

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM  
2023 REGULAR SESSION  
**Unofficial Document**

Amend printed copy of **SB 206/GA**

On page 1, after line 2, insert the following:

" ➔Section 1. KRS 61.505 is amended to read as follows:

- (1) There is created an eight (8) member Kentucky Public Pensions Authority whose purpose shall be to administer and operate:
  - (a) A single personnel system for the staffing needs of the Kentucky Retirement Systems and the County Employees Retirement System;
  - (b) A system of accounting that is developed by the Authority for the Kentucky Retirement Systems and the County Employees Retirement System;
  - (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to:
    - 1. Benefit counseling and administration;
    - 2. Information technology and services, including a centralized website~~[Web site]~~ for the Authority, the Kentucky Retirement Systems, and the County Employees Retirement System;
    - 3. Legal services;
    - 4. Employer reporting and compliance;
    - 5. Processing and distribution of benefit payments, and other financial, investment administration, and accounting duties as directed by the Kentucky Retirement

Amendment No. HFA

Rep. Rep. James Tipton

Committee Amendment \_\_\_\_\_

Signed: \_\_\_\_\_

Floor Amendment \_\_\_\_\_

LRC Drafter: \_\_\_\_\_

Adopted: \_\_\_\_\_

Date: \_\_\_\_\_

Rejected: \_\_\_\_\_

Doc. ID: XXXX

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- Systems board of trustees or the County Employees Retirement System board of trustees;
6. All administrative actions, orders, decisions, and determinations necessary to carry out benefit functions required by the Kentucky Retirement Systems and the County Employment Retirement System statutes, including but not limited to administration of reduced and unreduced retirement benefits, disability retirement, reemployment after retirement, service purchases, computation of sick-leave credit costs, correction of system records, qualified domestic relations orders, and pension spiking determinations; and
  7. Completing and compiling financial data and reports;
- (d) Any jointly held assets used for the administration of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to real estate, office space, equipment, and supplies;
  - (e) The hiring of a single actuarial consulting firm who shall serve both the Kentucky Retirement Systems and the County Employees Retirement System;
  - (f) The hiring of a single external certified public accountant who shall perform audits for both the Kentucky Retirement Systems and the County Employees Retirement System;
  - (g) The promulgation of administrative regulations as an authority or on behalf of the Kentucky Retirement Systems and the County Employees Retirement System, individually or collectively, provided such regulations are not inconsistent with the provisions of this section and KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of this section and duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
  - (h) A system of contracting management for administrative services; and

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- (i) Other tasks or duties as directed solely or jointly by the boards of the Kentucky Retirement Systems or the County Employees Retirement System.
- (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of the following individuals:
  - (a) The chair of the Kentucky Retirement Systems board of trustees;
  - (b) The chair of the County Employees Retirement System board of trustees;
  - (c) The investment committee chair of the Kentucky Retirement Systems board of trustees, unless the investment committee chair is also the chair of the board of trustees in which case the chair of the Kentucky Retirement Systems shall appoint an individual who serves on the investment committee;
  - (d) The investment committee chair of the County Employees Retirement System board of trustees, unless the investment committee chair is also the chair of the County Employees Retirement System board of trustees in which case the chair of the County Employees Retirement System shall appoint an individual who serves on the investment committee;
  - (e) Two additional (2) trustees of the Kentucky Retirement Systems board of trustees selected by the chair of the Kentucky Retirement Systems board of trustees of which one (1) shall be a trustee who was elected by the membership of one (1) of the systems administered by Kentucky Retirement Systems and one (1) shall be a trustee of Kentucky Retirement Systems who was appointed by the Governor; and
  - (f) Two additional (2) trustees of the County Employees Retirement System board of trustees selected by the chair of the County Employees Retirement System board of trustees of which one (1) shall be a trustee who was elected by the membership of the County Employees Retirement System and one (1) shall be a trustee of the County Employees Retirement System who was appointed by the Governor.

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- (3) The Kentucky Public Pensions Authority 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 and in accordance with its duties as provided by this section;
  - (c) To conduct the business and promote the purposes for which it was formed;
  - (d) To carry out the obligations of the Authority subject to KRS Chapters 45, 45A, 56, and 57;
  - (e) To purchase fiduciary liability insurance; and
  - (f) The Kentucky Public Pensions Authority shall reimburse any Authority member, 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.
- (4) Any vacancy which may occur in an appointed position on the Kentucky Public Pensions Authority shall be filled in the same manner which provides for the selection of the particular member of the Authority. No person shall serve in more than one (1) position as a member of the Authority and if a person holds more than one (1) position as a member of the Authority, he or she shall resign a position.
- (5) (a) Membership on the Authority shall not be incompatible with any other office unless a constitutional incompatibility exists. No Authority member shall serve in more than one (1) position as a member of the Authority.

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- (b) An Authority member 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 Authority.
- (6) Kentucky Public Pensions Authority members 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, except that the members shall not receive a per diem or receive reimbursements on the same day they receive a per diem or reimbursements for service to the Kentucky Retirement Systems board of trustees or County Employees Retirement Systems board of trustees.
- (7) (a) The Authority 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 executive director of the Authority.
- (b) The Authority 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 Authority. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the Authority. A member who has served four (4) consecutive years as chair or vice chair of the Authority may be elected chair or vice chair of the Authority after an absence of two (2) years from the positions.
- (c) A majority of the Authority members shall constitute a quorum and all actions taken by the Authority shall be by affirmative vote of a majority of the Authority members present.
- (d) The Authority shall post on the Authority's website~~[Web site]~~ and shall make

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available to the public:

1. All meeting notices and agendas of the Authority. Notices and agendas shall be posted to the Authority's website~~[Web site]~~ at least seventy-two (72) hours in advance of the Authority's meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
  2. All Authority minutes or other materials that require adoption or ratification by the Authority. The items listed in this subparagraph shall be posted within three (3) business days~~[seventy two (72) hours]~~ of adoption or ratification of the Authority;
  3. All bylaws, policies, or procedures adopted or ratified by the Authority; and
  4. A listing of the members of the Authority and membership on each committee established by the Authority.
- (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief administrative officer of the Authority, the Kentucky Retirement Systems board of trustees, and the County Employees Retirement System board of trustees. The executive director shall work cooperatively with the chief executive officers of the Kentucky Retirement Systems and the County Employees Retirement System. The Authority shall annually conduct a performance evaluation of the executive director.
- (b) The Kentucky Public Pensions Authority shall authorize the executive director to appoint the employees deemed necessary to transact the duties of the Authority for the purposes outlined in subsection (1) of this section. After April 14, 2022, approval by the Authority shall be required for a petition to the secretary of the Personnel

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Cabinet for the creation of any new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).

- (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume responsibility of administering the staff of the Kentucky Retirement Systems in order to provide the services established by this section.
- (d)
  1. All employees of the Kentucky Public Pensions Authority, except for the executive director and no more than six (6) unclassified employees of the Office of Investments employed pursuant to KRS 18A.115(1)(e), (g), (h), and (i), shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.
  2. The employees exempted from the classified service under this paragraph shall not be subject to the salary limitations specified in KRS 64.640(2) and (3).
  3. The Kentucky Public Pensions Authority shall adopt a written salary and classification plan fixing a range of compensation and written terms of employment for any of the unclassified employees of the Office of Investments it authorizes under this paragraph. The Authority shall authorize the executive director to appoint up to six (6) unclassified employees of the Office of Investments subject to the compensation ranges and terms of employment the Authority has established. The Authority may amend the written salary and classification plan adopted under this paragraph at any time.
- (e) The Authority shall annually review, approve, and submit a report to the Public Pension Oversight Board detailing the number of employees of the Authority, the salary paid to each employee, and the change in the salaries of each individual employed by the Authority over the prior year.

- (f) The Authority shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (g) 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 this section by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Public Pensions Authority.
- (9) All employees of the Authority shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (10) The Attorney General, or an assistant designated by him or her, may attend each meeting of the Authority and may receive the agenda, board minutes, and other information distributed to Authority members upon request. The Attorney General may act as legal adviser and attorney for the Authority, and the Authority may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (11) (a) 1. All expenses incurred by or on behalf of the Kentucky Public Pensions Authority shall be paid by the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System and shall be prorated, assigned, or allocated to each system as determined by Kentucky Public Pensions Authority.
2. Until June 30, 2024, any additional initial costs determined by the Authority to be attributable solely to establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority as provided by this section and KRS 78.782 shall be paid by the County Employees Retirement



# Unofficial Document

System. Until June 30, 2024, any additional ongoing annual administrative and investment expenses that occur after the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority that are determined by the Authority to be a direct result of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority shall be paid by the County Employees Retirement System. Beginning on and after July 1, 2024, any annual administrative and investment expenses shall be prorated, assigned, or allocated to each system as determined by the Kentucky Public Pensions Authority as provided by subparagraph 1. of this paragraph but without attribution to the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority.

3. In order to evaluate the results of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority, on or before November 15, 2022, and on or before November 15 following the close of each successive fiscal year, the Kentucky Public Pensions Authority shall report to the Public Pensions Oversight Board the annual administrative and investment expenses of the Kentucky Retirement Systems and the County Employees Retirement System. The report shall include but not be limited to the process or manner the Authority used to prorate, assign, or allocate to each system its share of the expenses, the amount of expenses prorated, assigned, or allocated to each system itemized by category, and any efforts by the systems or the Authority to reduce administrative costs and staffing needs.
- (b) Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the Kentucky Public Pensions Authority,

the Kentucky Retirement Systems, and the County Employees Retirement System shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. The Kentucky Public Pensions Authority shall approve the biennial budget unit request prior to its submission by the Authority. The request from the Kentucky Public Pensions Authority shall include any specific administrative expenses requested by the Kentucky Retirement Systems board of trustees or the County Employees Retirement System board of trustees pursuant to KRS 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses specified by paragraph (a) of this subsection.

- (12) (a) An Authority member shall discharge his or her duties as a member of the Authority, including his or her duties as a member of a committee of the Authority:
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 and the Kentucky Retirement Systems, as applicable.
- (b) An Authority member discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the Authority, system, or 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, an Authority member 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 Authority whom the Authority member honestly believes to be reliable and competent in the matters presented;
  2. Legal counsel, public accountants, actuaries, or other persons as to matters the Authority member honestly believes are within the person's professional or expert competence; or
  3. A committee of the Authority of which he or she is not a member if the Authority member honestly believes the committee merits confidence.
- (d) An Authority member 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 member of the Authority, or any failure to take any action as an Authority member, shall not be the basis for monetary damages or injunctive relief unless:
1. The Authority member has breached or failed to perform the duties of the member'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 or County Employees Retirement System, as applicable.
- (g) In discharging his or her administrative duties under this section, an Authority member shall strive to administer the systems in an efficient and cost-effective

# Unofficial Document

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.

➔Section 2. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in

KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

(8) "Creditable compensation":

- (a) Except as provided by paragraph (b) or (c) of this subsection, means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);
- (b) Includes:
  1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
  2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
  3. Amounts which are not includable in the member's gross income by virtue of

the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

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

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; and
3. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

(9) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
- (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain

# Unofficial Document

twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;

- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
  - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22). Solely in the cases where a member dies as a direct result of an act in line of duty as defined in this section, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as a direct result of an act in line of duty as defined in this section, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means:



- (a) A single act occurring or a single thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060;
  - (b) For employees in hazardous positions under KRS 61.592, a single act occurring which was required in the performance of the principal duties of the position as defined by the job description; or
  - (c) For employees participating in the State Police Retirement System and for employees who are in hazardous positions under KRS 61.592, a single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;
- (20) "Early retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
  - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1) or 61.543(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly,

- or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (29) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement Systems;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543 or 61.543 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs

which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic

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relations order;

(39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583;

(40) "Accumulated account balance" means:

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

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

(41) "Monthly average pay" means:

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

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

➔Section 3. KRS 16.652 is repealed, reenacted, and amended to read as follows:

(1) For members who begin participating in the State Police Retirement System prior to

# Unofficial Document

January 1, 2014, it is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, KRS 16.510 to 16.645 shall, **except as provided in KRS 6.696**, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall not be subject to reduction or impairment by alteration, amendment or repeal~~], except:~~

~~(a) As provided in KRS 6.696; and~~

~~(b) The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 16.505 to 16.652 that become effective on or after July 1, 2018].~~

- (2) (a) For members who begin participating in the State Police Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 16.505 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
  - (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
  - (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 16.505 to 16.652, for members who begin participating in the State Police Retirement System on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (3) The provisions of this section shall not be construed to limit the General Assembly's

authority to amend, reduce, or suspend the benefits and rights of members of the State Police Retirement System as provided by KRS 16.505 to 16.652 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 4. KRS 61.510 is amended to read as follows:

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

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

# Unofficial Document

- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he or she serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he or she received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he or she served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall

# Unofficial Document

not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

(13) "Creditable compensation":

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

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the *Kentucky* Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction,



# Unofficial Document

the Personnel Board, or the Kentucky Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
3. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
4. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

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

- (a) For a member who begins participating before September 1, 2008, who is employed

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

- (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for

# Unofficial Document

seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions

# Unofficial Document

except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
  - (b) Emergency positions which are positions utilized by the employer during:
    - 1. An emergency as determined by the employer for a period not exceeding thirty (30) working days and are nonrenewable; or
    - 2. A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;
  - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
  - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
  - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as

Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;

- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level percentage of payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years but that may be converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period of time and the unfunded actuarially accrued liability shall be projected to be fully amortized at the

# Unofficial Document

conclusion of the set period of years;

- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Public Pensions Authority's office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:

# Unofficial Document

- (a) The date upon which the member began participating in the system as provided in KRS 61.543;
  - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) or 311A.022(2) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b); or
  - (c) For members bound by an educational contract as a conditional employee to the state of Kentucky prior to December 31, 2003, the date on which the educational contract became effective;
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in



# Unofficial Document

the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;

(42) "Volunteer" means an individual who:

- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;

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

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

(45) "Monthly average pay" means:

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

# Unofficial Document

- (12) months of employment; or
- (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;
- (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505;
- (47) "Executive director" means the executive director of the Kentucky Public Pensions Authority;~~and~~
- (48) "Instructional staff" means the employees of a state college or university participating under KRS 61.520 who are:
- (a) Faculty;
  - (b) Staff responsible for teaching; or
  - (c) Other individuals employed in an administrative position that is eligible for participation in the Teachers' Insurance and Annuity Association (TIAA) of the Teachers' Retirement System;
- (49) "Agency reporting official" means the person designated by the participating employer who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to KRS 61.510 to 61.705; and**
- (50) "Gainful employment" means work in any capacity that is or may be performed with regularity and is or may be usually done for pay, whether pay is received or not received, including seasonal, volunteer, part-time, and on-call work.**

# Unofficial Document

➔Section 5. KRS 78.510 is amended to read as follows:

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

- (1) "System" means the County Employees Retirement System *created by KRS 78.510 to 78.852*;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.782;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his or her employees, county clerk and his or her employees, circuit clerk and his or her deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, cities, charter county governments, urban-county governments, consolidated local governments, or unified local governments participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means:
  - (a) Any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate; or
  - (b) A public charter school as defined in KRS 160.1590 if the public charter school satisfies the criteria set by the Internal Revenue Service to participate in a governmental retirement plan;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he or she

qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;

- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not ceased under KRS 78.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he or she received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited, on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. "Accumulated contributions" shall not include employee contributions that are deposited into accounts

established pursuant to 26 U.S.C. sec. 401(h) within the fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);

(13) "Creditable compensation":

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

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, including

notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;
4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
5. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 78.5520~~[61.592]~~, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more

# Unofficial Document

additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 78.5520~~[61.592]~~, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the



employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852, means:
- (a) For a member with service in a nonhazardous position, the sixty-fifth birthday of a member;
  - (b) For a member with service in a hazardous position who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday; or
  - (c) For a member with service in a hazardous position who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;

- (20) "Agency reporting official" means the person designated by the participating employer who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to ~~[the provisions of]~~ KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
  - (b) Emergency positions which are positions utilized by the employer during:
    - 1. An emergency as determined by the employer for a period not exceeding thirty (30) working days and are nonrenewable; or
    - 2. A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;
  - (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
  - (d) Probationary positions which are positions of employment with a participating

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

- (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 78.5536, beneficiary shall not mean an estate, trust, or trustee;

# Unofficial Document

- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Public Pensions Authority office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (30) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property

# Unofficial Document

rights to an alternate payee;

- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 78.5512 and 78.5516;
- (38) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and 78.5516, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:
- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems or the County Employees Retirement System without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
  - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month with each participating employer. Compensation

earned for services as a volunteer from more than one (1) participating employer during a month shall not be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;

- (41) "Nonhazardous position" means a position that does not meet the requirements of KRS 78.5520 or has not been approved by the board as a hazardous position;
- (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520 and has been approved by the board as hazardous;
- (43) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;
- (44) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (45) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (46) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific

abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (48) "Act in line of duty" means, for employees in hazardous positions under KRS 78.5520:
- (a) A single act occurring which was required in the performance of the principal duties of the hazardous position as defined by the job description; or
  - (b) A single act of violence committed against the employee that is found to be related to his or her job duties, whether or not it occurs at his or her job site;
- (49) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22). Solely in the case of a member who dies as a direct result of an act in line of duty as defined in this section, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as a direct result of an act in the line of duty as defined in this section, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;

# Unofficial Document

- (50) "Normal retirement age" means the age at which the member meets the requirements for his or her normal retirement date as provided by subsection (18) of this section;
- (51) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (52) "Monthly average pay" means:
- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or
  - (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;
- (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505;{  
~~and~~}
- (54) "Executive director" means the executive director of the Kentucky Public Pensions Authority; and
- (55) "Gainful employment" means work in any capacity that is or may be performed with regularity and is or may be usually done for pay, whether or not pay is received, including seasonal, volunteer, part-time, and on-call work.**

➔Section 6. KRS 61.525 is amended to read as follows:



# Unofficial Document

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating department after the date such department first participates in the system;
- (2) ~~{(a) }~~All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;  
~~{(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;}~~
- (3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;
- (4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;
- (5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

# Unofficial Document

- (6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);
- (7) Membership in the system shall not include persons who are not eligible to participate in the system as provided by KRS 61.522 or those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and
- (8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

➔Section 7. KRS 61.546 is repealed, reenacted, and amended to read as follows:

- (1) Except as otherwise provided by this section, any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

- (2) (a) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system.
- (b) The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months.
- (c) Except as provided by subsection~~[subsections]~~ (3) ~~and (4)~~ of this section, the member's sick leave balance, expressed in months, shall upon retirement be added to his or her service credit for the purpose of determining his or her annual retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705.
- (3) For a member who begins participating in the Kentucky Employees Retirement System or the State Police Retirement System on or after September 1, 2008:
- (a) The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system or systems from which the retirement benefit is to be paid;
- (b) The service credited for accumulated unused sick leave as limited by this section and added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.705; and
- (c) The service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 or to reduce any applicable actuarial reductions.

# Unofficial Document

(4) ~~{For a member who began participating in the Kentucky Employees Retirement System or the State Police Retirement System prior to September 1, 2008, who retires on or after July 1, 2023, the service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 or to reduce any applicable actuarial reductions.~~

~~(5)~~ Notwithstanding any other provision of this section to the contrary, the value of any accumulated sick leave that is added to the member's service credit in the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2010, shall be paid to the retirement system by the last participating Kentucky Employees Retirement System or State Police Retirement System employer based upon a formula adopted by the board.

~~(5)(6)~~ The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency~~, except that any agency participating in the Kentucky Employees Retirement System who has not adopted a sick leave program prior to August 1, 2018, shall not be eligible to adopt a sick leave program under this section~~.

~~(6)(7)~~ This section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

➔Section 8. KRS 61.552 is amended to read as follows:

(1) Called to Active Duty Military Service. An employee of an employer participating in the system who is called to active military duty in the Armed Forces of the United States shall be credited in accordance with 38 U.S.C. sec. 4318 with service credit, creditable compensation, and in the case of employees participating in the hybrid cash balance plan,

# Unofficial Document

employee contributions, employer credits, and interest credits, for a period of active military duty of up to six (6) years, provided:

(a) The employee was called to active military duty in the Armed Forces of the United States:

1. After his or her membership date~~[he or she began participating]~~ in the system and provided the employee was on leave of absence from the employer and did not withdraw his or her accumulated account balance; or
2. Prior to his or her membership date~~[the date he or she began participating]~~ in the system and terminated employment with his or her employer;

(b) The employee entered active military service within three (3) months of his or her last day of paid employment;

(c) The employee's~~[His or her]~~ discharge military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304;~~[and]~~

(d) The employee~~[He or she]~~ returns to work with an employer participating in the system within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge; and

(e) For an employee whose membership date is on or after January 1, 2014, who is participating in the hybrid cash balance plan under KRS 16.583, 61.597, 78.5512, or 78.5516, the employee pays the employee contributions on the credited compensation as provided under KRS 16.543, 61.543, and 78.615.

For periods of active military duty that meet the requirements of this subsection, the employer shall pay the employer contributions payable under KRS 61.565, 61.702, 78.5536, and 78.635.

(2) (a) Omitted Service. Any person who is entitled to service credit for employment which

# Unofficial Document

was not reported by the employer in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service subject to the provisions of this subsection.

- (b) Provided the person pays for the omitted service within six (6) months of notification by the system, the cost of the service shall be equal to the employee contributions that would have been paid if the person had been correctly reported in accordance with KRS 16.543, 61.543, or 78.615.
- (c) Any employee participating in one (1) of the state-administered retirement systems entitled to service credit under paragraph (a) of this subsection who has not repaid the employee contributions due within six (6) months of notification by the system may purchase the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (b) of this subsection.
- (d) Omitted service purchased under this subsection shall:
  - 1. Be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 78.510 to 78.852; and
  - 2. Not be credited to the member's account until the employer contributions due and any interest or penalties on the delinquent employer contributions for the period of omitted service are received by the system.
- (e) Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by KRS 16.583 or 61.597 or 78.5512 or 78.5516 shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.

# Unofficial Document

- (f) Contributions payable by the employer under this subsection for omitted service shall be considered delinquent from the date the employee should have been reported and received service credit in accordance with KRS 16.543, 61.543, and 78.615.
- (3) (a) Recontribution of a Refund. Any employee participating in one (1) of the state-administered retirement systems who has been refunded his or her accumulated account balance under the provisions of KRS 61.625, thereby losing service credit in the system, may regain the credit by paying to the system the amount or amounts refunded by the system with interest at a rate determined by the board. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's membership~~[participation]~~ date in the systems.
- (b) Recontribution of a refund purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least six (6) months of service credit in a state-administered retirement system, excluding the service purchased under this subsection. If the member does not accrue at least six (6) months of service credit in a state-administered retirement system, excluding service purchased under this subsection, then the payment plus interest as provided in KRS 16.560, 61.575, or 78.640 shall be refunded upon retirement, death, or written request following termination of employment. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582, 61.600, 61.621, 78.5522, or 78.5524.
- (4) (a) Summer Months. Any employee participating in one (1) of the state-administered retirement systems who is or has been employed by a school board or community action agency participating in the County Employees Retirement System or a state-operated school under KRS Chapter 167 or an institution of higher learning participating in the Kentucky Employees Retirement System, who receives service

credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit, except the amount purchased for any specific year shall not exceed three (3) months.

- (b) The cost of the summer months service credit shall be determined by the formula established by subsection (10) of this section and may be purchased by the employee, or the employer on behalf of the employee, or the cost may be paid by both the employer and employee in which case the employer and employee shall each pay fifty percent (50%) of the cost. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the system.
  - (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
  - (d) This subsection shall not apply to members who began participating in the County Employees Retirement System on or after January 1, 2014.
- (5) Vested Service Purchases. Any employee who began participating in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System prior to January 1, 2014, who is vested may purchase service credit for:
- (a) Past service. "Past service" means periods of employment:
    1. Between July 1, 1956, in the case of the Kentucky Employees Retirement



# Unofficial Document

System, or July 1, 1958, in the case of the County Employees Retirement System, and the effective date of participation by the employer; and

2. ~~Where the employee did not participate in the system due to the employee not electing to participate as provided in KRS 61.525(2) or 78.540(1); and~~
  3. ~~With a public agency that did not participate in the Kentucky Employees Retirement System but would have been eligible to participate under KRS 61.520 or a political subdivision that did not participate in the County Employees Retirement System but would have been eligible to participate under KRS 78.530, provided the public agency or political subdivision has merged with or been taken over by a participating employer;~~
- (b) State university service, provided the university does not participate in a state-administered retirement system and the university service being purchased was in a nonteaching position that did not participate in a defined benefit retirement program;
- (c) 1. Up to ten (10) years of out-of-state service. "Out-of-state" means service credited to a state or local government-administered public defined benefit plan in another state that is not a defined benefit plan for teachers.
2. Up to ten (10) years of out-of-state hazardous service. "Out-of-state hazardous service" means service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592 or 78.5520, as applicable. The employee may purchase out-of-state hazardous service under this subparagraph provided the employee is vested to receive benefits from the State Police Retirement System or hazardous duty benefits from the Kentucky Employees Retirement System or the County Employees Retirement System.

# Unofficial Document

- The employee must purchase out-of-state service or out-of-state hazardous service in the system in which he or she is vested based solely upon the service in that system;
- (d) Active military duty, which means periods of active military duty in the Armed Forces of the United States, provided:
1. The employee's military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304; and
  2. The service has not been credited as free military service under subsection (1) of this section;
- (e) National Guard service. An employee may purchase one (1) month of service for each six (6) months of service in the National Guard or the military reserves of the United States. The service shall be treated as service earned prior to participation in the system;
- (f) Federal service. "Federal service" means service with the United States government, that is not service in the Armed Forces;
- (g) Seasonal, emergency, interim, probationary, or temporary employment or part-time employment as provided by KRS 61.510(21) or 78.510(21) averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member may purchase credit for only those months he or she receives creditable compensation for one hundred (100) hours of work;
- (h) Part-time employment in a noncertified position at a school board prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed to purchase credit only for those months he or she receives creditable compensation

# Unofficial Document

for eighty (80) hours of work;

- (i) Any period of:
  - 1. Authorized maternity leave without pay or sick leave without pay;
  - 2. Unpaid leave authorized under the federal Family and Medical Leave Act;
  - 3. Approved educational leave; and
  - 4. Agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the board receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor;
- (j) Non-participating employer service, which means periods of employment with the following types of agencies provided the agency does not participate in a state-administered retirement system:
  - 1. A regional community services program for mental health organized and operated under the provisions of KRS 210.370 to 210.480;
  - 2. A community action agency created under KRS 273.405 to 273.453. The service provided by this subparagraph shall be purchased in the County Employees Retirement System;
  - 3. An area development district created pursuant to KRS 147A.050; or
  - 4. A business development corporation created pursuant to KRS 155.001 to 155.230, provided the system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor;
- (k) Urban-county government service, which means employment in an urban-county government position that would qualify for hazardous duty coverage under KRS

61.592 or 78.5520. The provisions of this paragraph shall only be applicable to vested members participating in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System;

- (l) Periods of service as assistants to officers and employees of the General Assembly for persons who were unable to acquire service under KRS 61.510(20) for service performed after January 1, 1960;
  - (m) Service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-720; and
  - (n) Employment with a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year. The service provided by this paragraph shall be purchased in the Kentucky Employees Retirement System.
- (6) Non-qualified service. Provided the employee's membership~~[participation]~~ date in the system is prior to July 15, 2002, and provided the employee has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit, the employee may purchase a combined maximum total of five (5) years of service credit, known as non-qualified service, which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852. The service purchased under this paragraph shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 16.560, 61.575, or 78.640, as applicable, shall be refunded.
- (7) For purposes of service purchased under subsections (2) to (6) of this section:

- Unofficial Document
- (a) Except for subsection (6) of this section, the service must qualify as regular full-time as provided by KRS 61.510 and 78.510;
  - (b) No service credit may be purchased for periods already credited to the system or another public defined benefit retirement fund, including non-qualified service purchased in another state-administered retirement system;
  - (c) Except as provided by paragraph (a)2.a. of subsection (9) of this section, the employee payment for service purchases shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer;
  - (d) Except for service purchased under subsection (2) or (3) of this section, service purchases made pursuant to this section may be purchased by the entire amount of service available or by increments. Service purchases made pursuant to subsections (2) and (3) of this section shall only be purchased by the entire amount of service available; and
  - (e) Service purchases as provided by subsections (5)(b), ~~[(5)](d) to (f), and[(5)](j)1.~~ and (6) of this section may be purchased in any system in which the member has service credit.
- (8) (a) Employer purchase of past service. Any employer participating in the system may purchase service credit, between July 1, 1956, in the case of the Kentucky Employees Retirement System, or July 1, 1958, in the case of the County Employees Retirement System, and the participation date of the employer, for present employees of the county or department who have elected coverage under KRS 61.525(2) or 78.540(1), provided the employee began participating in the system prior to January 1, 2014.
- (b) A Kentucky Employees Retirement System employer shall pay the cost of the service credit within the fiscal year the election is made to purchase the service credit. A County Employees Retirement System employer may purchase the service, with

# Unofficial Document

interest at the rate actuarially assumed by the board, over a period not to exceed ten (10) years.

- (c) If an employer elects to purchase service under the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (5)(a) of this section shall have his or her payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640.~~[; and]~~
  - (d) Any payments made by an employer under this subsection shall be deposited to the retirement allowance account of the system and these funds shall not be considered accumulated contributions of the individual members.
- (9) (a) An employee participating in the system may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 for which he or she is eligible to purchase, or as otherwise required by 38 U.S.C. ch. 43, by:
- 1. Making a lump-sum payment on a before-tax basis as provided in subparagraph 3. of this paragraph, or on an after-tax basis if the employee is purchasing service credit under subsection (1) or (3) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection;
  - 2. Entering into an agreement to purchase service credit through an installment purchase of service agreement with the systems as provided by paragraph (c) of this subsection:
    - a. On a before-tax basis in which the service is purchased pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
    - b. On an after-tax basis if the employee is purchasing service credit under subsection (1) or (3) of this section, service available pursuant to 38

# Unofficial Document

U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection; or

3. Transferring funds to the system through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder, or through a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. secs. 402(c) and 408(d)(3). The system shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder.
- (b) For purposes of this subsection, "grandfathered service" means service purchases for which a member, whose membership date in the system is prior to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that were available for all members of the system to purchase on August 5, 1997.
- (c) 1. For service purchased under a before-tax or after-tax installment purchase of service agreement as provided by paragraph (a)2. of this subsection, the cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal, except that interest compounded annually at the actuarial rate in effect at the time the member elects to make the purchase shall be added for the period that the installments are to be made.
2. Multiple service purchases may be combined under a single installment agreement, except that no employee may make more than one (1) installment purchase at the same time.

3. For after-tax installment purchase of service agreements, the employee may elect to stop the installment payments by notifying the system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining principal.
4. Before-tax installment purchase of service agreements shall be irrevocable, and the employee shall not be able to stop installment payments or to pay off the remaining balance of the purchase of service agreement, except upon termination of employment or death.
5. One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
6. The employee shall pay the installments by payroll deduction for after-tax purchase of service agreements, and the employer shall pick up installments for before-tax purchase of service agreements. Upon notification by the system, the employer shall report the installment payments monthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board.
7. The system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the



# Unofficial Document

succeeding months of that service.

8. If the employee utilizing an installment purchase of service agreement dies, retires, does not continue employment in a position required to participate in the system, or elects to stop an after-tax installment purchase of service agreement, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the installment purchase of service agreement by lump sum, subject to the restrictions of paragraph (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of this subsection, except that payment by the member shall be filed with the system prior to the member's effective retirement date. If the member or beneficiary does not pay the remaining cost, the system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased, except as provided by subsection (6) of this section.
9. If the employer does not report installment payments on an employee for sixty (60) days for an after-tax installment purchase of service agreement, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.
10. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
11. If payments have ceased under subparagraph 8. or 9. of this paragraph and the member later becomes a participating employee in the County Employees

Retirement System, Kentucky Employees Retirement System, or State Police Retirement System, the employee may complete the adjusted original installment purchase by lump sum or installment payments, subject to the restrictions of this subsection. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with subsection (10) of this section.

- (d) Member payments, including interest, properly received pursuant to this subsection, shall be deposited to the member's account and considered as accumulated contributions of the individual member.
- (10) (a) The cost of purchasing service credit under any provision of this section, except as provided by subsections (1) to (3) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased. The actuarial factor used to determine the cost of purchasing service credit shall assume the earliest date the member may retire without a reduction in benefits and the cost-of-living adjustments provided to members upon retirement.
- (b) Service purchased on or after August 1, 2004, under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service purchased under subsections (1) to (3) of this section or service purchased as described by paragraph (d) of this subsection, shall not be used to determine eligibility for or the amount of the monthly insurance contribution under KRS 61.702 or 78.5536.
  - (c) For a member whose membership date~~[participation]~~ begins on or after August 1, 2004, service purchased under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, except for service purchased under subsections (1) to (3)

# Unofficial Document

of this section or service purchased as described by paragraph (d) of this subsection:

1. Shall not be used to determine eligibility for a retirement allowance under disability retirement, early retirement, normal retirement, or upon death of the member under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852; and
2. Shall only be used to determine the amount of the retirement allowance of a member who is eligible for a retirement allowance under disability, early retirement, normal retirement, or upon death of the member under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, based on service earned as a participating employee.

(d) Paragraphs (b) and (c) of this subsection shall not apply to a member who was bound by an educational contract as a conditional employee to the state of Kentucky prior to December 31, 2003, regardless of ~~participation date or~~ membership date in the system. Educational leave, seasonal service, or any other qualified service purchased by a member with this classification under this section shall be used to determine eligibility for benefits, membership dates ~~or participation dates~~, and the amount of benefit for:

1. A retirement allowance under disability retirement, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
2. The monthly insurance contribution under KRS 61.702 or 78.5536.

➔Section 9. KRS 61.569 is amended to read as follows:

- (1) **(a) The employer of** a reinstated employee who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the **Kentucky** ~~Human Rights~~ Commission **on Human Rights** shall **deduct from the**

employee's reinstated creditable compensation and remit<sup>[tender]</sup> to the system the member contribution the employee<sup>[he]</sup> would have paid on the creditable compensation the employee<sup>[he]</sup> would have earned as defined under KRS 18A.105 had the employee<sup>[he]</sup> not been dismissed.

**(b)** The employer shall pay the employer contributions as defined under KRS 18A.105 on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member and employer contributions are not paid.

➔ Section 10. KRS 61.615 is amended to read as follows:

(1) **(a)** The Authority may contract for the services of one (1) or more vocational experts upon terms and conditions it prescribes to:

1. Review and investigate all employment information and forms submitted by a disability recipient under this section and KRS 61.610; and
2. Report in writing to the Authority the conclusions and recommendations upon all matters referred for review and investigation.

**(b)** A vocational expert providing services to the Authority shall have a master's degree or higher degree in counseling or rehabilitation, an American Board of Vocational Experts certification, or a certification as a Certified Rehabilitation Counselor, Certified Disability Management Specialist, Associate Disability Case Manager, Licensed Rehabilitation Counselor, or Certified Case Manager.

(2) **(a)** Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the Authority upon beginning the employment. If the member fails to notify the Authority of the gainful employment, the Authority may recover the payment of a disability retirement allowance made during the gainful employment.

# Unofficial Document

**(b) The system may reduce or discontinue a disability retirement allowance** if the **Authority's**~~[board's]~~ medical examiner **selected under Section 15 of this Act or vocational expert selected under this section** determines that:

**1.** A recipient of a disability retirement allowance is, prior to his or her normal retirement date, **gainfully** employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he or she was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months; **or**

**2.** **A recipient of a disability allowance resulting solely from mental illness is, prior to his or her normal retirement date, gainfully employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity, as the position from which he or she was disabled**~~], the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment].~~

~~**(3)(2)** **The system may reduce or discontinue a disability retirement allowance** if the **Authority's**~~[board's]~~ medical examiner determines that a recipient of a disability retirement allowance is, prior to his or her normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance~~], the board may reduce or discontinue the retirement allowance].~~~~

~~**(4) (a)(3)** The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance, and the **Authority**~~[system]~~ shall utilize~~

# Unofficial Document

the services of a medical examiner as provided in KRS 61.665 or a vocational expert selected under this section, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.

~~(b)~~~~(a)~~ The Authority~~[system]~~ shall select one (1)~~[a]~~ medical examiner to evaluate the forms and employment and medical information submitted by the person. If only employment information is submitted, the Authority may select one (1) vocational expert to evaluate the forms and employment information submitted by the person.

If there is objective medical evidence of a mental impairment, the medical examiner may request the Authority's~~[board's]~~ licensed mental health professional to assist in determining the level of the mental impairment.

~~(c)~~~~(b)~~ The medical examiner or vocational expert~~[examiners]~~ shall be paid a reasonable amount by the Authority~~[retirement system]~~ for each case evaluated.

(d) 1.~~(c)~~ The medical examiner or vocational expert shall recommend that disability retirement allowance be continued, reduced, or discontinued.

2.~~[1.]~~ If the medical examiner or vocational expert recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.

3. a.~~[2.]~~ If the medical examiner or vocational expert recommends that the disability retirement allowance be reduced or discontinued, the Authority~~[system]~~ shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.

b.~~[a.]~~ The person shall have sixty (60) days from the day that the Authority~~[system]~~ sent the notice to file at the retirement office additional

# Unofficial Document

supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or vocational expert, or to appeal the recommendation of the medical examiner or vocational expert to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.

c.[b.] If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical examiner or vocational expert~~[examiners]~~ to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the Authority~~[system]~~ sent the notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.

(e) 1.~~[d)]~~ The medical examiner shall make a recommendation based upon the evaluation of additional supporting employment and medical information submitted in accordance with paragraph (d)3.b.~~[(e)2.a.]~~ of this subsection, or the vocational expert shall make a recommendation upon the evaluation of additional supporting employment information submitted in accordance with paragraph (d)3.b. of this subsection.

2.~~[4]~~. If the medical examiner or vocational expert recommends that the disability

# Unofficial Document

retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.

- 3. a.**~~[2.]~~ If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting **employment information and** medical information, **or if the vocational expert recommends that the disability allowance be reduced or discontinued based upon the evaluation of additional supporting employment information, the Authority**~~[the system]~~ shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.
- b.**~~[a.]~~ The person shall have sixty (60) days from the day that the **Authority**~~[system]~~ sent the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.
- c.**~~[b.]~~ If the person fails or refuses to appeal the recommendation of the medical **examiner or vocational expert**~~[examiners]~~ to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the **Authority**~~[system]~~ sent the notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.



# Unofficial Document

~~(f)(e)~~ Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (d)3.a. or (e)3.a.~~(e)2. or (d)2.~~ of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph~~(e) or~~ (d) or (e) of this subsection. The request for formal hearing shall be filed with the Authority~~system~~, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.

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

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

~~(i)(h)~~ Notwithstanding any other provisions of this section, the system may require

# Unofficial Document

the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be provided to the person or his or her legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his or her rights to further disability retirement allowance shall cease.

~~(i)(4)~~ All requests for a hearing pursuant to this section shall be made in writing.

~~(5)(4)~~ The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

~~(6)(5)~~ Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

~~(7)(6)~~ If a disability retirement allowance is reduced or discontinued for a person who began participating in the system prior to January 1, 2014, the person may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

- (a) The person may not change his or her beneficiary or payment option, except as provided by KRS 61.542(5);
- (b) If the person has returned to employment with an employer participating in *the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System* ~~[one (1) of the systems administered by Kentucky Retirement Systems]~~, the service and creditable compensation shall be used in recomputing his or her benefit, except that the person's final compensation shall

# Unofficial Document

not be less than the final compensation last used in determining his or her retirement allowance;

- (c) The benefit shall be reduced as provided by KRS 61.595(2);
- (d) **1.** The person shall remain eligible for reinstatement of his or her disability allowance upon reevaluation ~~[by the medical review board]~~ until his or her normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this **paragraph**~~[section]~~.
- 2.** An application for reinstatement of disability benefits shall be administered as an application under KRS 61.600, **except:**~~[and]~~
- a.** Only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability retirement benefits, shall not be considered;~~[ ]~~
- b.** ***A person whose disability allowance was discontinued under subsection (2) of this section, who is still employed in the same position on which his or her disability allowance was discontinued, shall submit with the application employment information detailing the changes to the position evidencing cause for reinstatement;***
- c.** ***A person whose disability allowance was discontinued under subsection (3) of this section shall provide with the application new objective medical evidence not previously considered by the Authority's medical***

# Unofficial Document

examiner; and

d. The application for reinstatement shall be reviewed by one (1) medical examiner or vocational expert.

3. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and

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

~~(8)(7)~~ If a disability retirement allowance is reduced or discontinued for a person who began participating in the system on or after January 1, 2014, the person shall remain eligible for reinstatement of his or her disability allowance as provided under subsection ~~(7)(6)~~(d) of this section.

~~(9)(8)~~ No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.

➔Section 11. KRS 61.625 is amended to read as follows:

(1) (a) Prior to the member's effective retirement date, a member if living, or if not living, his or her designated beneficiary, shall have the right to request a refund of his or her accumulated account balance if the member's employment has been terminated and the member is not participating in the same system.

# Unofficial Document

- (b) Upon the death of a member occurring on or after his or her effective retirement date, the member's beneficiary shall have the right to request a refund of the member's accumulated contributions, reduced by the amount of any retirement allowances previously received.
- (c) **If a member receives a refund of his or her accumulated account balance in error while the member is employed or participating in the same system from which the refund was issued in error:**
- 1. The Authority shall notify the member;**
  - 2. The member shall repay the system the full amount of his or her refunded accumulated account balance by lump sum or by incremental payments made under an incremental payment agreement with the Authority within twelve (12) months of the date the Authority sent the notice; and**
  - 3. Upon full repayment of the accumulated account balance to the system, the Authority shall reinstate the member's previous membership date and associated service credit and take all other actions necessary to correct the member's records to reflect the reinstated membership date in accordance with Section 16 of this Act.**
- (2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.
- (3) A refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.
- (4) A refund of contributions to members whose benefits have been terminated pursuant to

# Unofficial Document

KRS 61.535(3) shall be governed by the provisions of that subsection.

**(5) If a member receives a refund of his or her accumulated account balance under subsection (1) of this section, but is later reinstated without loss of pay by order of the Personnel Board under KRS 18A.095, by order of the Kentucky Commission on Human Rights, or by court order:**

**(a) The member shall repay the system the full amount of his or her refunded accumulated account balance by lump sum or by incremental payments made under an incremental payment agreement with the Authority within twelve (12) months of the date of the final order by the Personnel Board, the Kentucky Commission on Human Rights, or the court;**

**(b) Upon full repayment of the accumulated account balance to the system, the Authority shall reinstate the member's previous membership date and associated service credit; and**

**(c) A member's failure to pay the full amount of his or her refunded accumulated account balance as required under this subsection shall be treated as an overpayment of benefits under Section 16 of this Act.**

➔Section 12. KRS 61.637 is amended to read as follows:

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

# Unofficial Document

occurs.

- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
  - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his or her estate, if he or she does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
  - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his or her period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
  - (c) If the retired member is not eligible to be paid suspended payments for his or her period of reemployment as an employee, his or her retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
    1. The retired member's final compensation shall be recomputed using creditable compensation for his or her period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the

- member when his or her retirement allowance was last determined;
2. If the retired member initially retired on or subsequent to his or her normal retirement date, his or her retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
  3. If the retired member initially retired prior to his or her normal retirement date, his or her retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his or her age at the time of his or her initial retirement increased by the number of months of service credit earned for service performed during reemployment;
  4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. of this paragraph. The member shall not receive less in benefits as a result of the recomputation than he or she was receiving prior to reemployment or would receive as determined under KRS 61.691; and
  5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his or her estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his or her estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-



# Unofficial Document

five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).

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

(b) **1.** A retired member who has been ordered reinstated ***without loss of pay*** by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the ***Kentucky***~~[Human Rights]~~ Commission ***on Human Rights*** and accepts employment by an agency participating in the Kentucky Employees Retirement System, ***State Police Retirement System***, or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received, ***including any health insurance benefits paid to or on behalf of the member.***

**2.** ***Within twelve (12) months of the date of the final order of the Personnel Board, the Kentucky Commission on Human Rights, or the court, the member shall repay the system the full amount of his or her retirement allowance payments and health insurance benefits by lump sum or enter into an agreement with the Authority for repayment by installments.***

**3.** ***Once the system has been fully reimbursed for the benefits paid to the member and on the member's behalf, additional contributions and service credit based on the reinstated employment shall be added to the member's account.***

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member

# Unofficial Document

whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.
- (9) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky

Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.

- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him or her prior to his or her voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his or her initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his or her retirement, and the member shall repay to the retirement system all benefits received for the month.
- (b) A retired member of the County Employees Retirement System who after initial

retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

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

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

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

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

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

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

(d) Except as provided in subsection (7) of this section, if the position in which a retired

# Unofficial Document

member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him or her in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

- (e) Upon termination, the retired member shall be entitled to benefits payable from his or her second retirement account.
- (14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he or she retired, the retired member shall continue to receive his or her retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was eligible to purchase prior to his or her initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency

# Unofficial Document

participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System on or after September 1, 2008:

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

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and
2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

# Unofficial Document

- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any

# Unofficial Document

- additional benefits for any work performed during the period of reemployment;
3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following



the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed

# Unofficial Document

between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems;
4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of

# Unofficial Document

the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

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

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

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be

# Unofficial Document

deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by Kentucky Retirement Systems or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body if the mayor or member of a city legislative body:
1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
  2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems for any employment occurring on or after the effective retirement date;
- (g) Notwithstanding any provision of this section, any current or future part-time adjunct instructor for the Kentucky Fire Commission who has not participated in the Kentucky Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the County Employees Retirement System, shall not be:

# Unofficial Document

1. Required to resign from his or her position as a part-time adjunct instructor for the Kentucky Fire Commission in order to begin drawing benefits from the County Employees Retirement System; or
  2. Subject to any provision of this section as it relates solely to his or her service as a part-time adjunct instructor for the Kentucky Fire Commission;
- (h) If a member is receiving a retirement allowance from *the Kentucky Employees Retirement System, State Police Retirement System,*~~[any of the retirement systems administered by the Kentucky Retirement Systems]~~ or County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in *the Kentucky Employees Retirement System, State Police Retirement System,*~~[one (1) of the systems administered by the Kentucky Retirement Systems]~~ or County Employees Retirement System:
1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
  2. Within three (3) months following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
  3. After three (3) months but within twelve (12) months following the member's initial retirement, if The Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the

# Unofficial Document

member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;~~and~~

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

5. After twelve (12) months or more following the retired member's retirement date,~~—~~ the initiation of a contract or the initial date of the leased employment of a retired member by a participating agency ~~that occurs after twelve (12) months or more following the retired member's retirement date~~ shall not constitute a prearranged agreement under this subsection; and

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

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

➔Section 13. 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

# Unofficial Document

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 **or by telephone** 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 cast the ballot online, by telephone, or by any other electronic means made available by the Authority**~~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 **to cast telephonic or**~~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

# Unofficial Document

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 or by telephone, 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 systems~~[system]~~ and the board in the administration of the systems~~[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

# Unofficial Document

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



# Unofficial Document

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

# Unofficial Document

- 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 **three (3) business days**~~[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

# Unofficial Document

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

# Unofficial Document

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.
- (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 14. 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

# Unofficial Document

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) A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, or other fiduciary shall discharge duties with respect to the retirement system:
  - 1. Solely in the interest of the members and beneficiaries;
  - 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
  - 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;
  - 4. Impartially, taking into account any differing interests of members and beneficiaries;
  - 5. Incurring any costs that are appropriate and reasonable; and
  - 6. In accordance with a good-faith interpretation of the law governing the

# Unofficial Document

retirement system.

- (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.
- (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. *This investment limit shall not apply to the assets managed internally by the Authority's Office of Investments.*

- (6) All contracts for the investment, *administration*, 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.

# Unofficial Document

➔Section 15. KRS 61.665 is amended to read as follows:

- (1) The Authority shall employ or contract for the services of at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The Authority may employ or contract for the services of one (1) or more licensed mental health professionals in making recommendations regarding mental impairments.
- (2) (a) Each person requesting disability retirement shall file at the retirement office:
  1. An application for disability retirement and supporting medical information to report the person's physical and mental condition;~~[- The person shall also file at the retirement office]~~
  2. A complete description of the job and duties from which he or she received his or her last pay, including~~[- as well as]~~ information regarding whether the person has made a request for reasonable accommodation pursuant to~~[- as provided for in]~~ 42 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 or whether reasonable accommodation as provided~~[- for]~~ in 42 U.S.C. sec. 12111(9) and 29 C.F.R. pt. 1630 has been offered to the person; and
  3. A certification~~[- The person shall certify to the retirement office]~~ that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners in accordance with~~[- paragraph (d) of this]~~ subsection (3) of this section.

- (b)** If, after good faith efforts, the person informs the Authority that he or she has been unable to obtain the employment or medical information, the Authority shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records. If the person fails to file, at the retirement office within one hundred eighty (180) days of the date the person filed his or her notification of retirement, any of the forms, certifications, or information required by this subsection, the person's application for disability retirement shall be void. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in subsection (3)(g) of this section~~paragraph (f)~~ of this subsection or KRS 61.600(2), 78.5522, or 78.5524.
- (c)**~~(b)~~ The employer shall file at the retirement office a complete description of the job and duties for which the person was last paid and shall submit a detailed description of any reasonable accommodations attempted.
- (d)**~~(c)~~ The cost of medical examinations and the filing of the medical information, reports, or data with the retirement office shall be paid by the person applying for disability retirement.
- (3) (a)**~~(d)~~ The Authority shall select one (1)~~three (3)~~ medical examiner~~examiners~~ to evaluate the medical evidence submitted by the person. The medical examiner~~examiners~~ shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the medical examiner~~examiners~~ may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.
- (b)**~~(e)~~ If the~~two (2) or more of the three (3)~~ medical examiner selected under paragraph (a) of this subsection recommends~~examiners recommend~~ that the person be approved for disability retirement, the system shall make retirement

# Unofficial Document

payments in accordance with the retirement plan selected by the person.

~~(c)(f)~~ If ~~the~~~~two (2) or more of the three (3)]~~ medical *examiner selected under paragraph (a) of this subsection recommends*~~[examiners recommend]~~ that the person be denied disability retirement, the Authority shall *select one (1) medical examiner other than the medical examiner selected under paragraph (a) of this subsection to evaluate the medical evidence submitted by the person. The second medical examiner selected under this paragraph shall recommend that the disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the second medical examiner may request the Authority's licensed mental health professional to assist in determining the level of mental impairment.*

*(d) If the second medical examiner selected under paragraph (c) of this subsection recommends that the person be denied disability retirement, the Authority shall* send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The person shall have one hundred eighty (180) days from the day that the Authority sent the notice to file at the retirement office additional supporting medical information and certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated *under subsection (4) of this section*~~[by the medical examiners]~~ or to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing. Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in KRS 61.600(2), 78.5522, or 78.5524.

- (e) If the second medical examiner selected under paragraph (c) of this subsection recommends that the person be approved for disability retirement, the Authority shall select one (1) medical examiner other than the first and second medical examiners selected under paragraphs (a) and (c) of this subsection to evaluate the medical evidence submitted by the person. The third medical examiner selected under this paragraph shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the third medical examiner may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.
- (f) If the third medical examiner selected under paragraph (e) of this subsection recommends that the person be approved for disability retirement, the system shall make retirement payments in accordance with the retirement plan selected by the person.
- (g) If the third medical examiner selected under paragraph (e) of this subsection recommends that the person be denied disability retirement, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The person shall have one hundred eighty (180) days from the day that the Authority sent the notice to file at the retirement office additional supporting medical evidence and certify to the retirement office that the application for disability retirement and additional supporting medical evidence are ready to be evaluated under subsection (4) of this section or to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing.

# Unofficial Document

- (4) (a) The Authority shall select one (1) medical examiner to evaluate the additional supporting medical evidence submitted by the person in accordance with subsection (3)(d) and (g) of this section. The medical examiner selected under this paragraph shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the medical examiner may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.**
- (b) If the first medical examiner selected under paragraph (a) of this subsection recommends that the person be approved for disability retirement, the system shall make retirement payments in accordance with the retirement plan selected by the person.**
- (c) If the first medical examiner selected under paragraph (a) of this subsection recommends that the person be denied disability retirement, the Authority shall select one (1) medical examiner other than the medical examiner selected under paragraph (a) of this subsection to evaluate the additional supporting medical evidence. The second medical examiner selected under this paragraph shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the second medical examiner may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.**
- (d) If the second medical examiner selected under paragraph (c) of this subsection recommends that the person be denied disability retirement, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic**

- means. The person shall have one hundred eighty (180) days from the day that the Authority sent the notice to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing.
- (e) If the second medical examiner selected under paragraph (c) of this subsection recommends that the person be approved for disability retirement, the Authority shall select one (1) medical examiner other than the first and second medical examiners selected under paragraphs (a) and (c) of this subsection to evaluate the additional supporting medical evidence. The third medical examiner selected under this paragraph shall recommend that disability retirement be approved, or that disability retirement be denied. If there is evidence of a mental impairment, the third medical examiner may request the Authority's licensed mental health professional to assist in determining the level of the mental impairment.
- (f) If the third medical examiner selected under paragraph (e) of this subsection recommends that the person be approved for disability retirement, the system shall make retirement payments in accordance with the retirement plan selected by the person.
- (g) If the third medical examiner selected under paragraph (e) of this subsection recommends that the person be denied disability retirement, the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The person shall have one hundred eighty (180) days from the day that the Authority sent the notice to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing.~~[(g) If two (2) or more of the three (3) medical examiners recommend that the person be approved for~~

# Unofficial Document

~~disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall make retirement payments in accordance with the retirement plan selected by the person.~~

~~(h) If two (2) or more of the three (3) [medical examiners recommend that the person be denied disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the Authority shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. The person shall have one hundred eighty (180) days from the day that the Authority sent the notice to appeal his or her denial of disability retirement by filing at the retirement office a request for a formal hearing].~~

~~(5)(i)~~ The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

~~(6)(i)~~ Notwithstanding the foregoing provisions of this section, the Authority may pay for one (1) or more medical examinations of the person requested by the medical examiners for the purpose of providing medical information deemed necessary by the medical examiners. The system may require the person to submit to one (1) or more medical examinations.

~~(7)(3)~~ (a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection ~~(3)(g)(2)(f)~~ or ~~(4)(g)(2)(h)~~ of this section may file at the retirement office a request for a formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of one hundred eighty (180) days after the person had notice of the system's determination, as described in subsection ~~(3)(g)(2)(f)~~ or ~~(4)(g)(2)(h)~~ of this



section. The request for a formal hearing shall be filed with the executive director, at the retirement office in Frankfort. The request for a formal hearing shall include a short and plain statement of the reasons the denial of disability retirement is being contested.

- (b) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with the application for disability retirement, except as provided in KRS 61.600(2), 78.5522, or 78.5524. This paragraph shall not limit the person's right to appeal to a court.
- (c) The system may require the person requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be provided to the person or his or her legal representative. The system shall be responsible for the cost of the examination.
- (d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.
- (e) All requests for a hearing pursuant to this section shall be made in writing.

~~(8)(4)~~ The boards of the Kentucky Retirement Systems and the County Employees Retirement Systems may each establish an appeals committee whose members shall be appointed by the chair and that shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of each respective board. The boards of the Kentucky Retirement Systems and the County Employees Retirement System may establish a joint appeals committee that shall be authorized to select a chair from among its committee members and to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of both boards.

~~(9)(5)~~ Any person aggrieved by a final order of the board may seek judicial review after all

# Unofficial Document

administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 16. KRS 61.685 is amended to read as follows:

- (1) (a) Notwithstanding the provisions of KRS Chapter 413, upon discovery of any error or omission in system records, the Authority~~[system]~~ shall correct all system records, including but not limited to membership in the system, service credit, member and employer contributions, and benefits paid or payable.
  - (b) The Authority~~[system]~~ may conduct audits to detect possible fraud, misrepresentation, and change in circumstance, which may result in errors or omissions in the system's records.
  - (c) The Authority~~[system]~~, by its executive director or by representatives appointed in writing by the executive director, may take testimony or depositions, and may examine records, documents, or files of any person whose records, documents, or files may furnish knowledge concerning any system records, when the executive director or representative deems this reasonably necessary for purposes incident to the performance of the system's functions.
  - (d) The Authority~~[system]~~ may enforce these powers by application to the Franklin Circuit Court, which court may compel compliance with the orders of the executive director or representatives appointed by the executive director.
- (2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.
  - (3) (a) For purposes of this subsection:
    1. "Knowingly" means, with respect to conduct or to a circumstance described by

# Unofficial Document

this subsection, that a person is aware that his or her conduct is of that nature or that the circumstance exists; and

2. "Person" means a natural person, individual, county, city, agency, board or commission, sole proprietorship, partnership, corporation, limited liability company, organization, association, business, trust, or other legal entity.

"Person" may be construed as singular or plural.

- (b) A person shall be liable under this subsection if he or she knowingly:

1. Submits or causes to be submitted a false or fraudulent claim for the payment or receipt of any benefit provided under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;
2. Makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim to obtain benefits provided under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;~~{or}~~
3. Possesses or otherwise has custody or control of money, records, or property used or to be used by the Kentucky Public Pensions Authority or the systems it administers and fails to deliver or delivers less than all of the money, records, or property to which the authority or the retirement systems it administers are entitled, including but not limited to member agencies failing to report and remit employer and employee contributions and employment records to the authority; or

- 4. *Receives a retirement allowance or health insurance benefit to which he or she is not entitled.***

- (c) A person found to have committed one (1) or more of the actions under paragraph (b) of this subsection by a preponderance of the evidence in an administrative process before the Authority or in an action before the Franklin Circuit Court in conformity

with all due process protections shall be liable for:

1. Restitution of any payments or other benefits received ~~that~~ ~~for which~~ the person was not entitled to receive pursuant to~~by reason of violation of~~ KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 and interest at the maximum legal rate pursuant to KRS 360.010 in effect on the date any payment was made for the period from the date payment was made to the date of repayment to the Authority;
  2. A civil payment in an amount up to three (3) times the amount of the excess payments;
  3. A civil payment of five hundred dollars (\$500) for each false or fraudulent claim submitted for the payment of benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852; and
  4. Legal fees and costs of investigation and enforcement of civil remedies, including all attorneys' fees and costs of litigation.
- (d) Upon the written request of the authority, the Attorney General shall investigate and file the necessary actions to enforce civil penalties for violations of this subsection and, if funds are recovered by or on behalf of the authority in any legal action, may recover reasonable costs of litigation as determined by the court as provided by KRS 48.005.
- (e) Civil payments, interest, and costs of investigation and enforcement of civil remedies, including attorneys' fees and other costs not included under paragraph (d) of this subsection, recovered on behalf of the authority under this subsection shall be made payable to the State Treasurer and remitted to the Kentucky Public Pensions Authority for deposit in the affected trusts administered by the Kentucky Public Pension Authority. The affected trusts shall be made whole, and any additional

# Unofficial Document

penalties and fees shall be distributed to the trusts as a whole consistent with the methods used to distribute administrative expenses between the trusts.

- (f) The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available to the authority and the systems it administers under federal or state law or regulation.

➔Section 17. KRS 61.692 is repealed, reenacted, and amended to read as follows:

- (1) For members who begin participating in the Kentucky Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to 61.705 shall, *except as provided in KRS 6.696*, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall not be subject to reduction or impairment by alteration, amendment, or repeal~~, except:~~
- (a) ~~As provided in KRS 6.696; and~~
- (b) ~~The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 61.510 to 61.705 that become effective on or after July 1, 2018].~~
- (2) (a) For members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or

# Unofficial Document

reduction.

- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 61.510 to 61.705, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 18. KRS 61.702 is amended to read as follows:

- (1) For purposes of this section:
  - (a) "Hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
    1. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
    2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
    3. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041;

- (b) "Monthly contribution rate" is the amount determined by the board based upon the requirements of subsection (4)(a) to (d) of this section, except that for members who began participating in the system on or after July 1, 2003, the term shall mean the amount determined in subsection (4)(e) of this section; and
- (c) "Months of service" means the total months of combined service used to determine benefits under the system, except service added to determine disability benefits or service otherwise prohibited from being used to determine retiree health benefits under KRS 16.505 to 16.652 or 61.510 to 61.705 shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.
- (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
- a. Present and future recipients of a retirement allowance from the Kentucky Employees Retirement System and the State Police Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.
2. Any recipient who chooses coverage under a hospital and medical insurance

plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.

- (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare and for those recipients described in subparagraph 3.b. of this paragraph, the board may authorize these participants to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide benefits for recipients in the plan equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute except subparagraph 3.b. of this paragraph, system recipients shall be included in the same class as current state employees for purposes of determining medical insurance policies and premiums in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287.
2. Regardless of age, if a recipient or the spouse or dependent child of a recipient who elects coverage becomes eligible for Medicare, he or she shall participate in the plans offered by the systems for Medicare eligible recipients. Individuals participating in the Medicare eligible plans may be required to obtain and pay for Medicare Part A and Part B coverage, in order to participate in the Medicare eligible plans offered by the system.
3. The system shall continue to provide the same hospital and medical insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if:
  - a. The recipient is not eligible for Medicare coverage; or



- b. The recipient would otherwise be eligible for Medicare coverage but is subject to the Medicare Secondary Payer Act under 42 U.S.C. sec. 1395y(b) and has been reemployed by a participating agency which offers the recipient a hospital and medical insurance benefit or by a participating agency which is prevented from offering a hospital and medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 164.952. Individuals who are eligible, pursuant to this subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.
- (d) Notwithstanding anything in KRS Chapter 16 or 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.
- (3) (a) Each employer participating in the Kentucky Employees Retirement System or the State Police Retirement System as provided in KRS 16.505 to 16.652 or 61.510 to 61.705 shall contribute to the insurance trust fund established under KRS 61.701 the amount necessary to provide the monthly contribution rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 61.565.

# Unofficial Document

- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, and the insurance trust fund established under KRS 61.701 shall not be allowed.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services

# Unofficial Document

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

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:
1. The recipient of a retirement allowance, by payroll deduction from his or her

# Unofficial Document

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

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

# Unofficial Document

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

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

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

paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.

(c) Notwithstanding paragraph (b) of this subsection, for a member participating in the system prior to July 1, 2003, who:

1. Dies as a direct result of an act in line of duty as defined in KRS 16.505 or dies as a result of a duty-related injury as defined in KRS 61.621, the monthly premium shall be paid for his or her spouse so long as the spouse remains eligible for a monthly retirement benefit;
2. Becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for his or her spouse so long as the member and the spouse individually remain eligible for a monthly retirement benefit; and
3. Dies as a direct result of an act in line of duty as defined in KRS 16.505, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for each dependent child as defined in KRS 16.505, so long as the member remains eligible for a monthly retirement benefit, unless deceased, and each dependent

# Unofficial Document

child individually remains eligible under KRS 16.505.

- (d) 1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the Kentucky Employees Retirement System or in a position in the State Police Retirement System, **or who is receiving a retirement allowance based on General Assembly service,** the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.
2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position **or who is receiving a retirement allowance based on General Assembly service** in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection.
- (e) For members who begin participating in the system on or after July 1, 2003:
1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1) or 61.543(1), or another state-administered retirement system.
2. A member who meets the minimum service requirements as provided by

# Unofficial Document

subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf, **or on behalf of the spouse or dependent of a member with service in a hazardous position,** from the funds specified under paragraph (a)2. of this subsection:

- a. For members with service in a nonhazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee in a nonhazardous position;~~and~~
  - b. For members with service in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or the State Police Retirement System; **and**~~and~~
  - c. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position.
3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who receives a satisfactory determination of a hazardous disability that is a direct result of an act in line of duty as defined in KRS 16.505, and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
  4. The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(b), and the member shall be entitled to



# Unofficial Document

the benefits payable under this subsection as though the member had twenty (20) years of service in a nonhazardous position.

5. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a for a member who dies as a direct result of an act in line of duty as defined in KRS 16.505, who becomes totally and permanently disabled as defined in KRS 16.582 as a direct result of an act in line of duty as defined in KRS 16.505, who dies as a result of a duty-related injury as defined in KRS 61.621, or who becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), and the premium for the member, the member's spouse, and for each dependent child as defined in KRS 16.505 shall be paid in full by the systems so long as the member, member's spouse, or dependent child individually remains eligible for a monthly retirement benefit.
6. Except as provided by subparagraph 5. of this paragraph, the monthly insurance contribution amount shall be increased:
  - a. On July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary but shall not apply to any increase in the contribution attributable to the increase specified by subdivision b. of this subparagraph; and
  - b. On January 1 of each year by five dollars (\$5) for members who have accrued an additional full year of service as a participating employee beyond the career threshold, subject to the following restrictions:

# Unofficial Document

- i. The additional insurance contribution provided by this subdivision shall only be applied to the monthly contribution amounts provided under subparagraph 2.a. and b. of this paragraph;
  - ii. The additional insurance contribution provided by this subdivision shall only be payable towards the health plans offered by the system to retirees who are not eligible for Medicare or for reimbursements provided to retirees not eligible for Medicare pursuant to subsection (6)(a)2. of this section; and
  - iii. In order for the annual increase to occur as provided by this subdivision, the funding level of retiree health benefits for the system in which the employee is receiving the additional insurance contribution shall be at least ninety percent (90%) as of the most recent actuarial valuation and be projected by the actuary to remain ninety percent (90%) for the year in which the increase is provided.
7. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652 or 61.692. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands.
8. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the County Employees Retirement System shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

# Unofficial Document

9. For purposes of this paragraph:
  - a. "Career threshold" for a member with service in a nonhazardous position means twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system and for a member with service in a hazardous position means the service requirements specified by KRS 16.577(2) or (3) or 16.583(6)(b), as applicable; and
  - b. "Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system's actuary in the annual actuarial valuation.
- (f) For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:
  1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to (e) of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the

# Unofficial Document

- Kentucky Retirement Systems from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;
2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
  3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (6) (a) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who:
1. Are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status; or
  2. Are eligible for retiree health subsidies as provided by subsection ~~(4)(e)~~~~[(4)(d)]~~ of this section, except for those recipients eligible for full premium subsidies under subsection (4)(e)5. of this section. The reimbursement program as provided by this subparagraph shall be available to the recipient regardless of the hospital and medical insurance plans offered by the systems.

# Unofficial Document

- (b) An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section.
- (c) For purposes of recipients described by paragraph (a)1. of this subsection, the plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

➔Section 19. KRS 61.705 is amended to read as follows:

- (1) (a) Upon the death of a retired member of the Kentucky Employees Retirement System or State Police Retirement System who was receiving a monthly retirement allowance based on a minimum of forty-eight (48) months of service or whose retirement allowance based on a minimum of forty-eight (48) months was suspended in accordance with KRS 61.637, a death benefit for the beneficiary of five thousand dollars (\$5,000) shall be paid.
  - (b) If the retired member had more than one (1) account in the Kentucky Employees Retirement System or State Police Retirement System, or was eligible for a benefit under KRS 78.5538 from the County Employees Retirement System, the systems shall pay only one (1) five thousand dollar (\$5,000) death benefit to the named beneficiary. Each system's cost shall be prorated between the systems based upon the level of service credit in each system.
  - (c) Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to receive the death benefit~~[act on the deceased retired member's behalf]~~.
- (2) (a) The death benefit shall be paid to a beneficiary named by the retired member. Upon

retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, a person, the retired member's estate, a trust or trustee, or a licensed funeral home, as the beneficiary of the death benefit provided by this section or KRS 78.5538. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1) but only one (1) designation shall be available to a retired member who has service in both the County Employees Retirement System and the Kentucky Retirement Systems.

- (b)** If the beneficiary designated under this section is a person and that person dies prior to the member, or if the beneficiary was the retired member's spouse and they were divorced on the date of the retired member's death, then the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.
- (c)** If a licensed funeral home is designated as beneficiary and the licensed funeral home cannot be reasonably identified or located by Kentucky Retirement Systems at the time of the retired member's death, then the retired member's estate shall become the beneficiary of the death benefit.
- (3) **The five thousand dollar (\$5,000) death benefit paid to the designated beneficiary shall not be subject to garnishment as an asset of the retired member's estate, except if:**
- (a)** ~~[[,]]~~ At the time of the retired member's death, a debt to the Kentucky Retirement Systems remains on his or her account, the balance owed shall be deducted from the five thousand ~~dollar~~~~[dollars]~~ (\$5,000) death benefit;
- (b)** **After the death of the retired member, an overpayment of benefits occurs, the balance owed for the overpayment may be deducted from the five thousand dollar (\$5,000) death benefit; or**

# Unofficial Document

**(c) At the time of the retired member's death, the designated beneficiary is the retired member's estate.**

(4) Upon the death of a retired member, the death benefit provided pursuant to this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 20. KRS 78.530 is amended to read as follows:

(1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his or her employees or the county clerk and his or her employees do, the sheriff or the clerk shall retain the order in his or her office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:

1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement;
2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if any agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002; and

# Unofficial Document

3. Any consolidated emergency services district.
- (2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.
- (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(1)(b)~~and~~ ~~(c)~~, current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.
- (b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a



payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (6) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage.

- (c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue

# Unofficial Document

the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535.

- (d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the date he or she elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection.
- (e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the date he or she elects membership plus interest at the current actuarial rate compounded annually on

# Unofficial Document

the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection.

- (f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his or her creditable compensation from the participation date of the county to the date he or she elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.
- (g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the

# Unofficial Document

system on or after January 1, 2014, and no county that elects to participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.

- (4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.
- (5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.
- (6) (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate

participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

- (b) Notwithstanding any statute to the contrary, after April 9, 2002, the system shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.
- (7) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 21. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

# Unofficial Document

- (1) (a) All persons who become employees of a participating county after the date the county first participates in the system, except that:
1. Mayors and members of city legislative bodies may decline prior to their participation in the system; and
  2. City managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system;
- (b) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and
- (c) ~~[All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;~~
- (d) ~~All persons who declined participation as provided by paragraph (a) of this subsection and who later elect to participate. Persons who elect to participate under this paragraph may purchase service credit for any prior years in accordance with KRS 61.552(5)(a), provided the person began participating in the system prior to January 1, 2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 78.5536; and~~
- (e) ~~]All persons electing coverage in the system under KRS 78.530(3)(d).~~
- (2) The provisions of subsection (1)(a) and (b)~~[(e)]~~ of this section notwithstanding, cities

which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

- (3) Membership in the system shall not include:
- (a) Persons who are not eligible to participate in the system as provided by KRS 78.535;  
or
  - (b) Employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems or the County Employees Retirement System.
- (4) (a) The membership of any person in the system shall cease:
- 1. Upon withdrawal of his or her accumulated account balance at or any time after termination of employment, regardless of length of service;
  - 2. Upon retirement;
  - 3. Upon death;
  - 4. For persons hired prior to August 1, 2000, upon termination of employment with prejudice, as defined by paragraph (b) of this subsection; or
  - 5. For persons hired on or after August 1, 2000, upon conviction of a felony relating to the person's employment as provided in paragraph (c) of this subsection.
- (b) For purposes of KRS 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by the member at the time of termination of employment.

- (c) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in the system and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his or her employment shall forfeit rights and benefits earned under the system, except for the return of his or her accumulated contributions and interest credited on those contributions. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited. The employer shall notify the system when an employee is convicted under the provisions of this subsection.
- (d) When membership ceases, except in the case of retirement, the member shall thereafter lose all right to any retirement allowance or benefits under KRS 78.510 to 78.852 arising from service prior to the date of such cessation of membership.

➔Section 22. KRS 78.5528 is amended to read as follows:

- (1) **(a) The Authority may contract for the services of one (1) or more vocational experts upon terms and conditions it prescribes to:**
- 1. Review and investigate all employment information and forms submitted by a disability recipient under this section and KRS 78.5526; and**
  - 2. Report in writing to the Authority the conclusions and recommendations upon all matters referred for review and investigation.**
- (b) A vocational expert providing services to the Authority shall have a master's degree or higher degree in counseling or rehabilitation, an American Board of Vocational Experts certification, or a certification as a Certified Rehabilitation Counselor, Certified Disability Management Specialist, Associate Disability Case Manager, Licensed Rehabilitation Counselor, or Certified Case Manager.**
- (2) **(a) Each recipient of a disability retirement allowance who is engaged in gainful**



# Unofficial Document

employment shall notify the Authority upon beginning the employment. If the member fails to notify the Authority of the gainful employment under this section, the Authority may recover the payments of a disability retirement allowance made during the gainful employment.

(b) The system may reduce or discontinue a recipient's disability allowance if the Authority's medical examiner selected under Section 15 of this Act or vocational expert selected under this section determines that:

1. A recipient of a disability retirement allowance is, prior to his or her normal retirement date, gainfully employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he or she was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months; or

2. A recipient of a disability retirement allowance resulting solely from mental illness is, prior to his or her normal retirement date, employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity, as the position from which he or she was disabled], the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the Authority of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment].

(3)(2) The system may reduce or discontinue a recipient's disability allowance if the Authority's medical examiner determines that a recipient of a disability retirement allowance is, prior to his or her normal retirement date, no longer incapacitated by the

bodily injury, mental illness, or disease for which he or she receives a disability retirement allowance~~[-, the system may reduce or discontinue the retirement allowance].~~

**(4) (a)**~~(3)~~ The system shall have full power and authority to reduce or discontinue a disability retirement allowance and the Authority shall utilize the services of a medical examiner as provided in KRS 61.665 **or a vocational expert**, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.

**(b)**~~(a)~~ The Authority shall select **one (1)**~~[a]~~ medical examiner to evaluate the forms and **employment and** medical information submitted by the person. **If only employment information is submitted, the Authority may select one (1) vocational expert to evaluate the forms and employment information submitted by the person.**

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

**(c)**~~(b)~~ The medical **examiner or vocational expert**~~[examiners]~~ shall be paid a reasonable amount by the **Authority**~~[retirement system]~~ for each case evaluated.

**(d) 1.**~~(e)~~ The medical examiner **or vocational expert** shall recommend that the disability retirement allowance be continued, reduced, or discontinued.

**2.**~~[1.]~~ If the medical examiner **or vocational expert** recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.

**3. a.**~~[2.]~~ If the medical examiner **or vocational expert** recommends that the disability retirement allowance be reduced or discontinued, the Authority shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office, **by electronic**

# Unofficial Document

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

**b.**~~[a.]~~ The person shall have sixty (60) days from the day that the Authority ~~[mailed]~~ **sent** the notice to file at the retirement office additional supporting employment or medical information and certify to the Authority that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner **or vocational expert** or to appeal the recommendation of the medical examiner **or vocational expert** to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.

**c.**~~[b.]~~ If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical **examiner or vocational expert**~~[examiners]~~ to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the Authority ~~[mailed]~~ **sent** the notice of the recommendation to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.**

**(e) 1.**~~[d)]~~ The medical examiner shall make a recommendation based upon the evaluation of additional supporting **employment and** medical information submitted in accordance with paragraph **(d)3.b.**~~[(e)2.a.]~~ of this subsection, **or the vocational expert shall make a recommendation based upon the**

# Unofficial Document

**additional supporting employment information submitted in accordance with paragraph (d)3.b. of this subsection.**

**2.**~~[1.]~~ If the medical examiner **or vocational expert** recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.

**3. a.**~~[2.]~~ If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting **employment information and** medical information, **or if the vocational expert recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional employment information,** the Authority shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office, **by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means.**

**b.**~~[a.]~~ The person shall have sixty (60) days from the day that the Authority **sent**~~[mailed]~~ the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.

**c.**~~[b.]~~ If the person fails or refuses to appeal the recommendation of the medical **examiner or vocational expert**~~[examiners]~~ to reduce or discontinue the disability retirement allowance, his or her retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the Authority **sent**~~[mailed]~~ the notice of the recommendation to the person's last address on file in the

# Unofficial Document

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

~~(f)(e)~~ Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (d)3.a. or (e)3.a.~~(e)2. or (d)2.~~ of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the Authority, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.

~~(g)(f)~~ Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in subsection ~~(7)(6)~~(d) of this section. This paragraph shall not limit the person's right to appeal to a court.

~~(h)(g)~~ A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the Authority ~~sent~~~~mailed~~ the order to the person's last address on file in the retirement office, by electronic mail to the person's last electronic mail address on file in the retirement office, or by other electronic means. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement

# Unofficial Document

allowance as provided in this section.

~~(i)(b)~~ Notwithstanding any other provisions of this section, the system~~Authority~~ may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be provided~~mailed~~ to the person or his or her legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his or her rights to further disability retirement allowance shall cease.

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

~~(5)(4)~~ The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board. The board may also establish a joint appeals committee with the Kentucky Retirement Systems.

~~(6)(5)~~ Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

~~(7)(6)~~ If a disability retirement allowance is reduced or discontinued for a person who began participating prior to January 1, 2014, the person may apply for early retirement benefits as provided under KRS 78.5510 or 78.5514, as applicable, subject to the following provisions:

- (a) The person may not change his or her beneficiary or payment option;
- (b) If the person has returned to employment with an employer participating in the County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System~~or the Kentucky Retirement Systems~~, the service

# Unofficial Document

and creditable compensation shall be used in recomputing his or her benefit, except that the person's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance;

- (c) The benefit shall be reduced as provided by KRS 78.5510(4) or 78.5514(4);
- (d) **1.** The person shall remain eligible for reinstatement of his or her disability allowance upon reevaluation ~~[by the medical examiners]~~ until his or her normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this **paragraph**~~[section]~~.
- 2.** An application for reinstatement of disability benefits shall be administered as an application under KRS 78.5524 or 78.5526, as applicable, **except:**~~[and]~~
- a.** Only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability retirement benefits, shall not be considered;~~[ ]~~
- b.** **A person whose disability allowance was discontinued under subsection (2) of this section, who is still employed in the same position on which his or her disability allowance was discontinued, shall submit with the application employment information detailing the changes to the position evidencing cause for reinstatement;**
- c.** **A person whose disability allowance was discontinued under subsection (3) of this section shall provide with the application new objective**

# Unofficial Document

**medical evidence not previously considered by the Authority's medical examiner; and**

**d. The application for reinstatement shall be reviewed by one (1) medical examiner or vocational expert.**

**3.** If the person establishes that the disability benefits should be reinstated, the system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and

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

~~(8)(7)~~ **If a disability retirement allowance is reduced or discontinued for a person who began participating in the system on or after January 1, 2014, the person shall remain eligible for reinstatement of his or her disability allowance as provided under subsection (7)(d) of this section.**

**(9)** No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 78.5540. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS 78.5540, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.

➔Section 23. KRS 78.5536 is amended to read as follows:

(1) For purposes of this section:

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



1. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
  2. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, at the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
  3. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041;
- (b) "Monthly contribution rate" shall be the amount determined by the board based upon the requirements of subsection (4)(a) to (d) of this section, except that for members who began participating in the system on or after July 1, 2003, the term shall mean the amount determined in subsection (4)(e) of this section; and
- (c) "Months of service" shall mean the total months of combined service used to determine benefits under the system, except service added to determine disability benefits or service otherwise prohibited from being used to determine retiree health benefits under KRS 78.510 to 78.852 shall not be counted as "months of service."
- (2) (a) 1. The board of trustees of the system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan coverage for:
- a. Present and future recipients of a retirement allowance from the County Employees Retirement System; and
  - b. The spouse and each qualified dependent of a recipient who is a former

# Unofficial Document

member or the beneficiary, provided the spouse and dependent meet the requirements to participate in the hospital and medical insurance plans established, contracted, or authorized by the system.

2. Any recipient who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance, electronic funds transfer, or by another method, the difference between the premium cost of the hospital and medical insurance plan coverage selected and the monthly contribution rate to which he or she would be entitled under this section.
  - (b) 1. For present and future recipients of a retirement allowance from the system who are not eligible for Medicare and for those recipients described in subparagraph 3.b. of this paragraph, the board may authorize these participants to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 and shall provide benefits for recipients in the plan equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. Notwithstanding the provisions of any other statute except subparagraph 3.b. of this paragraph, system recipients shall be included in the same class as current state employees for purposes of determining medical insurance policies and premiums in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287.
  2. Regardless of age, if a recipient or the spouse or dependent child of a recipient who elects coverage becomes eligible for Medicare, he or she shall participate in the plans offered by the systems for Medicare eligible recipients. Individuals participating in the Medicare eligible plans may be required to obtain and pay for Medicare Part A and Part B coverage in order to participate in the Medicare eligible plans offered by the system.

3. The system shall continue to provide the same hospital and medical insurance plan coverage for recipients and qualifying dependents after the age of sixty-five (65) as before the age of sixty-five (65), if:
    - a. The recipient is not eligible for Medicare coverage; or
    - b. The recipient would otherwise be eligible for Medicare coverage but is subject to the Medicare Secondary Payer Act under 42 U.S.C. sec. 1395y(b) and has been reemployed by a participating agency which offers the recipient a hospital and medical insurance benefit or by a participating agency which is prevented from offering a hospital and medical benefit to the recipient as a condition of reemployment under KRS 70.293, 95.022, or 164.952. Individuals who are eligible, pursuant to this subdivision, to be included in the Kentucky Employees Health Plan as provided by KRS 18A.225 to 18A.2287 may be rated as a separate class from other eligible employees and retirees for the purpose of determining medical insurance premiums.
  - (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (6) of this section.
  - (d) Notwithstanding anything in KRS Chapter 78 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq.
- (3) (a) Each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852 shall contribute to the insurance trust fund established by KRS 61.701 the amount necessary to provide the monthly contribution

# Unofficial Document

rate as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate determined under KRS 78.635.

- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member whose membership date begins on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall, at the discretion of the board, be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding the provisions of this paragraph, a transfer of assets between the accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, and the insurance trust fund established under KRS 61.701 shall not be allowed.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.

4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(2) or (3), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 78.510 to 78.852.
  5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 78.520, or the insurance trust fund established under KRS 61.701, through the use of separate accounts.
- (4) (a) The premium required to provide hospital and medical insurance plan coverage under this section shall be paid wholly or partly from funds contributed by:

# Unofficial Document

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

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

# Unofficial Document

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

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

1. One hundred percent (100%) of the monthly premium for single coverage shall be paid for a retired member who had two hundred forty (240) months of service or more upon retirement or for a retired member who when he or she was an employee was disabled as a direct result of an act in line of duty as defined in KRS 78.510(48) or as a result of a duty-related injury as defined in KRS 61.621;
2. Seventy-five percent (75%) of the monthly premium for single coverage shall be paid for a retired member who had less than two hundred forty (240) months of service but at least one hundred eighty (180) months of service upon retirement, provided such retired member agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method;
3. Fifty percent (50%) of the monthly premium for single coverage shall be paid for a retired member who had less than one hundred eighty (180) months of service but had at least one hundred twenty (120) months of service upon retirement, provided such retired member agrees to pay the remaining fifty percent (50%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method; or
4. Twenty-five percent (25%) of the monthly premium for single coverage shall be

paid for a retired member who had less than one hundred twenty (120) months of service but had at least forty-eight (48) months of service upon retirement, provided such retired member agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his or her retirement allowance, electronic funds transfer, or by another method.

(c) Notwithstanding paragraph (b) of this subsection, for a member participating in the system prior to July 1, 2003, who:

1. Dies as a direct result of an act in line of duty as defined in KRS 78.510 or dies as a result of a duty-related injury as defined in KRS 61.621, the monthly premium shall be paid for his or her spouse so long as the spouse remains eligible for a monthly retirement benefit;
2. Becomes totally and permanently disabled as defined in KRS 78.5524 as a direct result of an act in line of duty as defined in KRS 78.510 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for his or her spouse so long as the member and the spouse individually remain eligible for a monthly retirement benefit; and
3. Dies as a direct result of an act in line of duty as defined in KRS 78.510, dies as a result of a duty-related injury as defined in KRS 61.621, becomes totally and permanently disabled as defined in KRS 78.5524 as a direct result of an act in line of duty as defined in KRS 78.510, or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the monthly premium shall be paid for each dependent child as defined in KRS 78.510, so long as the member remains eligible for a monthly retirement benefit, unless deceased, and each dependent



# Unofficial Document

child individually remains eligible under KRS 78.510.

- (d) 1. For a member who began participating in the system prior to July 1, 2003, who was determined to be in a hazardous position in the County Employees Retirement System, **or who is receiving a retirement allowance based on General Assembly service**, the funds specified under paragraph (a)2. of this subsection shall also pay a percentage of the monthly contribution rate sufficient to fund the premium costs for hospital and medical insurance coverage for the spouse and for each dependent child of a recipient.
2. The percentage of the monthly contribution rate paid for the spouse and each dependent child of a recipient who was in a hazardous position **or who is receiving a retirement allowance based on General Assembly service** in accordance with subparagraph 1. of this paragraph shall be based solely on the member's service in a hazardous position using the formula in paragraph (b) of this subsection, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.
- (e) For members who begin participating in the system on or after July 1, 2003:
1. Participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred twenty (120) months of service in the state-administered retirement systems, except that for members

who begin participating in the system on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 78.615(1) or another state-administered retirement system;[+]

2. A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall upon retirement be eligible for the following monthly contribution rate to be paid on his or her behalf, **or on behalf of the spouse or dependent of a member with service in a hazardous position,** from the funds specified under paragraph (a)2. of this subsection:
  - a. For members with service in a nonhazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee in a nonhazardous position;
  - b. For members with service in a hazardous position, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position; and
  - c. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position;[+]
3. The minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who receives a satisfactory determination of a hazardous disability that is a direct result of an act in line of duty as defined in KRS 78.510(48) and the member shall be entitled to the benefits payable under this subsection as though the member had

# Unofficial Document

- twenty (20) years of service in a hazardous position;[+]
4. The minimum service required to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who is disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(b), and the member shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a nonhazardous position;[+]
  5. Notwithstanding the provisions of this paragraph, the minimum service requirement to participate in benefits as provided by subparagraph 1. of this paragraph shall be waived for a member who dies as a direct result of an act in line of duty as defined in KRS 78.510(48), who becomes totally and permanently disabled as defined in KRS 78.5524 as a direct result of an act in line of duty as defined in KRS 78.510, who dies as a result of a duty-related injury as defined in KRS 61.621, or who becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), and the premium for the member, the member's spouse, and for each dependent child as defined in KRS 78.510 shall be paid in full by the systems so long as the member, member's spouse, or dependent child individually remains eligible for a monthly retirement benefit;[+]
  6. Except as provided by subparagraph 4. of this paragraph, the monthly insurance contribution amount shall be increased:
    - a. On July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary but shall not apply to any increase in the

- contribution attributable to the increase specified by subdivision b. of this subparagraph; and
- b. On January 1 of each year by five dollars (\$5) for members who have accrued an additional full year of service as a participating employee beyond the career threshold, subject to the following restrictions:
- i. The additional insurance contribution provided by this subdivision shall only be applied to the monthly contribution amounts provided under subparagraph 2.a. and b. of this paragraph;
- ii. The additional insurance contribution provided by this subdivision shall only be payable towards the health plans offered by the system to retirees who are not eligible for Medicare or for reimbursements provided to retirees not eligible for Medicare pursuant to subsection (6)(a)2. of this section; and
- iii. In order for the annual increase to occur as provided by this subdivision, the funding level of retiree health benefits for the system in which the employee is receiving the additional insurance contribution shall be at least ninety percent (90%) as of the most recent actuarial valuation and be projected by the actuary to remain ninety percent (90%) for the year in which the increase is provided;[;]
7. The benefits of this paragraph provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this paragraph if in its judgment the welfare of the Commonwealth so demands;[;]

8. An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in the system or the Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position; ~~and~~
9. For purposes of this paragraph:
  - a. "Career threshold" for a member with service in a nonhazardous position means twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system and for a member with service in a hazardous position means the service requirements specified by KRS 78.5514(2)(a)2. or (3)(b), or 78.5516(6)(b), as applicable; and
  - b. "Funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system's actuary in the annual actuarial valuation.
- (f) For members with service in another state-administered retirement system who select hospital and medical insurance plan coverage through the system:
  1. The system shall compute the member's combined service, including service credit in another state-administered retirement system, and calculate the portion of the member's premium monthly contribution rate to be paid by the funds specified under paragraph (a)2. of this subsection according to the criteria established in paragraphs (a) to (e) of this subsection. Each state-administered retirement system shall pay annually to the insurance trust fund established under KRS 61.701 the portion of the system's cost of the retiree's monthly

# Unofficial Document

contribution for single coverage for hospital and medical insurance plan which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his or her total combined service and in conjunction with the reciprocal agreement established between the system and the other state-administered retirement systems. The amounts paid by the other state-administered retirement plans and by the County Employees Retirement System from funds specified under paragraph (a)2. of this subsection shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees;

2. A member may not elect coverage for hospital and medical benefits through more than one (1) of the state-administered retirement systems; and
  3. A state-administered retirement system shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
- (5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the funds described by subsection (4)(a)2. of this section shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (6) (a) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance plan premiums of recipients of a retirement allowance who:
1. Are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical

# Unofficial Document

insurance eligibility status; or

2. Are eligible for retiree health subsidies as provided by subsection (4)(e) of this section, except for those recipients eligible for full premium subsidies under subsection (4)(e)5. of this section. The reimbursement program as provided by this subparagraph shall be available to the recipient regardless of the hospital and medical insurance plans offered by the systems.
- (b) An eligible recipient shall file proof of payment for hospital and medical insurance plan coverage with the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution rate determined under subsection (4) of this section.
- (c) For purposes of recipients described by paragraph (a)1. of this subsection, the plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

➔Section 24. KRS 78.5538 is amended to read as follows:

- (1) (a) Upon the death of a retired member of the system, who was receiving a monthly retirement allowance based on a minimum of forty-eight (48) months of service, a death benefit for the beneficiary of five thousand dollars (\$5,000) shall be paid.
- (b) If the retired member had more than one (1) account in the County Employees Retirement System or is eligible for a benefit from the Kentucky Retirement Systems under the provisions of KRS 61.705, the combined payment from the County Employees Retirement System under this section and the Kentucky Retirement Systems under KRS 61.705 shall not exceed five thousand dollars (\$5,000). Each system's cost shall be prorated between the systems based upon the level of service credit in each system.

- (c) Application for the death benefit made to the system shall include acceptable evidence of death and of the eligibility of the applicant to **receive the death benefit**~~[act on the deceased retired member's behalf].~~
- (2) (a) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, a person, the retired member's estate, a trust or trustee, or a licensed funeral home, as the beneficiary of the death benefit provided by this section or KRS 61.705. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1) but only one (1) designation shall be available to a retired member who has service in both the County Employees Retirement System and the Kentucky Retirement Systems.
- (b) If the beneficiary designated under this section is a person and that person dies prior to the member, or if the beneficiary was the retired member's spouse and they were divorced on the date of the retired member's death, then the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.
- (c) If a licensed funeral home is designated as beneficiary and the licensed funeral home cannot be reasonably identified or located by the system at the time of the retired member's death, then the retired member's estate shall become the beneficiary of the death benefit.
- (3) **The five thousand dollar (\$5,000) death benefit paid to the designated beneficiary shall not be subject to garnishment as an asset of the retired member's estate, except if:**
- (a) ~~[If, ]~~At the time of the retired member's death, a debt to the County Employees Retirement System remains on his or her account, the balance owed shall be deducted



# Unofficial Document

from the five thousand ~~dollar~~<sup>dollars</sup> (\$5,000) death benefit;

**(b) After the death of the retired member, an overpayment of benefits occurs, the balance owed for the overpayment shall be deducted from the five thousand dollar (\$5,000) death benefit; or**

**(c) At the time of the retired member's death, the designated beneficiary is the retired member's estate.**

(4) Upon the death of a retired member, the death benefit provided pursuant to this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 25. KRS 78.5540 is amended to read as follows:

(1) A retired member whose disability retirement was discontinued pursuant to KRS 78.5528 and who is reemployed by an employer participating in the system or the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations.

(2) (a) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer

# Unofficial Document

service with a participating agency that is accepted after twelve (12) months following his or her retirement date.

- (b) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- (3) Retired members of the County Employees Retirement System who returned to work with an employer that participates in the County Employees Retirement System or Kentucky Retirement Systems prior to September 1, 2008, shall be governed by the provisions of KRS 61.637(1) to (16).
- (4) The following shall apply to retired members of the County Employees Retirement System who are reemployed on or after September 1, 2008, by an agency participating in the systems administered by the County Employees Retirement System or the Kentucky Retirement Systems:
  - (a) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County

# Unofficial Document

Employees Retirement System, and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the retired member is returning to work in a regular full-time position required to participate in the County Employees Retirement System:

1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer to the system; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the County Employees Retirement System and is employed in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating employer within twelve (12)

# Unofficial Document

months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. For purposes of this paragraph:

- a. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement; and
  - b. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
2. Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system and shall not earn any additional benefits for any work performed during the period of reemployment;
  3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except

# Unofficial Document

for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

- (c) If a member is receiving a retirement allowance from hazardous position coverage with the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System for service in a hazardous position, and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems:
1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
  2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

# Unofficial Document

- (d) If a member is receiving a retirement allowance from the hazardous position coverage with the County Employees Retirement System and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. For purposes of this paragraph:
    - a. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement; and
    - b. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
  2. Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system or the Kentucky Retirement Systems

# Unofficial Document

and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and
  4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
  2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;

# Unofficial Document

3. The retired member has not purchased or received service credit under any of the provisions of KRS 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.

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

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body, if the mayor or member of a city legislative body:
  1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
  2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative



# Unofficial Document

body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems or the County Employees Retirement System but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System for any employment occurring on or after the effective retirement date;

- (g) Notwithstanding any provision of this section, any current or future part-time adjunct instructor for the Kentucky Fire Commission who has not participated in the Kentucky Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the County Employees Retirement System, shall not be:
1. Required to resign from his or her position as a part-time adjunct instructor for the Kentucky Fire Commission in order to begin drawing benefits from the County Employees Retirement System; or
  2. Subject to any provision of this section as it relates solely to his or her service as a part-time adjunct instructor for the Kentucky Fire Commission;
- (h) If a member is receiving a retirement allowance from the County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in the County Employees Retirement System, *Kentucky Employees Retirement System, or State Police Retirement System* ~~[or the Kentucky Retirement Systems]~~:
1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;

# Unofficial Document

2. Within three (3) months following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
3. After three (3) months but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;~~{and}~~
4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the Authority or submit any documentation for purposes of this section to the Authority; and~~{}~~
5. **After twelve (12) months or more following the retired member's retirement date,** the initiation of a contract or the initial date of the leased employment of a retired member by a participating agency ~~{that occurs after twelve (12) months or more following the retired member's retirement date }~~ shall not constitute a prearranged agreement under this subsection;
  - (i) The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Authority; and

# Unofficial Document

- (j) Retired members of one (1) of the systems administered by Kentucky Retirement Systems who are reemployed by an employer in the County Employees Retirement System on or after September 1, 2008, shall not be eligible to earn a second retirement account in the County Employees Retirement System for his or her service to the employer.
- (5) The Authority shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference Authority-prescribed forms that a retired member and participating agency shall provide the systems under subsections (1) and (4) of this section.
- (6) **(a)** "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
- (b)** **1.** A retired member who has been ordered reinstated **without loss of pay** by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the **Kentucky**~~[Human Rights]~~ Commission **on Human Rights** and accepts employment by an agency participating in the Kentucky Employees Retirement System, **State Police Retirement System**, or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received, **including any health insurance benefits paid to or on behalf of the member.**
- 2.** **Within twelve (12) months of the date of the final order of the Personnel Board, the Kentucky Commission on Human Rights, or the court, the member shall repay the system the full amount of his or her retirement allowance payments and health insurance benefits by lump sum or enter into an agreement with the Authority for repayment by installments.**

**3. Once the system has been fully reimbursed for the benefits paid to the member and on the member's behalf, additional contributions and service credit based on the reinstated employment shall be added to the member's account.**

➔Section 26. KRS 78.640 is amended to read as follows:

- (1) The members' account shall be the account to which:
  - (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited, except as provided by KRS 78.5536(3)(b); and
  - (b) For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by KRS 78.5512 and 78.5516 shall be credited.

Only funds from this account shall be used to return the accumulated contributions or accumulated account balances of a member when required to be returned to him or her by reason of any provision of KRS 78.510 to 78.852. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member account.

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 78.5536(3)(b).
- (3)
  - (a) Each member shall have his or her individual account credited with interest on June 30 of each year.
  - (b) For a member who begins participating before September 1, 2008, interest shall be credited to his or her individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated account balance of the member

- on June 30 of the preceding fiscal year.
- (c) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to his or her individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
  - (d) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with KRS 78.5512~~[16.583]~~ and 78.5516~~[61.597]~~.
  - (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4) (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his or her accumulated account balance shall be transferred from the members' account to the retirement allowance account.
- (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by KRS 78.5512(7)(a) or (b) or 78.5516(7)(a) or (b), the member's accumulated account balance shall be transferred to the retirement allowance account.

➔Section 27. 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

# Unofficial Document

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;

# Unofficial Document

(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

# Unofficial Document

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 ***or by telephone*** 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.

# Unofficial Document

- (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 cast the ballot online, by telephone, or by any other electronic means made available by the Authority~~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 to cast telephonic or~~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 or by telephone,

# Unofficial Document

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.

# Unofficial Document

- (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

# Unofficial Document

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

# Unofficial Document

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 Annual Comprehensive ~~[Annual]~~ 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;

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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 **three (3) business days**~~[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.
- (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 28. KRS 78.852 is amended to read as follows:

- (1) For members who begin participating in the County Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall, except as provided in KRS 6.696[~~effective September 16, 1993~~], constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall not be subject to reduction or impairment by alteration, amendment, or repeal.
- (2) (a) For members who begin participating in the County Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend,

suspend, or reduce the benefits and rights provided under KRS 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.

- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
  - (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 78.510 to 78.852, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the County Employees Retirement System on or after January 1, 2014.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the County Employees Retirement System as provided by KRS 78.510 to 78.852 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
- (4) The responsibility for funding the provisions of KRS 78.510 to 78.852 shall be the responsibility of the employers participating in the County Employees Retirement System. For any employer failing to fund the requirements of KRS 78.510 to 78.852, the board shall have the full authority under the law to:
- (a) Require the employer to involuntarily cease participating and pay all costs for ceasing participation as provided by KRS 78.535; or
  - (b) Suspend benefit payments and refunds or to seek legal action as provided by KRS 78.625 for any employer failing to fund the requirements of KRS 78.510 to 78.852.";

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and

On page 1, line 3, renumber "Section 1" to "Section 29".