer believes should not be used to determine the  
23 employer's percentage of the system's total actuarially accrued  
24 liability. The only appeals that shall be submitted by the employer  
25 or considered by the board shall be potential errors where the last  
26 participating employer is in dispute, situations where employees of  
27 the employer were hired through a contract between the executive

1 branch and the employer for the employee to provide services to  
2 the executive branch, or situations where a community mental  
3 health center was contracted to provide services at a facility  
4 previously operated by the executive branch. The employer shall  
5 submit the information required by the board to verify potential  
6 errors or contract employees with employers.

7 b. The board shall review and issue a final determination regarding  
8 any appeals by December 31, 2021. In situations where the board  
9 determines the last participating employer was incorrect and  
10 should be assigned to another employer, the system shall, effective  
11 for employer contributions payable on or after July 1, 2022, assign  
12 the cost to the executive branch until such time ownership of the  
13 liability can be determined and assigned to the correct employer. In  
14 situations where the board determines certain employees of  
15 employers were hired through a contract between the executive  
16 branch and the employer for an employee or employees to provide  
17 services to the executive branch, those liabilities shall, effective for  
18 employer contributions payable on or after July 1, 2022, be  
19 assigned to the executive branch. In situations where the board  
20 determines the community mental health center was contracted to  
21 provide services at a facility previously operated by the executive  
22 branch, the liabilities for employees providing services at that  
23 facility shall be assigned to the executive branch.

24 c. No appeal shall be submitted by the employer or considered by the  
25 board regarding the assumptions or methodology used by the  
26 actuary to determine a particular employer's percentage of the  
27 system's total actuarially accrued liability or the use of the last

1 participating employer to assign liabilities to an employer, except  
2 as otherwise provided by this subparagraph.

3 d. The board shall within thirty (30) days following the final  
4 determinations submit to the Public Pension Oversight Board the  
5 list of appeals that were approved, the number of employees  
6 involved, and any costs that will be transferred to the executive  
7 branch effective July 1, 2022.

8 (e) The employer contributions computed under this section shall be determined  
9 using:

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

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

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

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

27 (4) All employers, including the General Assembly, shall pay the full actuarially

1 required contributions, as prescribed by this section, to the Kentucky Employees  
2 Retirement System and the State Police Retirement System in fiscal years occurring  
3 on or after July 1, 2020.

4 ➔Section 3. KRS 61.661 is amended to read as follows:

5 (1) (a) Each current, former, or retired member's account shall be administered in a  
6 confidential manner, and specific data regarding a current, former, or retired  
7 member shall not be released for publication, except that:

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

10 2. Kentucky Retirement Systems may release account information to the  
11 employer or to other state and federal agencies as it deems necessary or  
12 in response to a lawful subpoena or order issued by a court of law,

13 *except that Kentucky Retirement Systems shall be required to release*  
14 *account information to the employer as required by subsection*  
15 *(1)(d)1.b. of Section 2 of this Act;* or

16 3. a. Upon request by any person, the systems shall release the  
17 following information from the accounts of any member or retired  
18 member of the Kentucky Employees Retirement System, the  
19 County Employees Retirement System, or the State Police  
20 Retirement System, if the member or retired member is a current  
21 or former officeholder in the Kentucky General Assembly:

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

23 ii. The system or systems in which the member has an account  
24 or from which the retired member is receiving a monthly  
25 retirement allowance;

26 iii. The status of the member or retired member, including but  
27 not limited to whether he or she is a contributing member, a

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

1 delivery, legible and durable copies of records, certified by the employee, or  
2 an affidavit stating the information required by the subpoena to the person  
3 specified in the subpoena. The production of documents or an affidavit shall  
4 be in lieu of any personal testimony of any employee of the Kentucky  
5 Retirement Systems unless, after the production of documents or affidavit, a  
6 separate subpoena is served upon the systems specifically directing the  
7 testimony of an employee of the systems. When a subpoena is served on any  
8 employee of the systems requiring the employee to give deposition for any  
9 purpose, in the absence of a court order requiring the deposition of a specific  
10 employee, the systems may designate an employee to be deposed upon the  
11 matter referred to in the subpoena.

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

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

25 (d) When the affidavit or copies of records are delivered to a party for use in  
26 deposition, they shall, after termination of the deposition, be delivered  
27 personally or by certified mail to the clerk of the court or other body before

1           which the action or proceeding is pending. It shall be the responsibility of the  
2           party or attorney to transmit the receipt obtained to the employee of the  
3           Kentucky Retirement Systems charged with responsibility of being custodian  
4           of the original. Upon issuance of a final order terminating the case and after  
5           the normal retention period for court records expires, the affidavit or copies of  
6           records shall be permanently disposed of by the clerk in a manner that protects  
7           the confidentiality of the information contained therein.

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

12          ➔Section 4. The amendments to Sections 1 to 3 of this Act shall be retroactive to  
13          July 1, 2021.

14          ➔Section 5. Whereas ensuring the efficient operation of the Kentucky Employees  
15          Retirement System is critical to the Commonwealth of Kentucky and to members,  
16          retirees, and employers of the system, an emergency is declared to exist, and this Act  
17          takes effect upon its passage and approval by the Governor or upon its otherwise  
18          becoming law.