AN ACT relating to the fiduciary duties owed to the state-administered retirement systems.

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

➔Section 1. KRS 21.450 is amended to read as follows:

(1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract, no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The investment committee for the judicial retirement fund shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments.

(2) ***(a) For the purposes of this subsection:***

1. "Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;

2. "Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;

3. A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment; and

4. "Nonpecuniary interest" includes an environmental, social, political, or ideological interest.

(b) The board members**,**~~[or]~~ any investment ***manager, proxy*** adviser***, consultant, or other fiduciary*** shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:

1.~~[(a)]~~ For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

2.~~[(b)]~~ With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent ***person***~~[man]~~ acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

3.~~[(c)]~~ In accordance with the ***federal, state, and common*** laws, regulations and other instruments governing the funds ***and fiduciaries***.

(c) Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:

1. Statements, explanations, reports, or correspondence;

2. Communications with portfolio companies;

3. Statements of principles or policies, whether made individually or jointly;

4. Votes of shares or proxies; or

5. Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.

(3) Any accrual of benefits provided under this or any other applicable statute shall be no less than the benefit adjustment provided for in KRS 21.405(4) from the date of the last establishment of that benefit.

(4) The board shall establish ethics policies and procedures by promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The ethics policies shall include but not be limited to annual financial and conflict

of interest disclosure requirements which must be completed by all board members and made available to the public upon request.

(5) An investment manager, proxy adviser, or consultant appointed by the board or any other fiduciary provided by this subsection shall acknowledge in writing the fiduciary duties owed to the system and its fund assets.

(6) No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.

➔Section 2. KRS 21.540 is amended to read as follows:

(1) (a) Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of KRS 6.500 to 6.577 and 21.350 to 21.510.

(b) The Judicial Form Retirement System shall have all powers necessary to administer KRS 6.500 to 6.577 and 21.350 to 21.510 including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, to contract for fiduciary liability insurance, investment counseling, and actuarial, auditing, and other professional services subject to the limitations of KRS Chapters 45, 45A, 56, and 57.

(c) 1. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

2. Authorization for all administrative expenses relating to the operations of the Judicial Form Retirement System shall be contained in the biennial budget unit request, branch budget recommendations, and the

financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

3. The request from the Judicial Form Retirement System shall include any specific administrative expenses requested by the board of trustees that are not otherwise specified by this subsection.

(2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.

(b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

1. Solely by the participant;

2. Solely by the alternate payee; or

3. Equally shared by the participant and alternate payee.

(c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:

1. Is issued by a court or administrative agency; and

2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.

(3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be

the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).

(4) In order to improve public transparency regarding the administration of the Legislators' Retirement Plan and the Judicial Retirement Plan, the board of trustees of the Judicial Form Retirement System shall adopt a best-practices model by posting the following information to the system's ***website*** ~~[Web site]~~ and shall make it available to the public:

(a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the system's ***website*** ~~[Web site]~~ at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

(b) A list of the members of the board of trustees and membership on each committee established by the board, including any investment committees;

(c) A list of system staff and each staff's salary;

(d) A list of the fund's professional consultants and their respective fees and commissions paid by the system;

(e) A list of the system's expenditures;

(f) The annual financial audit of the system, which shall include but not be limited to a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;

(g) All external audits;

(h) The annual actuarial valuation report of pension and retiree health benefits of each retirement plan administered by the system, which shall include a general statistical section and information on contributions, benefit payouts, and retirement plan demographic data;

(i) All board minutes or other materials that require adoption or ratification by the board of trustees or committees of the board. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification by the board or committees;

(j) All bylaws, policies, or procedures adopted or ratified by the board of trustees or by committees of the board;

(k) The summary plan description for each plan administered by the system;

(l) A document or a link to documents containing an unofficial copy of the statutes governing the plans administered by the Judicial Form Retirement System;

(m) Investment information, including all investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;

2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and

3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

(n) An update of net investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager over a historical period. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;

(o) All contracts or offering documents for services, goods, or property purchased or utilized by the system. Notwithstanding KRS 61.878, all contracts, including investment contracts, shall be subject to review by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705. If any public record contains material which is not excepted under KRS 61.878, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination;~~[and]~~

(p) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public***; and***

(q) All proxy vote reports as provided by subsection (9) of this section.

Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

(5) No trustee or employee of the board shall:

(a) Have any interest, direct or indirect, in the gains or profits of any investment

or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;

(b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;

(c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;

(d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;

(e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

(f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or

(g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:

1. A trustee from serving as a judge or member of the General Assembly; or

2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount

that does not raise a reasonable question as to the trustee's objectivity.

(6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

(7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:

(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her

designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

(8) (a) 1. Upon request by any person, the Judicial Form Retirement System shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or the Judicial Retirement Plan, if the member or retiree is a current or former officeholder in the Kentucky General Assembly:

a. The first and last name of the member or retiree;

b. The plan or plans in which the member has an account or from which the retiree is receiving a monthly retirement allowance;

c. The status of the member or retiree, including but not limited to whether he or she is a contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;

d. If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and

e. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.

2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.

(b) The release of information under paragraph (a) of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

(9) (a) The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of Section 1 of this Act.

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service unless the proxy adviser or proxy voting service acknowledges in writing its fiduciary duties under subsection (5) of Section 1 of this Act and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section and Section 1 of this Act.

(c) All shares held directly or indirectly by or on behalf of the system shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board or investment committee of the board who are fiduciaries having the sole authority to make investments under Section 1 of this Act; or

2. A proxy adviser or proxy voting service that acknowledges in writing its fiduciary duties under subsection (5) of Section 1 of this Act and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(d) All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:

1. The vote caption;

2. The date of the vote;

3. The company's name;

4. The vote cast for the system;

5. The recommendation of the company's management; and

6. If applicable, the recommendation of the proxy adviser or proxy voting service.

➔Section 3. KRS 61.645 is amended to read as follows:

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

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

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

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

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

1. A portfolio manager acting in a fiduciary capacity;

2. A professional securities analyst or investment consultant;

3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
4. A chartered financial analyst in good standing as determined by the CFA Institute; or
5. A university professor, teaching investment-related studies; and

(e) For purposes of paragraph (c) of this subsection, a trustee with "retirement experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
1. Experience in retirement or pension plan management;
2. A certified public accountant with relevant experience in retirement or pension plan accounting;
3. An actuary with relevant experience in retirement or pension plan consulting;
4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
5. A current or former university professor whose primary area of emphasis is economics or finance.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
(a) To sue and be sued in its corporate name;
(b) To make bylaws not inconsistent with the law;
(c) To conduct the business and promote the purposes for which it was formed;
(d) Except as provided in KRS 61.650(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56,

and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;

(e) To purchase fiduciary liability insurance;

(f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

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

(b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.

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

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

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

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

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic

ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.

(g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.

(i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:

1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.

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

(5) (a) Any vacancy which may occur in an appointed position during a term of office shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy during a term of office shall be filled within ninety (90) days of the position becoming vacant.

(b) Any appointments or reappointments to an appointed position on the board shall be made no later than thirty (30) days prior to an appointed member's term of office ending.

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

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

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

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses

in accordance with state administrative regulations and standards.

(8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.

(b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.

(c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.

(b) Prior to April 1, 2021, the board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. Effective April 1, 2021, the responsibility of appointing employees and managing personnel needs shall be transferred to the Kentucky Public Pensions Authority established by KRS 61.505.

(c) The board shall require the chief executive officer and may require the general

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

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

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

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

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

legislative agents under KRS 6.611.

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

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

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

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

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

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

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

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

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

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

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.

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

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

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

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

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-

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

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

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

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

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

1. Benefits and benefits administration;

2. Investment concepts, policies, and current composition and administration of retirement systems investments;

3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and

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

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

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

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

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

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

(b) The ~~[Comprehensive]~~Annual ***Comprehensive*** Financial Report with the information as follows:

1. A general overview and update on the retirement systems by the executive director;

2. A listing of the board of trustees;
3. A listing of key staff;
4. An organizational chart;
5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net of fees return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;

(c) All external audits;

(d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;

(e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;

(f) The retirement systems' summary plan description;

(g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;

(h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;

(i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The systems shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

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

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

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

(k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the Kentucky Public Pensions Authority's ***website*** ~~[Web site]~~, the systems may

provide the information through a ***website***~~[Web site]~~ established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;

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

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

(n) All proxy vote reports as provided by subsection (7) of Section 4 of this Act.

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

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

behalf of an investment manager, private fund, or company issuing securities.

➔Section 4. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of funds created by KRS 16.510, 61.515, and 61.701 pertaining to the accounts for the Kentucky Employees Retirement System or State Police Retirement System, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such assets in accordance with federal law.

(b) 1. The board shall establish an investment committee whose membership shall be composed of the following:

a. The three (3) trustees of the Kentucky Retirement Systems board appointed by the Governor pursuant to KRS 61.645 who have investment experience; and

b. Additional trustees appointed by the board chair.

2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) ***1. For the purposes of this paragraph:***

a. "Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;

b. "Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;

c. A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an

investment; and

d. "Nonpecuniary interest" includes an environmental, social, political, or ideological interest.

2. A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, ***investment manager, proxy adviser, or consultant,*** or other fiduciary shall discharge duties with respect to the retirement system:

a ~~[1]~~. Solely in the interest of the members and beneficiaries;

b ~~[2]~~. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;

c ~~[3]~~. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

d ~~[4]~~. Impartially, taking into account any differing interests of members and beneficiaries;

e ~~[5]~~. Incurring any costs that are appropriate and reasonable; and

f ~~[6]~~. In accordance with a good-faith interpretation of the ***federal, state, and common*** law governing the ~~[retirement]~~system ***and fiduciaries.***

3. Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:

a. Statements, explanations, reports, or correspondence;

b. Communications with portfolio companies;

c. Statements of principles or policies, whether made individually or jointly;

d. Votes of shares or proxies; or

e. Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.

(d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection:

1. All internal investment staff of the Kentucky Public Pensions Authority, and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body. All codes cited in this subparagraph are promulgated by the CFA Institute; and

2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.

(e) An investment manager, proxy adviser, or consultant appointed by the board or any other fiduciary provided by this subsection shall acknowledge in writing the fiduciary duties owed to the system and its fund assets.

(f) No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.

(2) The board, through adopted written policies, shall maintain ownership and control over its assets held in its unitized managed custodial account.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the

economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

(5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.

(6) All contracts for the investment or management of assets of the systems shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:

(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

(7) (a) The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of this section.

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service unless the proxy adviser or proxy voting service acknowledges in writing its fiduciary duties under subsection (1)(e) of this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held directly or indirectly by or on behalf of the system shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or

2. A proxy adviser or proxy voting service that acknowledges in writing its fiduciary duties under subsection (1)(e) of this section and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(d) All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:

1. The vote caption;

2. The date of the vote;

3. The company's name;

4. The vote cast for the system;

5. The recommendation of the company's management; and

6. If applicable, the recommendation of the proxy adviser or proxy voting service.

➔Section 5. KRS 78.782 is amended to read as follows:

(1) The County Employees Retirement System shall be administered by the board of trustees composed of nine (9) members, who shall be selected as follows:

(a) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System, of which:

1. Two (2) shall have a majority of his or her service credit earned in the County Employees Retirement System in a nonhazardous position; and
2. One (1) shall have a majority of his or her service credit earned in the County Employees Retirement System in a hazardous position;

(b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the six (6) trustees appointed by the Governor:

1. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
2. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
3. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;

4. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
5. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and
6. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association.

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

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

1. A portfolio manager acting in a fiduciary capacity;
2. A professional securities analyst or investment consultant;
3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;

4. A chartered financial analyst in good standing as determined by the CFA Institute; or

5. A university professor, teaching investment-related studies; and

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

1. Experience in retirement or pension plan management;

2. A certified public accountant with relevant experience in retirement or pension plan accounting;

3. An actuary with relevant experience in retirement or pension plan consulting;

4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or

5. A current or former university professor whose primary area of emphasis is economics or finance.

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

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

(b) To make bylaws not inconsistent with the law;

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

(d) Except as provided in KRS 78.790(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to the provisions of KRS Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;

(e) To purchase fiduciary liability insurance;

(f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.

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

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

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

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

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

(e) The ballots shall be addressed to the County Employees Retirement System in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.

(g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Costs of an election shall be payable from the funds of the system.

(h) For purposes of this subsection, an eligible voter shall be a person who was a member of the system on December 31 of the year preceding the election year.

(i) Each individual who submits a request to be nominated by the board under

paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:

1. Complete an application developed by the system which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
3. Authorize the system to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.

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

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

(b) Any appointments or reappointments to an appointed position on the board

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

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

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

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

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.

(b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. A trustee who has served four (4) consecutive years as chair or vice chair of the board may be elected chair or vice chair of the board after an absence of two (2) years from the positions.

(c) A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 78.510 to 78.852. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.

(b) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.

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

(d) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published

guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).

(e) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 78.510 to 78.852 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the County Employees Retirement System board of trustees.

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

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

(12) (a) The Kentucky Public Pensions Authority shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities for the systems. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select the independent certified public accountant hired by the Kentucky Public Pensions Authority or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of

Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The Kentucky Public Pensions Authority shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the County Employees Retirement System and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board.

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

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

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

(15) (a) A trustee shall discharge his or her duties as a trustee, including his or her

duties as a member of a committee:

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

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

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

1. One (1) or more officers or employees of the system or Authority whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.

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

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

1. The trustee has breached or failed to perform the duties of the trustee's

office in compliance with this section; and

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

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

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

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

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

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

1. Benefits and benefits administration;

2. Investment concepts, policies, and current composition and administration of system investments;

3. Laws, bylaws, and administrative regulations pertaining to the system and to fiduciaries; and

4. Actuarial and financial concepts pertaining to the system.

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

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

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

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

(a) Meeting notices and agendas for all meetings of the board. Notices and

agendas shall be posted to the Kentucky Public Pensions Authority's ***website*** ~~[Web site]~~ at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

(b) The ~~[Comprehensive]~~Annual ***Comprehensive*** Financial Report with the information as follows:

1. A general overview and update on the system by the executive director;
2. A listing of the board of trustees;
3. A listing of key staff;
4. An organizational chart;
5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
6. Investment information, including a general overview, a list of the system's professional consultants, a total net of fees return on system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;

(c) All external audits;

(d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;

(e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;

(f) The system's summary plan description;

(g) A document containing an unofficial copy of the statutes governing the system;

(h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;

(i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2021. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;

2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and

3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

(j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each

fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2021;

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

(l) All contracts or offering documents for services, goods, or property purchased or utilized by the system for contracts or offering documents entered into on or after July 1, 2021; ~~[and]~~

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

(n) All proxy vote reports as provided by subsection (7) of Section 6 of this Act.

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

(20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no

funds of the County Employees Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

➔Section 6. KRS 78.790 is amended to read as follows:

(1) (a) The board shall be the trustee of funds pertaining to the County Employees Retirement System created by KRS 78.510 to 78.852, and KRS 61.701, and shall have full and exclusive power to invest and reinvest such assets in accordance with federal law.

(b) 1. The board shall establish an investment committee that shall include members of the board with investment experience, elected members, or other members as determined by the board chair, and may also include nonvoting members who have investment expertise.

2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters.

(c) ***1. For the purposes of this paragraph:***

a. "Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;

b. "Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;

c. A "material connection" is established if there is a substantial

likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment; and

d. "Nonpecuniary interest" includes an environmental, social, political, or ideological interest.

2. A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, ***investment manager, proxy adviser, consultant,*** or other fiduciary shall discharge duties with respect to the system:

a~~[1]~~. Solely in the interest of the members and beneficiaries;

b~~[2]~~. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;

c~~[3]~~. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

d~~[4]~~. Impartially, taking into account any differing interests of members and beneficiaries;

e~~[5]~~. Incurring any costs that are appropriate and reasonable; and

f~~[6]~~. In accordance with a good-faith interpretation of the ***federal, state, and common*** law governing the system ***and fiduciaries***

3. Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:

a. Statements, explanations, reports, or correspondence;

b. Communications with portfolio companies;

c. Statements of principles or policies, whether made individually or jointly;

d. Votes of shares or proxies; or

e. Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.

(d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection:

1. All internal investment staff of the Kentucky Public Pensions Authority, and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body. All codes cited in this subparagraph are promulgated by the CFA Institute; and

2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.

(e) An investment manager, proxy adviser, or consultant appointed by the board or any other fiduciary provided by this subsection shall acknowledge in writing the fiduciary duties owed to the system and its fund assets.

(f) No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.

(2) The board, through adopted written policies, shall maintain ownership and control over its assets held in its unitized managed custodial account.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve

the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

(5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.

(6) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:

(a) The board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her

designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

(7) (a) The board shall adopt written proxy voting guidelines, which are consistent with the fiduciary duties and other requirements of this section.

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service, unless the proxy adviser or proxy voting service in writing acknowledges its fiduciary duties under subsection (1)(e) of this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held directly or indirectly by or on behalf of the system shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or

2. A proxy adviser or proxy voting service that in writing acknowledges its fiduciary duties under subsection (1)(e) of this section and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(d) All proxy votes shall be reported at least quarterly to the board. For each

vote, the report shall provide:

1. The vote caption;

2. The date of the vote;

3. The company's name;

4. The vote cast for the system;

5. The recommendation of the company's management; and

6. If applicable, the recommendation of the proxy adviser or proxy voting service.

➔Section 7. KRS 161.250 is amended to read as follows:

(1) (a) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky."

(b) The board of trustees shall consist of the following:

1. The chief state school officer;

2. The State Treasurer;

3. Two (2) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. These two (2) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 161.460, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:

a. A portfolio manager acting in a fiduciary capacity;

b. A professional securities analyst or investment consultant;

c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;

d. A chartered financial analyst in good standing as determined by the CFA Institute; or

e. A university professor, teaching investment-related studies; and

4. Seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(c) 1. Elective trustees shall not serve more than three (3) consecutive four (4) year terms. An elective trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board of trustees.

2. The term limits established by subparagraph 1. of this paragraph shall apply to elective trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the elective trustee has exceeded the term limits provided by subparagraph 1. of this paragraph.

(d) 1. Each appointed trustee shall serve a term of four (4) years. An appointed trustee shall not serve more than three (3) consecutive four (4) year

terms. An appointed trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board of trustees.

2. Any vacancy that occurs in an appointed position shall be filled in the same manner that provides for the selection of the trustee; however, any vacancy shall be filled only for the duration of the unexpired term.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of

KRS Chapter 13B.

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

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

1. Benefits and benefits administration;
2. Investment concepts, policies, and current composition and administration of retirement system investments;
3. Laws, bylaws, and administrative regulations pertaining to the retirement system and to fiduciaries; and
4. Actuarial and financial concepts pertaining to the retirement system.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the trustee has completed the orientation program;

(b) Annual required training for trustees on the administration, benefits, financing, and investing of the retirement system. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the board member has met the annual training requirements; and

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

(4) In order to improve public transparency regarding the administration of the system, the board of trustees shall adopt a best practices model by posting the following information to the retirement system's ***website*** ~~[Web site]~~ and shall make available

to the public:

(a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement system's ***website*** ~~[Web site]~~ at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

(b) The ~~[Comprehensive]~~Annual ***Comprehensive*** Financial Report with the information as follows:

1. A general overview and update on the retirement system by the executive secretary;
2. A listing of the board of trustees;
3. A listing of key staff;
4. An organizational chart;
5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net return on retirement system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;

(c) All external audits;

(d) All board minutes or other materials that require adoption or ratification by

the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;

(e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;

(f) The retirement system's summary plan description;

(g) The retirement system's law book;

(h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;

(i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:

1. Disclose the dollar value of fees or commissions paid to each individual manager or partnership;

2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and

3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

(j) An update of net of fees investment returns, asset allocations, and the

performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;

(k) All contracts or offering documents for services, goods, or property purchased or utilized by the system;~~[and]~~

(l) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the system's ***website***~~[Web site]~~, the system may provide the information through a ***website***~~[Web site]~~ established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages***; and***

(m) All proxy vote reports as provided by subsection (8) of Section 8 of this Act.

(5) Notwithstanding the requirements of subsection (4) of this section, the retirement system shall not be required to furnish information that is protected under KRS 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement system's ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.

(6) For any benefit improvements the General Assembly has authorized the board of

trustees to establish under KRS 161.220 to 161.716 and that require formal adoption by the board, the board shall establish the benefits by promulgation of administrative regulations in accordance with KRS Chapter 13A.

➔Section 8. KRS 161.430 is amended to read as follows:

(1) (a) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities.

(b) 1. The board shall contract with experienced competent investment managers to invest and manage assets of the system. The board may also employ qualified investment staff to advise it on investment matters and to invest and manage assets of the system not to exceed fifty percent (50%) of the system's assets. The board may contract with one (1) or more general investment consultants, as well as specialized investment consultants, to advise it on investment matters.

2. All internal investment staff and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body, promulgated by the CFA Institute. Investment managers shall comply with the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.

3. No investment manager shall manage more than forty percent (40%) of the funds of the retirement system.

(c) The board may appoint an investment committee to act for the board in all

matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) ***(a) For the purposes of this subsection:***

1. "Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;

2. "Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an

investment;

3. A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment; and

4. "Nonpecuniary interest" includes an environmental, social, political, or ideological interest.

(b) The board members**,**~~[and]~~ investment ***managers, proxy advisers,*** consultants**,** ***or other fiduciaries*** shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

1.~~[(a)]~~ For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

2.~~[(b)]~~ With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

3.~~[(c)]~~ By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4.~~[(d)]~~ In accordance with the ***federal, state, and common*** laws, administrative regulations, and other instruments governing the system ***and fiduciaries***

(c) Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:

1. Statements, explanations, reports, or correspondence;

2. Communications with portfolio companies;

3. Statements of principles or policies, whether made individually or jointly;

4. Votes of shares or proxies; or

5. Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.

(3) (a) In choosing and contracting for professional investment management and consulting services, the board shall do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment manager shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management and consulting services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment manager or consultant appointed under this section shall acknowledge in writing his ***or her*** fiduciary responsibilities to the fund. To be eligible for appointment, an investment manager, consultant, or an affiliate, shall be:

1. Registered under the Federal Investment Advisers Act of 1940; or
2. A bank as defined by that Act; or
3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(c) No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.

(4) No investment or disbursement of funds shall be made unless authorized by the

board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines and may permit its staff and investment managers who are employed or under contract with the board pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

(5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.

(6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

(7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:

(a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;

(b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and

Administration Cabinet or his or her designee for review and comment;

(c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;

(d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;

(e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and

(f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

(8) (a) The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of this section.

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service, unless the proxy adviser or proxy voting service acknowledges in writing its fiduciary duties under subsection (3)(b) of this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held directly or indirectly by or on behalf of the system shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the system who are fiduciaries under this section and are appointed or otherwise authorized by the board; or

2. A proxy adviser or proxy voting service that in writing acknowledges its fiduciary duties under subsection (3)(b) of this section and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(d) All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:

1. The vote caption;

2. The date of the vote;

3. The company's name;

4. The vote cast for the system;

5. The recommendation of the company's management; and

6. If applicable, the recommendation of the proxy adviser or proxy voting service.